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# Compliance with federal election campaign requirements : a guide for candidates

American Institute of Certified Public Accountants. Federal Government Relations

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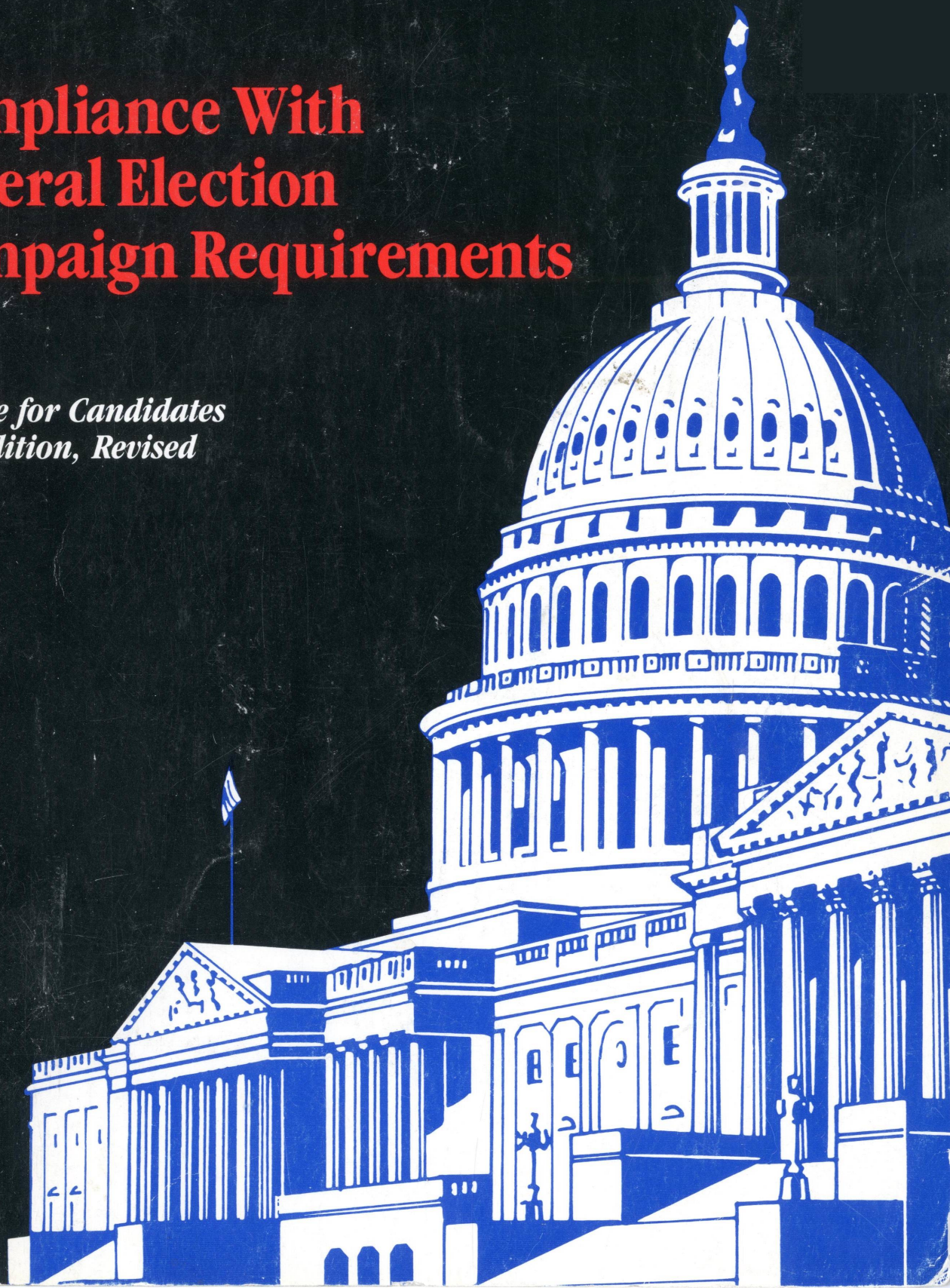
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**AICPA**

American Institute of Certified Public Accountants

# Compliance With Federal Election Campaign Requirements

*A Guide for Candidates  
Fifth Edition, Revised*



AICPA

Compliance With Federal Election Campaign Requirements

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**COMPLIANCE WITH  
FEDERAL ELECTION  
CAMPAIGN  
REQUIREMENTS**

*A Guide for Candidates  
Fifth Edition, Revised*

Federal Government Relations  
American Institute of  
Certified Public Accountants

*Compliance With Federal Election Campaign Requirements: A Guide for Candidates* is published under the auspices of the Federal Government Relations Division of the American Institute of Certified Public Accountants to aid in understanding the federal election campaign statutes in effect at the time of publication. This guide does not represent an official position of the American Institute of Certified Public Accountants, and it is distributed with the understanding that the authors and publishers are not engaged in rendering legal, accounting, or other professional services.

Every effort has been made to represent accurately the provisions of the federal election campaign statutes in effect at the time of publication. However, users of the guide should consult with competent legal counsel with regard to any sections in the law and the specific applicability of the law to their organizations.

As with any work of this nature, the resulting product is the culmination of the efforts and contributions of many individuals; thus, to mention all those who have made significant contributions would be impossible. However, we wish to thank the members of the Federal Election Campaign Guide Task Forces who prepared prior editions of this publication, and William J. Lipton, who reviewed the current edition.

AICPA Staff:

Bernard Z. Lee  
*Deputy Chairman*  
Federal Affairs

Joseph F. Moraglio  
*Vice President*  
Federal Government Relations

Ian A. MacKay  
*Director*  
Federal Government Relations

Kathleen D. Gulatsi  
*Technical Manager*  
Federal Government Relations

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# PREFACE

The amendments to the federal election campaign laws and their implementing regulations have created significant responsibilities for candidates seeking federal office. These responsibilities can be stated in one word—*compliance*.

Candidates for elective office have traditionally faced two principal challenges: earning enough votes for election and raising funds to support their campaigns. They now face a third principal challenge: achieving compliance with federal election campaign laws and regulations.

The performance of candidates and their campaign committees in achieving compliance may well be subjected to public review by the Federal Election Commission or to scrutiny by opposing candidates and interested parties. It is therefore essential that a strong effort be made to achieve compliance. This guide is dedicated to assisting candidates in this effort.

Technical amendments enacted in 1984 and 1988 did not substantively change the federal election laws.

The Ethics Reform Act of 1989 also made minor revisions to the laws.

Appendix 6 contains a compilation of federal election campaign laws. Throughout this guide are references to this compilation in the form of citations to the United States Code (U.S.C.).

Further information regarding this guide may be obtained from the AICPA's Washington, D.C., office, which is located at 1455 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

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# INTRODUCTION

## PURPOSE

This book has been designed to provide campaign-related information and guidance to candidates for election, or reelection, to the United States Senate and House of Representatives. This information and guidance includes—

- How candidates and their campaign committees should work toward achieving compliance with federal election campaign laws (chapters 1 through 3).
- Suggestions for disclosure of personal financial information by candidates and officeholders (chapter 4).
- Tax considerations for political organizations, candidates, officeholders, and contributors (chapter 5).
- Internal control considerations for campaign committees (chapter 6).

A candidate's most important immediate objective is to be elected; consequently, the effort he or she will be able to expend on achieving compliance with federal election campaign laws and regulations will be limited. Therefore, this book has been organized to bring the candidate quickly to the point where he or she can make an informed decision about how the financial and technical resources of the campaign, however limited, can be directed toward achieving compliance.

The guide should enable the candidate to make an informed decision regarding campaign-related opportunities to disclose personal financial information. Finally, the guide should provide the candidate with an understanding of the relevant requirements of the federal tax law.

## SCOPE OF DISCUSSION

This guide offers an *approach* for the candidate to follow in making the transition from a general understanding of the content of federal election campaign laws and regulations to the establishment of a campaign organization replete with systems for governing compliance, accounting, and financial management. The book provides information and guidance on the following factors that the candidate can personally affect and control:

- Creation of an overall plan for achieving compliance
- Campaign organization structure
- Qualification criteria for advisers, staff, and volunteers
- Procedures to be designed into compliance, accounting, and financial management systems
- Control of affiliated campaign committees, if any
- Policy regarding internal compliance reviews and audits by the Federal Election Commission
- Other important compliance-related policies

The book does not describe or propose an ideal system for campaign accounting and compliance, nor does it propose specific procedures for obtaining the financial information required to manage a campaign effectively. Campaign treasurers and others responsible for system design and operation will find such guidance available in published literature or from outside consultants.

By focusing on the overall approach to achieving compliance, rather than specific procedures and controls, the candidate will be more effective in ensuring that his or her organization is putting forth its best effort toward achieving compliance and that he or she is fulfilling his or her personal responsibilities. A by-product will be the candidate's ability to knowledgeably disclose or defend, if need be, actions and decisions related to compliance. This may be essential if compliance becomes a campaign issue.

This book is addressed to candidates for election, or reelection, to the U.S. Senate and the U.S. House of Representatives, in recognition that its emphasis should be toward the widest population affected by federal election campaign laws. It is not addressed to candidates for the offices of president and vice-president of the United States, nor to candidates for state and local elective office, although such candidates may find elements of the book useful.

This book does not consider the provisions of the various state and local election campaign laws. It should be noted that, in the past few years, virtually every state has enacted major laws regulating the campaign financing of candidates for state office. These laws are not alike, however, and none matches the federal law in all critical respects. Consequently, candidates, officeholders, campaign committees, contributors, and other participants should obtain, and be familiar with, the provisions of the laws of their respective states.

## **FEDERAL LAW RELATING TO ELECTION CAMPAIGNS, DISCLOSURE OF PERSONAL FINANCIAL INFORMATION, AND TAXATION**

### **Election Campaigns**

During the past several years, significant changes have occurred in the laws governing federal election campaigns. Many of these changes resulted from the passage of the Federal Election Campaign Act of 1971, Pub. L. No. 92-225, 86 Stat. 3, the Federal Election Campaign Act Amendments of 1974, Pub. L. No. 93-443, 88 Stat. 1263, the Federal Election Campaign Act Amendments of 1976, Pub. L. No. 94-283, 90 Stat. 475, the Social Security Act Amendments of 1977, Pub. L. No. 95-216, 91 Stat. 1509, and the Federal Election Campaign Act Amendments of 1979, Pub. L. No. 96-187, 93 Stat. 1345 (1980). The 1974 legislation established new requirements concerning the limitations on, and accounting and reporting of, contributions and expenditures and established the Federal Election Commission to implement the laws.

On January 30, 1976, the Supreme Court of the United States handed down an important opinion on the constitutionality of certain sections of the Federal Election Campaign Act of 1971, as amended in 1974. The essential continuing change created by the Court's opinion was the holding that "the limitations on campaign expenditures, on independent expenditures by individuals and groups, and on expenditures by a candidate from his personal funds are constitutionally infirm." [Buckley v. Valeo 424 U.S. 1 (1976)]

Thereafter, amendments were drafted to modify the federal election campaign laws as required by the Supreme Court and to make certain other changes deemed appropriate by Congress. On May 11, 1976, the Federal Election Campaign Act Amendments of 1976 were signed into law by the president and went into immediate effect.

On December 20, 1977, the Social Security Act Amendments of 1977 were signed into law, which in part amended a section of the Federal Election Campaign Act concerning the acceptance of honorariums by persons who are elected or appointed officers or employees of any branch of the federal government. The act provided in part that "[these] amendments . . . shall apply with respect to any honorarium received after December 31, 1976."

The Federal Election Campaign Act Amendments of 1979 reduced the recordkeeping and reporting requirements and expanded the opportunities for political parties to participate in federal elections.

The number of candidates who are required to file reports under the act is reduced by a change in the definition of the term *candidate*.

In addition, all of the financial activities of a campaign are to be controlled and reported by the candidate's authorized committees; however, the candidate is able to receive contributions and make expenditures as an agent of his or her authorized campaign committee or committees.

The 1979 amendments also provide that a political committee is no longer required to have a chairperson. The requirement remains, however, that each committee have a treasurer and that no contribution or expenditure be made when there is a vacancy in the position.

Technical amendments enacted in 1984 and 1988 did not substantively change the federal election laws. Appendix 6 contains a compilation of federal election campaign laws. Throughout this guide are references to this compilation in the form of citations to the United States Code (U.S.C.).

### **Disclosure of Personal Financial Information**

This recent period has seen an increase in proposals, at the federal, state, and local levels, for the mandatory disclosure of personal financial information by candidates and officeholders. The Ethics in Government Act of 1978, Pub. L. No. 95-521, 92 Stat. 1824, as amended by the Ethics Reform Act of 1989, established comprehensive public financial disclosure requirements for the president and vice-president and candidates for those offices, as well as many employees and officers of the executive branch of the federal government. Certain state and local governments have implemented similar statutes that may also affect candidates for federal office.

### **Taxation**

During this same period, changes were made in certain sections of the federal tax laws that relate to individuals and organizations participating in federal election campaigns. The Act of January 3, 1975, 88 Stat. 2108, includes many of the changes. These and subsequent changes are reflected in appendix 6.

## **THE FEDERAL ELECTION COMMISSION**

The Federal Election Commission (FEC) is responsible for implementing and administering the Federal Election Campaign Act of 1971, as amended. It is an independent regulatory body responsible for monitoring activities of candidates for federal office.

The commission, as a body, has a far greater impact on the candidate and the federal election process than its predecessors, the Secretary of the Senate, the Clerk of the House, and the General Accounting Office. This is due in part to the broadened scope of its responsibilities, the consolidation of powers into one body, and the significant emphasis on accountability to the public.

It is critical that the candidate and the principal campaign committee—

- Understand the law upon which the commission actions are based.
- Obtain and analyze all commission pronouncements and rulings.
- Initiate communications with the commissioners, commission counsel, Reports Analysis Division, and the Audit Division whenever there are questions requiring interpretation of regulations concerning accounting, reporting, and administration.

Information concerning the organization and operation of the FEC is located in appendix 1.

It should be noted that rules, advisory opinions, and other guidelines promulgated by the FEC are not included in this book. Obtaining such materials directly from the FEC will guarantee the candidate

and his campaign committee the most current materials together with any interpretative information. Suggested procedures for communicating directly with the commission regarding such materials are included in appendix 1.

## **HIGHLIGHTED ROLES OF KEY CAMPAIGN PARTICIPANTS**

To achieve compliance with federal election campaign laws, key members of the candidate's campaign may have to undertake new or changed responsibilities. Many of these responsibilities are discussed in some detail in the guide. Following are highlights of the compliance-related roles of key campaign participants.

### **Candidate**

- Responsibility for compliance and understanding how such compliance is achieved through organization, systems, and internal control
- Supervision of all communications with the FEC

### **Campaign Chairperson**

- Ensuring that the candidate gives adequate time to compliance matters
- Enforcing the establishment and proper function of compliance controls
- Liaison with legal counsel

### **Principal Campaign Committee Treasurer**

- Establishment of the committee's accounting, compliance, internal control, and financial management systems
- Administration of reporting relationships with affiliated campaign committees, if any
- Determination that all necessary compliance controls are developed, tested, and functioning
- Liaison with legal counsel and the FEC on matters relating to compliance
- Conduct of liaison with the candidate's compliance advisory committee, auditors of the FEC, and CPAs whose professional services have been enlisted

### **Affiliated Campaign Committee Treasurers (If Any)**

- Implementation of instructions from the principal campaign committee treasurer on appropriate internal accounting and compliance controls
- Ensuring that the committee activities are properly documented to facilitate any audit by representatives of the principal campaign committee or auditors of the FEC
- Provision of regular positive written assurances concerning compliance to the principal campaign committee

### **Legal Counsel**

- Understanding and interpretation of the applicable federal election campaign laws
- Establishment, in conjunction with the principal campaign committee treasurer, of appropriate and adequate compliance controls

### **Coordinator of Fund Raising**

- Thorough knowledge of the applicable laws and regulations relating to contributions
- Development of communication procedures to inform contributors of the applicable requirements and limitations of federal election campaign laws

**Press Secretary**

- Thorough knowledge of the applicable laws and regulations relating to public communications and media use
- Approval for all public communications and media arrangements

**Certified Public Accountant**

- Knowledge of the federal election campaign laws
- Understanding of the unique issues relating to accounting, financial reporting, and compliance for federal election campaign committees
- Ensuring that the candidate has clearly defined and communicated his or her needs relating to compliance to persons involved in the campaign
- Advising the candidate on the adequacy of the campaign committee's accounting system, internal controls, and compliance controls
- Advising the candidate on matters relating to the disclosure of personal financial information and the taxation of the candidate and the campaign committee

# CHAPTER 1

## PLANNING, ORGANIZING, AND STAFFING THE COMPLIANCE EFFORT

The candidate has the ultimate responsibility for compliance with federal election campaign laws. In most cases, failure to win an election will not affect the personal reputation of the candidate; however, failure to comply with federal election campaign laws may have significant impact on the reputation of the candidate.

Consequently, it is extremely important that the candidate exercise personal authority and control over campaign efforts to achieve compliance. This does not mean that the candidate must become expert on the detail of campaign laws and regulations. He or she should remain a generalist and a “general”—having adequate knowledge to direct, advise, and control those in the campaign who must work with the detail of the laws and regulations. Accordingly, the candidate should—

- Approve the overall plan for achieving compliance.
- Approve the design of the principal campaign committee’s organization structure.
- Approve the qualification criteria for advisers, staff, and volunteers involved with compliance.
- Approve the procedures to be designed into the campaign committee’s accounting, internal control, and financial management systems.
- Approve the policy and procedures to be applied in controlling affiliated campaign committees, if any.
- Approve the policy regarding internal compliance reviews and FEC audits.
- Approve other compliance-related policies, such as campaign security.

### ESTABLISHING A PLAN FOR ACHIEVING COMPLIANCE

The candidate must not only comply with the law but must do so within a set period of time and with the financial and technical resources available, however limited. Therefore the candidate and his or her campaign advisers must (1) develop a plan that will produce a high level of assurance that compliance will be achieved and (2) develop a plan that maximizes the utilization of the technical resources accessible to the campaign, thus minimizing commitment of time and money. As a basis for establishing the campaign’s plan, a list of compliance-related needs should be drafted.

Exhibit 1, page 8, is a suggested form for a candidate’s plan to achieve compliance. It includes some examples of compliance needs together with actions recommended to meet them. Such a plan should be prepared for each campaign, and it should be as comprehensive as is practicable. Once the plan has been prepared it should be filled out and detailed to show the assignment of certain tasks to specific members of the campaign, together with dates by which certain objectives are expected to be achieved. The completed plan should be given final approval by the candidate.

To ensure that the plan is well focused and to avoid duplication of effort, the following actions should be considered:

- Make maximum use of advice and materials available through the state and national party organizations and the FEC.

### EXHIBIT 1: AN ILLUSTRATION OF A CANDIDATE'S PLAN TO ACHIEVE COMPLIANCE

Needs	Recommended Action
<p>Know the law and implementing regulations</p>	<ul style="list-style-type: none"> <li>• Assign initial responsibility to legal counsel and treasurer.</li> <li>• Distribute to all key campaign staff briefing papers on the law and regulations based on presently published and available materials.</li> </ul>
<p>Obtain a professionally designed or recommended accounting, budgeting, and reporting system that can be modified as required to include compliance controls and to meet disclosure requirements</p>	<ul style="list-style-type: none"> <li>• Assign responsibility to principal campaign committee treasurer.</li> <li>• As a first step, consider campaign systems described in published literature.</li> <li>• Prior to modification have an independent CPA review the system contemplated for use and obtain his recommendations.</li> </ul>
<p>Modify planned internal controls to integrate required compliance controls</p>	<ul style="list-style-type: none"> <li>• Appoint a task force composed of legal counsel and principal campaign committee treasurer to design compliance controls.</li> <li>• Enlist the assistance of an independent CPA to review the proposed modifications and to recommend improvements.</li> </ul>
<p>Guard against loss of assets and purposeful noncompliance</p>	<ul style="list-style-type: none"> <li>• Give regular emphasis to proper adherence to controls.</li> <li>• Establish procedures to prevent unauthorized access to campaign records.</li> <li>• Set up internal checks to prevent too much control in hands of any given individual.</li> </ul>
<p>Ensure that all reporting requirements of the FEC are known and complied with</p>	<ul style="list-style-type: none"> <li>• Assign responsibility to legal counsel and the principal campaign treasurer.</li> <li>• Establish a file on current requirements.</li> <li>• Establish procedures for preparation and approval of required reports.</li> <li>• Establish procedures for monitoring changes in requirements.</li> </ul>



- Use professional help early for direction and to monitor progress.
- Make maximum use of published reference and guidance materials.

To help facilitate these actions, this guide includes within its appendixes the following information:

Appendix 1—How to communicate with the FEC

Appendix 2—A summary of key requirements for reporting to the FEC by principal campaign committees and, if any, affiliated campaign committees

Appendix 3—Published reference materials relating to federal election campaign laws and their implementation

## **PRINCIPAL CAMPAIGN COMMITTEE'S ORGANIZATION**

Campaigns for the Senate and House of Representatives have always had chairpersons, treasurers, fund raisers, and myriad workers who were by and large dedicated to helping the candidate earn votes. The federal election laws have affected the traditional campaign organization in the following ways:

- Time and effort of key campaign staff and advisers have been diverted from “traditional tasks” to matters relating to compliance with the law and regulations.
- The duties of key advisers and staff have been altered.
- Persons with different or special skills have been employed.
- A greater number of persons have become associated with the campaign.

The degree to which these and other changes have affected a campaign organization is determined primarily by variables such as size of campaign effort, volume of contributions and expenditures, and the ultimate allocation of financial and technical resources to earning votes, raising funds, and achieving compliance.

Exhibit 2, which follows on page 10, illustrates an organization chart for the financial and compliance components of a principal campaign committee established for a candidate seeking election to the House of Representatives. It is considered to be one of many possible arrangements; thus, committees may find other staffing arrangements suitable. The labeled positions may represent one person or many persons, depending on the factors cited above and on how the functions listed for each position are assigned. An organization chart for a Senate campaign most likely would include more positions due to the greater number of anticipated transactions and the generally increased complexity of such a campaign.

In practice, the resultant organization, complete with names and titles, will reflect at least the following considerations:

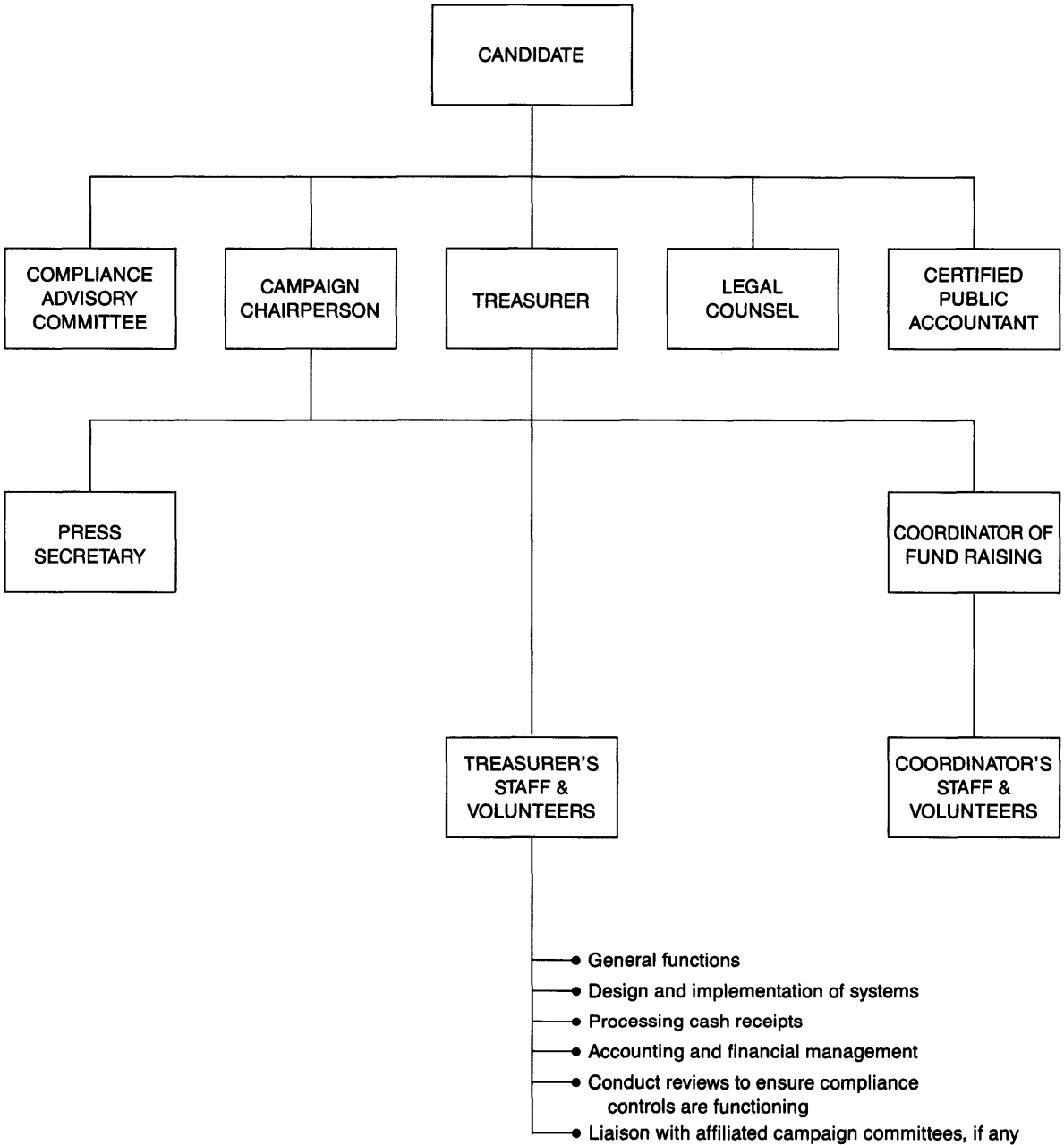
- The candidate's decision on how to allocate the personnel and financial resources of the “traditional” basic campaign organization to matters regarding compliance.
- The candidate's decision on the use of professional consulting expertise.
- The candidate's decision to employ, on a paid or volunteer basis, additional personnel solely to respond to the increased number of compliance requirements.

The cumulative effect of these decisions will not only be the establishment of the organization's structure but, in an indirect way, will be a reflection of the candidate's determination to achieve compliance.

A compliance advisory committee is designated on the chart in exhibit 2. This committee, whose specific functions are noted in the succeeding section, may provide the candidate with significant support and direction on matters related to compliance.

**EXHIBIT 2: A SUGGESTED CAMPAIGN ORGANIZATION CHART**

The Financial and Compliance Components  
of the Principal Campaign Committee  
of a Candidate for Election to  
the House of Representatives



It is strongly recommended that the candidate enlist the services of attorneys and certified public accountants to provide independent advice and counsel on the following matters: election campaign law and compliance therewith, the recording and reporting of the financial activities of the campaign, disclosure of the personal financial condition of the candidate, and tax planning and reporting by the candidate and the campaign organization.

The listing of functions below the principal campaign committee treasurer in exhibit 2 suggests that a treasurer alone will not be able to fulfill the many duties associated with compliance, accounting, and financial management. The degree to which he or she will require persons to assist him or her in part depends on the variety of functions for which he or she will be responsible and the various levels of skill and experience required to perform them.

Suggested compliance-related functions of key campaign advisers, staff, and volunteers are illustrated in exhibit 3, pages 12-13. Although no attempt is made to indicate how many individual advisers, staff, and volunteers will be needed to perform the various functions, the functions have been grouped to facilitate assignment to more than one individual, if required.

### **ESTABLISHING QUALIFICATIONS FOR ADVISERS, STAFF, AND VOLUNTEERS**

Specific individuals will have a direct effect on whether or not the campaign achieves compliance. For this reason, the candidate should approve in advance the qualification criteria for compliance-related positions in the campaign organization.

In establishing these criteria, the candidate will have to consider the following factors:

- Time in which to evaluate people and fully staff the campaign is limited.
- Potential employees may be concerned about the relatively short life span of the campaign.
- Financial resources available for salaries for full- or part-time staff may be limited.
- It is likely that most paid staff, as well as volunteers, will be selected from established resource pools that have traditionally supplied the political process.

In short, the candidate's flexibility in selecting advisers, staff, and volunteers may be limited. Nonetheless, the candidate must be as selective as possible in designating those individuals who will work in compliance areas. Loyalty, dedication, stamina—the trademarks of good campaign workers—alone will not be enough. A minimum level of skill and experience must somehow be built into the campaign organization. The absence of qualified key people could represent a major weakness in the campaign's approach to compliance.

Exhibit 4, page 14, offers certain suggested qualification criteria. It should be noted that individuals available to the campaign may not have backgrounds as complete as those suggested; thus, consideration of how staff members complement and integrate with each other is important.

The selection of a campaign treasurer will be extremely critical. The person selected, in addition to possessing the suggested qualifications, should have prior experience in political campaigns or an open willingness to undertake substantial learning activities prior to serving the campaign. The financial volatility and the rapid sequence of events in a campaign do not permit on-the-job training for a treasurer.

### EXHIBIT 3: COMPLIANCE-RELATED FUNCTIONS OF KEY CAMPAIGN ADVISERS, STAFF, AND VOLUNTEERS

Organization Element	Key Functions
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Compliance Advisory Committee  
(Volunteer "audit committee," preferably with at least two to three members)

- Provide direct, independent assistance to candidate on significant matters relating to compliance.
- Review on an overall basis the qualifications of staff and volunteers working on the campaign accounting and compliance functions.
- Advise the candidate on the quality of the campaign's internal control system and, on a regular basis, determine that it is functioning.
- Advise on the adequacy of campaign security measures.
- Review all reports and financial statements of the campaign prior to any public disclosure or submission as required under the law.

Legal Counsel

- Act as liaison with the FEC.
- Prepare or review all inquiries to the FEC.
- Review with treasurer all reports prepared by FEC auditors, external consultants, and representatives of the campaign who are performing compliance reviews of the principal campaign committee or, if any, affiliated campaign committees, and make recommendations to the candidate based thereon.
- Ascertain that FEC regulations are received by campaign personnel and are properly interpreted.
- Monitor laws and regulations relating to public communications and media use.
- Represent the campaign organization in legal actions.
- Work in cooperation with the treasurer to establish controls that will ensure compliance.
- Review campaign commitments and contingencies.

Certified Public Accountant

- Assist the treasurer and legal counsel in determination and design of specific compliance controls.
- Advise candidate on general adequacy of campaign systems.
- Recommend improvements in internal and compliance controls.
- Provide an informal review of initial reports to the FEC to ensure completeness of data and basis for its inclusion.

Campaign Chairperson

- Provide full support to compliance-related activities.
- Represent candidate, when necessary, during discussions regarding compliance.
- Act as liaison with legal counsel and CPAs on matters relating to compliance.

Press Secretary

- Approve all public communications and media arrangements.
- Have thorough knowledge of the applicable laws and regulations relating to public communications and media use.

Treasurer

- Have statutory responsibility for accounting, reporting, financial management, and compliance-related controls.
- Define the internal accounting and compliance controls to be designed into campaign systems.
- Conduct initial and periodic tests of campaign systems to ensure that controls are functioning properly.
- Act as liaison with affiliated campaign committees, if any.
- Act as liaison with FEC Audit Division.
- Sign all internal financial reports and reports to the FEC.

#### Treasurer (cont'd)

- Establish and implement procedures for retention of all financial records and reports.
- Review with legal counsel all reports prepared by FEC auditors, external consultants, and representatives of the campaign who are performing compliance reviews of the principal campaign committee, or if any, affiliated campaign committees, and make recommendations to the candidate based thereon.

#### Treasurer's Staff (Design and implementation of campaign systems)

- Obtain from treasurer a list of approved system procedures for integrated accounting, compliance, and financial management systems.
- Draft system overview of controls for treasurer approval.
- Draft detailed flowchart of controls, paper or data flow, files, and records for treasurer approval.
- Design detailed forms and procedures using, whenever possible, existing published or purchasable designs or recommendations of outside consultants.
- Establish implementation plan and assist bookkeepers and clerical staff in implementation.
- Establish system test plan. Have treasurer approve plan; then test system, document results, and have treasurer approve results.
- Conduct liaison on system design with outside consultants.
- Assist affiliated campaign committees, if any, in establishing appropriate systems.

#### Treasurer and Staff (Processing cash receipts and other cash functions)

- Conduct cashier functions related to receipts and disbursements.
- Forward receipts to contributors.
- Maintain cash books.
- Manage cash, including the transfer of funds, bank relations, and the short-term investment of cash.
- Represent campaign in borrowings and in establishing lines of credit.
- Maintain records of contracts and other financial arrangements.

#### Treasurer and Staff (Accounting and financial management)

- Maintain general books of account.
- Prepare reports to FEC.
- Prepare budget and other reports for review by candidate.
- Maintain contribution records, including those on in-kind services.
- Process and account for disbursements.
- Obtain, review, and compile reports of affiliated campaign committees, if any.
- Maintain campaign property records.

#### Treasurer and Staff (Conduct reviews to ensure compliance controls are functioning)

- Establish a program to review and test functioning of accounting and compliance controls in both the principal campaign committee and, if any, affiliated campaign committees.
- Ensure the campaign is prepared for audits by the FEC.

#### Treasurer and Staff (Liaison with affiliated campaign committees, if any)

- Distribute advisory communications to affiliated campaign committees.
- Review compliance plans of affiliated committees.
- Review progress of affiliated committees during implementation of compliance plans.
- Prepare status reports for candidate on affiliated committee activities.

#### Coordinator of Fund Raising

- Monitor laws and regulations relating to contributions.
- Advise contributors on requirements of the laws and regulations.

**EXHIBIT 4: SUGGESTED QUALIFICATION CRITERIA FOR KEY ADVISERS, STAFF, AND VOLUNTEERS**

Position	Qualification Criteria
Compliance Advisory Committee	<ul style="list-style-type: none"> <li>• Experience in banking, corporate tax reporting, or similar activities</li> <li>• Experience in financial management, corporate accounting, or internal auditing</li> </ul>
Legal Counsel	<ul style="list-style-type: none"> <li>• Familiarity with federal and state election laws</li> </ul>
Certified Public Accountant	<ul style="list-style-type: none"> <li>• Familiarity with federal and state election laws</li> </ul>
Treasurer (General functions)	<ul style="list-style-type: none"> <li>• Experience in designing or administering accounting systems</li> <li>• Business experience related to accounting or a degree in business or accounting</li> <li>• Ability to direct staff personnel</li> <li>• Auditing and accounting knowledge</li> <li>• Familiarity with federal and state election laws</li> </ul>
Treasurer and Staff (Processing cash receipts, disbursements, recordkeeping, and FEC report preparation)	<ul style="list-style-type: none"> <li>• Accounting background</li> <li>• Bookkeeping skills and experience</li> <li>• Clerical experience</li> </ul>
Treasurer and Staff (Budget and financial management activities)	<ul style="list-style-type: none"> <li>• Experience in preparing cash flow projections and analyses of budgets</li> </ul>
Treasurer and Staff (Design of accounting, compliance, and financial management systems)	<ul style="list-style-type: none"> <li>• Practical experience in designing accounting and financial management systems</li> </ul>
Treasurer and Staff (Review of functioning of compliance controls and liaison with affiliated campaign committees, if any)	<ul style="list-style-type: none"> <li>• Auditing experience</li> <li>• Experience in compiling financial reports</li> <li>• Knowledge sufficient to suggest corrective action and improvement when deficiencies are noted</li> </ul>

# CHAPTER 2

## ESTABLISHING A SYSTEM FOR ACHIEVING COMPLIANCE

One of the candidate's primary responsibilities is to ensure that the various systems of the principal campaign committee adequately support the goals and requirements of the campaign's compliance activities. The candidate can fulfill this responsibility by exercising approval over all significant system procedures.

### CAMPAIGN SYSTEMS AND INTERNAL CONTROL STRUCTURE

Campaign systems and internal control structure serve the general purpose of bringing uniformity and control to the various campaign functions. Campaign systems act to control the application of staff resources and the use of campaign property and materials. Virtually all campaign systems interrelate or overlap.

The significant campaign systems, which every campaign will have in some fashion, are as follows:

- Accounting system
- Financial management system
- Compliance system
- Personnel system
- Voter-related systems
  - Collection of voter preference information
  - Production of mass or selective mailings
  - Other procedures that aid in directing the campaign
- Campaign security system

If the accounting, financial management, and compliance systems are adequate, they will control resources and help ensure that compliance is achieved and that the fiscal affairs of the campaign are adequately managed.

There are certain procedures that must be designed into the systems to help ensure their adequacy and therefore ensure that they contribute to the achievement of campaign goals. The following brief discussions of accounting and financial management system procedures serve as illustrations.

#### Accounting System

The principal campaign committee's accounting system controls the processing and recording of campaign financial transactions, principally receipts and disbursements.

Recommended accounting system procedures are not treated at length in this text since they are adequately presented in general accounting texts and in publications specifically addressed to accounting for election campaigns (see appendix 3).

The candidate should seek to ensure that the contemplated accounting system includes procedures tailored to the unique requirements of the campaign; examples of these requirements are listed

below and others are discussed in the section entitled “Unique Issues Affecting Accounting, Financial Reporting, and Compliance” at the end of this chapter. The unique requirements include—

- Processing of the majority of individual receipt and disbursement transactions within a limited length of time.
- Maintenance of detailed information to identify supporters (a) for contribution reports and (b) to enlist further aid.
- Reporting on the overall financial activities of the campaign in accordance with accounting practices required by law, rather than by financial statements prepared in accordance with generally accepted accounting principles. (However, preparation in the latter form may be required, for example, when borrowing funds from a bank.)

### **Financial Management System**

The principal campaign committee’s financial management system primarily controls the extraction, analysis, interpretation, and reporting of financial data that supply the candidate and key advisers with information required to make economic and political decisions.

Procedures recommended for inclusion in campaign financial management systems are not treated at length here since they are adequately discussed in texts on financial management or in publications specifically addressed to financial management of election campaigns (see appendix 3).

The committee should seek to ensure that the contemplated financial management systems include the following minimum requirements:

- Generation of cash flow projections on a timely basis
- Establishment of initial and updated budgets for contributions, other income, and disbursements
- Comparisons on a periodic basis of actual amounts of contributions, other income, and disbursements with budgeted amounts

In regard to the development of budgets, the committee may want to have alternative budgets prepared on both an optimistic and a pessimistic basis.

### **ESTABLISHING CONTROL OVER THE COMPLIANCE SYSTEM**

Control over the compliance system is not simply established by a one-time review and approval—compliance must actually be integrated into the system’s ongoing operation. This continuity of control is maintained primarily through the reporting of required information to the committee officers on a scheduled basis.

Control over the compliance system will be affected by certain factors and influences: (1) committee personnel’s knowledge and perception of the benefit of certain system procedures; (2) the quality and timing of advice from members of the candidate’s compliance advisory committee, from legal counsel and the certified public accountant, and from representatives of the principal campaign committee who may have conducted internal compliance reviews; and (3) the fact that scheduled required reporting normally encourages discipline and performance on the part of the principal campaign committee treasurer, the treasurer’s staff, and other advisers and staff.

The principal campaign committee’s compliance systems primarily control the processing, recording, and reporting of financial transactions and related information for the purpose of complying with required limitations on contributions and to provide sufficient data to comply with the financial disclosure provisions of the law.



For discussion purposes, the compliance system of the principal campaign committee may be considered to have four significant parts:

1. Aspects relating to limitations on contributions
2. Aspects relating to limitations on expenditures
3. Aspects relating to recordkeeping and reporting to the FEC
4. Aspects relating to requirements of the law affecting committee operations

## **HIGHLIGHTS OF THE FEDERAL ELECTION CAMPAIGN LAWS**

A complete compilation of the federal election campaign laws, reflecting the 1988 amendments, appears in appendix 6; special summaries on reporting requirements and fines and penalties appear in appendixes 2 and 4, respectively.

To facilitate discussion on establishment of system procedures required for compliance, certain relevant sections of the federal election laws are summarized below. When establishing compliance system procedures, principal campaign committees should at all times rely on the law and regulations and authoritative interpretations issued by the FEC.

### **Introduction**

The federal election campaign laws and regulations recognize several different types of political committees formed for the purpose of receiving campaign contributions and making campaign expenditures on behalf of candidates. A *political committee* is generally defined as any committee, club, association, or other group of persons receiving more than \$1,000 in contributions or making campaign expenditures in excess of \$1,000 within a calendar year. The definition of a political committee also includes only separate segregated funds (PACs) established by a corporation (see appendix 5). In addition, any local committee of a political party that receives more than \$5,000 in contributions in a calendar year, makes payments exempt from the definition of contribution aggregating more than \$5,000 per calendar year, or makes more than \$1,000 in contributions or expenditures per calendar year is a political committee. [2 U.S.C. 431(4); 11 C.F.R. 100.5]

Political committees may be either "authorized" or "unauthorized." Authorized political committees are those political committees specifically authorized in writing by the candidate to receive contributions or make expenditures on his or her behalf. The candidate's *principal campaign committee* is one type of authorized committee. [2 U.S.C. 431(6); 11 C.F.R. 100.5(f)(1)] Unauthorized political committees are all other political committees that have either not been authorized in writing by the candidate or have been disavowed by the candidate. [11 C.F.R. 100.5(f)(2)]

### **Limitations on Contributions**

The term *contribution* is defined as any gift, subscription, loan, advance, deposit of money, or anything of value made for the purpose of influencing any election for federal office. The definition of contribution does not include the value of voluntary services by individuals on behalf of a political organization or candidate, although the compensation costs borne by a third party who volunteers the services of an employee to a political organization or candidate are includible as contributions. [2 U.S.C. 431(8); 11 C.F.R. 100.7] Other exceptions include bona fide loans made by a bank in the ordinary course of business as well as campaign related entertainment, travel, and food and beverage costs. [2 U.S.C. 431(8)(B); 11 C.F.R. 100.7(b)]

### **Exception for Legal and Accounting Services**

The compensation paid by employers to employees who render legal or accounting services without charge to any political committee of a political party or an authorized committee of a candidate or

any other political committee is not considered a contribution for purposes of calculating compliance with contribution limitations. This exception applies only for such services as are devoted to ensuring compliance with federal election campaign laws, not to services that pertain to the election of a candidate. Donated legal and accounting services that are exempt from contribution limitations must nevertheless be reported by the candidate as required by 2 U.S.C. 431(8)(B)(ix); 434(b); 11 C.F.R. 100.7(b)(13), (14).

#### **Individuals**

No individual may contribute more than \$1,000 to any candidate and his or her authorized political committees for any election for federal office. Such contribution limits apply separately to primary and general elections. Therefore, an individual may contribute up to \$1,000 to any candidate for the primary election and an additional \$1,000 to the same candidate for the general election. [2 U.S.C. 441a(a)(1); 11 C.F.R. 110.1(5)] Moreover, an individual may contribute up to \$5,000 per year to any other unauthorized political committee and up to \$20,000 per year to the political committees established by a national political party. An individual may not make contributions aggregating more than \$25,000 in any calendar year. The calendar year restriction governs contributions made in nonelection years (either before or subsequent to the election) relating to the elections of any one year. [2 U.S.C. 441a(a)(1), (3); 11 C.F.R. 110.1(b), (c), (d)]

The contribution limits on individuals apply separately to each spouse, regardless of income. Minor children may contribute only if the funds so contributed were actually under that child's control. [11 C.F.R. 110.1(i)]

#### **Political Committees**

Political committees operate under the same restrictions on contribution amounts as individuals, unless they qualify as multicandidate committees. [2 U.S.C. 441a(a)(1), (2), 431(11); 11 C.F.R. 100.10, 110.1] A multicandidate political committee may contribute up to \$5,000 to any candidate and his or her authorized political committees for any election for federal office. In order to be a multicandidate committee and contribute up to the \$5,000 limit, a political committee must have more than fifty contributors, have made contributions to five or more candidates for federal office, and have been registered as a political committee for at least six months. If these requirements are not met by the committee, it is limited to a maximum contribution of \$1,000 to any one candidate and his or her authorized political committee for federal office. In addition, no multicandidate political committee may contribute more than \$15,000 in any calendar year to the political committees established and maintained by a national political party, which are not the authorized political committees of any candidate, nor more than \$5,000 to any other political committee in a calendar year. [2 U.S.C. 431(4); 441a(a)(1)(A), 2(A), (2)(B), (4); 11 C.F.R. 110.2]

#### **Political Committees of a National Political Party**

The national committee of a political party, or a single political committee established, financed, maintained, or controlled by a national committee, may contribute to a candidate and his or her authorized committees up to \$5,000 for any election, provided the committee qualifies as a multicandidate committee. Notwithstanding this provision or the appropriate expenditure limitation provision cited below, the national committee of a political party (or the Republican or Democratic Senatorial Campaign Committee) may contribute up to \$17,500 during an election year to a candidate for election to the U.S. Senate. [2 U.S.C. 441a(a)(2), (4), (5), (h); 11 C.F.R. 110.2(e)]

#### **Corporations, Labor Organizations, Banks, and Other Prohibited Contributions**

Contributions by labor organizations, corporations, and government contractors, are prohibited. However, such organizations may establish and administer "separate segregated funds," commonly known as PACs, for the purpose of making and receiving contributions. See appendix 5 for more information on PACs. [2 U.S.C. 441b; 441c; 11 C.F.R. 114.2, 115.2]

Other prohibited contributions include those made by a national bank, foreign national, those made in the name of another, and cash contributions in excess of \$100. [2 U.S.C. 441e; 441f, g; 11 C.F.R. 110.4] The treasurer of a political committee is responsible for determining whether contributions are unlawful or exceed the specified limits. [11 C.F.R. 103.3(b)] Any contributions that appear to be unlawful should be returned. [11 C.F.R. 103.3]

### **Limitations on Expenditures**

An *expenditure* is defined by the Act as any purchase or payment made by any person or committee to influence a federal election. [2 U.S.C. 431(9); 11 C.F.R. 100.8] An expenditure should be distinguished from a contribution. A contribution generally involves a gift of money or goods to a political committee so that it may be used to support a federal candidate. An expenditure can be viewed as the “utilization of a contribution.” [Federal Election Commission, *Campaign Guide for Congressional Candidates and Committees* (1988)]

#### **National and State Political Party Committees**

The Supreme Court upheld the provisions of the 1974 amendments, which limited the expenditures in the general election of the national committee of a political party and a state committee of a political party (the latter including any subordinate committees) to the greater of \$02 times the voting age population of the state, or \$20,000 for a campaign for the election of a senator (or representative from a state with only one representative), and \$10,000 for the election of a representative. These expenditures are permitted notwithstanding provisions of the law regarding limitations on contributions. [2 U.S.C. 441a(d)(1), (3), (e); 11 C.F.R. 110.7(b)]

#### **Independent Expenditures**

While the law as amended in 1976 does not place limitations on the amount of independent expenditures made on behalf of a candidate, it does require that “independence” be strictly maintained. Failure to do so would require that the expenditure be recorded against the contribution limitations of the individual providing the benefit to the candidate. [11 C.F.R. 109.1(c)] The term *independent expenditure* means an expenditure by a person expressly advocating the election (or defeat) of a “clearly identified” candidate, which is made without cooperation or consultation with any candidate or his or her committee or agent, and which is not made in concert with or at the request or suggestion of any candidate, his or her committee, or agent. [2 U.S.C. 431(17), (18); 11 C.F.R. 109.1(a)]

The law requires that independent expenditures by an individual that aggregate in excess of \$250 during a calendar year be reported to the FEC in a manner that indicates support of or opposition to a candidate and that certifies whether or not the expenditure was made in cooperation or concert with any candidate, his or her committee, or agent. [2 U.S.C. 434(c)(1); 11 C.F.R. 109.2(a)] Last minute independent expenditures of \$1,000 or more made after the twentieth day of the campaign but prior to twenty-four hours before the election must be reported within twenty-four hours of the expenditure. [2 U.S.C. 434(c)(2); 11 C.F.R. 109.2(b)]

An authorized committee of a candidate may not make independent expenditures on behalf of the candidate. [11 C.F.R. 109.1(e)] The national political parties similarly are not eligible to make independent expenditures on behalf of a candidate in the general election. [11 C.F.R. 110.7(b)(4)]

Further, the law provides that such independent expenditures are to be reported in accordance with a prescribed schedule. Based on these reports, the FEC will prepare and publish indexes that illustrate how these independent expenditures relate to various candidates. [2 U.S.C. 434(c)(2), (3)]

#### **Candidate Expenditures From Personal Funds**

On January 30, 1976, the U.S. Supreme Court in effect struck down 18 U.S.C. 608(a), which had placed limitations on campaign expenditures from the personal funds of the candidate or the personal funds of his or her immediate family. [Buckley v. Valeo 424 U.S. 1 (1976).] The 1976

amendments deleted 18 U.S.C. 608(a) and added no new sections specifically relating to expenditures by Senate and House candidates from their personal funds. Regulations promulgated by the FEC address this issue by specifically authorizing candidates to federal office to make unlimited expenditures from “personal funds.” [11 C.F.R. 110.10(a)] In light of these events, a Senate or House candidate may expend from his or her personal funds without limit on behalf of his or her own campaign. The candidate must be careful that the funds expended meet the definition of personal funds, since those expenditures not meeting that definition will be considered contributions and be subjected to the Act’s contribution limits. The regulations specify that funds qualifying as *personal funds* include any funds over which the candidate has the legal right of access to or control over at the time of candidacy, salary, and other bona fide income, dividends, trust income established prior to the candidacy, gifts customarily received, and so on. [11 C.F.R. 110.10] Moreover, a candidate may use his or her portion of funds held jointly with a spouse as personal funds. If the candidate’s share is not specified, it shall be deemed to be one-half the value. [11 C.F.R. 110.10(b)(3)]

While a candidate is free to make unlimited use of qualified personal funds, any contributions from the candidate’s immediate family members remain subject to the \$1,000 limitation on individual contributions. [2 U.S.C. 441a(a)(1)]

On this matter, the candidate should review applicable FEC regulations and, if necessary, obtain guidance from the commission’s staff in order to properly determine which funds may qualify as the candidate’s personal funds.

### **Recordkeeping and Reporting by Political Committees**

The Act imposes detailed recordkeeping and reporting requirements upon all political committees. Committees generally must record and report both contributions received and disbursements made. [2 U.S.C. 432, 434; 11 C.F.R. 102, 104] The term *disbursement* should be distinguished from the term *expenditure*. An expenditure is defined by the statute as any purchase or payment made by any person or committee to influence a federal election. [2 U.S.C. 431(9); 11 C.F.R. 100.8(a)(1)] A disbursement is defined by the FEC as “any purchase or payment made by a political committee.” [Federal Election Commission, *Campaign Guide for Congressional Candidates and Committees (1988)*] Therefore the term “disbursement” includes all expenditures as well as all other outlays of funds by a political committee. [Federal Election Commission, *Campaign Guide for Congressional Candidates and Committees (1988)*] The distinction is important for recordkeeping purposes since all disbursements of a political committee must be reported, regardless of whether they influence an election or not. [2 U.S.C. 432(c)(5), 434(a), (b)(4); 11 C.F.R. 104.3] The main provisions are summarized below.

#### **Accounting for Contributions Received; Segregated Funds**

Every person who receives a contribution for an authorized political committee shall, no later than ten days after receiving such contribution, forward to the treasurer such contribution, and if the amount of the contribution is in excess of \$50, the name and address of the person making the contribution and the date received. [2 U.S.C. 432(b)(1); 11 C.F.R. 102.8]

Every person who receives a contribution for a political committee that is not an authorized committee shall (1) if the amount of the contribution is \$50 or less, forward to the treasurer such contribution no later than thirty days after receiving the contribution, and (2) if the amount is in excess of \$50, forward to the treasurer such contribution, along with the name and address of the person making the contribution and the date received, no later than ten days after receiving the contribution. [2 U.S.C. 432(b)(2); 11 C.F.R. 102.8]

All funds of a political committee must be segregated from, and may not be commingled with, any personal funds of any individual, including officers, members, or associates of such committee. [2 U.S.C. 432(b)(3); 11 C.F.R. 102.15]

#### **Recordkeeping**

The treasurer of a political committee shall keep an account of both contributions received and disbursements made, which includes—

### **Contributions**

- All contributions received by or on behalf of such committee. [2 U.S.C. 432(c)(1); 11 C.F.R. 102.9(a)]
- The name and address of every person making a contribution in excess of \$50, and the date and amount of it, and, if a person's contributions aggregate more than \$200, the account must include that person's occupation, and the name of his or her employer, if any. [2 U.S.C. 432(c)(2), (3); 11 C.F.R. 102.9(1), (2)]
- The full name and address of any political committee that makes a contribution, together with the date and amount of such contribution. [2 U.S.C. 432(c)(4); 11 C.F.R. 102.9(3)]

### **Disbursements**

- The name and address of every person to whom any disbursement is made, the date, amount, and purpose of the disbursement, and the name of the candidate, and the office sought by the candidate, if any, for whom the disbursement was made, including a receipt, invoice, or canceled check for each disbursement in excess of \$200. [2 U.S.C. 432(c); 11 C.F.R. 102.9(b)]

### **Preservation of Records and Copies of Reports**

The treasurer must preserve all records required to be kept by this section and copies of all reports required to be filed for three years after the report is filed. [2 U.S.C. 432(d); 11 C.F.R. 102.9(c)]

### **Principal Campaign Committee: Reports, Filing**

It is the duty of each principal campaign committee to receive all designations, reports, and statements of receipts and disbursements required to be filed with it and to compile and file them, together with its own reports and statements, in accordance with the Act. [2 U.S.C. 432(f); 11 C.F.R. 104.3(f)]

### **Reporting Requirements; Filing Dates**

Appendix 2 contains a summary of key requirements for reporting to the FEC by campaign committees.

### **Reporting Debts**

All debts, obligations, or other promises to make an expenditure, the amount of which is \$500 or less, shall be reported as of the time the payment is made or no later than sixty days after such obligation is incurred, whichever comes first. Any loan debt or obligation, the amount of which is over \$500, shall be reported as of the time of the transaction. The amount and nature of outstanding debts owed by or to a political committee shall be reported in separate schedules and reporting forms as prescribed by the commission until paid or extinguished. [2 U.S.C. 434(b)(8); 11 C.F.R. 104.11]

### **Petty Cash**

A political committee may maintain a petty cash fund out of which it may make disbursements not in excess of \$100 to any person in connection with a single purchase or transaction. A record of petty cash disbursements must be kept in accordance with requirements established by the Act. [2 U.S.C. 432(h), (c)(5); 11 C.F.R. 102.11]

### **Operating Expense**

The name and address of each person to whom an expenditure in the aggregate that exceeds \$200 within the calendar year to meet operating expenses, together with the date, amount, and purpose of such operating expense, must be reported. [2 U.S.C. 434(b)(5)(A)]

## **Requirements for Committee Organization and Operation**

### **Organization of Political Committees**

Each candidate for election to the Senate and House of Representatives is required to designate in writing a political committee to serve as his or her principal campaign committee. Such designation must take place within fifteen days of becoming a *candidate*. [2 U.S.C. 432(e); 11 C.F.R. 102.12(a)] For purposes of triggering the statute's designation and registration requirements, a *candidate* is

defined as any individual seeking election to federal office who has either received more than \$5,000 in contributions or made in excess of \$5,000 in expenditures, or has consented to such activity by others. [2 U.S.C. 431(2); 11 C.F.R. 100.3]

In addition to designating a principal campaign committee, a candidate may also designate other political committees to serve as authorized committees of the candidate. The candidate's principal campaign committee receives the reports of other authorized committees that have received or disbursed funds on the candidate's behalf, compiles them, and, together with its own reports, files them in accordance with the Act. [2 U.S.C. 432(f); 434(a)(1), (2)]

#### **Treasurer; Vacancies; Official Authorizations**

Every political committee must have a treasurer. No contribution and no expenditure can be accepted or made by or on behalf of a political committee at a time when there is a vacancy in the office of treasurer. No expenditure can be made for or on behalf of a political committee without the authorization of its treasurer or his or her designated agents. [2 U.S.C. 432(a)] A political committee may appoint an assistant treasurer who shall undertake the duties of the treasurer in the event of the treasurer's absence or unavailability. [11 C.F.R. 102.7]

The law requires the treasurer to keep an accurate accounting of all contributions received and disbursements made by the committee so as to enable the committee to meet its legal reporting requirements. [2 U.S.C. 432(c)]

The treasurer is responsible for filing the necessary reports and for retaining the necessary records for a period of three years. [2 U.S.C. 434(a); 11 C.F.R. 102.9, 104.1(a)]

#### **Registration of Political Committees**

All political committees are required to register within ten days of their formation. The candidate's principal campaign committee must file a statement of organization with either the Clerk of the House or Secretary of the Senate no later than ten days after it has been designated by the candidate. Other authorized political committees must file a statement of organization with the principal campaign committee. [11 C.F.R. 102, 105] Each separate segregated fund must file a statement of organization no later than ten days after establishment. All other committees must file a statement of organization with the FEC within ten days of becoming a political committee as defined by the Act. [2 U.S.C. 431(4); 433(a); 11 C.F.R. 102.1, 105]

#### **Campaign Depositories**

Each political committee must designate one or more state banks, federally chartered depository institutions, or depository institutions, the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation\*, or the National Credit Union Administration as campaign depositories and must maintain at each such depository at least a single checking account, and such other accounts as the committee deems necessary. All receipts received by the committee must be deposited in these designated accounts within ten days of receipt. No disbursement other than petty cash expenditures below \$100 may be made by the committee except by check drawn on these accounts. [2 U.S.C. 432(h)(1), (2); 11 C.F.R. 103.2, 103.3]

## **DEVELOPING COMPLIANCE SYSTEM PROCEDURES**

The treasurer, legal counsel, certain key campaign advisers, and staff, together with any outside advisers, will most likely compose the group responsible for developing recommended compliance

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\*Effective August 9, 1989, the Federal Savings and Loan Insurance Corporation was abolished and its insurance functions transferred to the FDIC. The deposits held by both banks and savings associations are now insured by the FDIC. [*Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub. L. No. 101-73, 103 Stat. 183.*]

system procedures for candidate review and approval. This group will not only have to consider the implication of those sections of the law highlighted above, but it will need to review all remaining sections of the law to determine their applicability to the campaign. Further, all available administrative regulations and guidelines promulgated and published by the FEC should be reviewed for the same purpose.

The product of this review should be a summary checklist of sections of the law and regulations with which the campaign must comply. Such a compliance checklist might be categorized and segmented in a manner similar to the previous sections or as otherwise found suitable.

Once formed, the compliance checklist can be useful in a number of ways:

- It provides a framework in which to summarize the system procedures appropriate to each compliance requirement.
- It forms a framework on which specific system controls may be outlined during the actual system design phase.
- It becomes a format for recording and reporting to the candidate all subsequent amendments to the law and regulations and provides a quick analysis of the compliance implications of such amendments.
- It is a framework with which to plan the organization and conduct of internal compliance reviews.
- It provides a basis for communication with other candidates and campaign committees within the same political party. (Chapter 3 includes a discussion of intraparty cooperation.)

### **An Illustrative Compliance Checklist**

Exhibit 5, which follows on pages 26–29, illustrates a sample compliance checklist drafted to reflect those compliance requirements described in the immediately preceding section. Included are suggested procedures considered appropriate for the listed compliance requirements and references to the applicable section of the *United States Code*.

The suggested procedures shown in exhibit 5 are designed to provide guidance regarding the specific compliance requirements in the checklist as well as other general requirements. The procedures noted might be characterized as follows:

- Screening of transactions for type, source, and amount and for rejection of all exceptions to acceptance requirements or limitations.
- Regular monitoring of cumulative amounts of contributions and comparison of totals with limitations.
- Scheduling of key requirements and regular review and reporting of progress.
- Full recognition and use of controls and procedures normally found in accounting systems.
- Regular reporting of progress and performance to candidates and other key advisers and direct reporting of significant exceptions or noncompliance.

Once approved, the procedures can be used to form a basis for the detailed design of the campaign compliance system.

### **Unique Issues Affecting Accounting, Financial Reporting, and Compliance**

Certain unique issues and conditions affecting accounting, financial reporting, and compliance in the campaign environment must be considered when establishing system procedures and the detailed system design. Several of the significant issues, in addition to those mentioned in previous sections, may be highlighted as follows:

- Contributions are sometimes designated to be allocated between more than one committee or candidate. The allocated portion of such receipts is to be recorded by an authorized committee as transfers out (when paid to another authorized committee of the same candidate) or as transfers in (when received from another authorized committee of the same candidate). [11 C.F.R. 106.1(a), (b)] Political committees authorized by the same candidate are entitled to transfer funds without limit. [11 C.F.R. 110.3(a)(i)(c)]
- A political committee may make expenditures on behalf of more than one candidate. For reporting purposes, such expenditures must be allocated among the candidates on a reasonable basis. Expenditures on general day-to-day campaign costs and the routine costs of operating a political committee need not be allocated among various candidates nor attributed to any particular candidate unless such expenditures are in fact made exclusively on behalf of one candidate. Such expenses include rent, personnel costs, fundraising, training campaign workers, registration drives, and so forth. [11 C.F.R. 106.1(c)]
- The need to segregate, designate, and/or allocate contributions and expenditures between primary and general election campaigns must be considered. [11 C.F.R. 102.9(e), 110.1(J)] Generally, a contributor is free to designate to which election a contribution will be applied. However, if a contribution is submitted undesignated, the funds must be allocated to the next upcoming election. [11 C.F.R. 110.1(b)(2)]
- Differences may exist between the accounting for committees required by the federal election campaign laws and generally accepted accounting principles, specifically
  - Under the law, reporting is essentially on a cash basis with the additional requirement to disclose and report certain debts and obligations of the committee. [2 U.S.C. 434(b)(1), (8)]
  - Loans received by the committee are required by law to be classified as contributions received. [2 U.S.C. 431 (8)(A)(i); 11 C.F.R. 100.7(a)]
- Accounting must be made for certain contributed in-kind services (for example, volunteers' travel expenses) below and above a \$1,000 limitation. Over \$1,000, such contributions must be charged against campaign contribution limitations and accounted for as a contribution and an expenditure. [2 U.S.C. 431(8)(B)(ii), (iii), (iv); 11 C.F.R. 100.7(b)(5)–(8)]
- It must be determined how the concept of materiality applies in determining the disclosure of noncompliance in financial statements.
- It must be determined whether advisory opinion requests (AORs) submitted by others have application to the campaign. [11 C.F.R. 112.5(b)]
- Consideration should be given to the degree to which potential compliance or noncompliance may be affected by persons not under the control of the candidate or his primary campaign committee; for example, by certain staff members, individual or group contributors, and supporting committees.
- The campaign is of temporary nature; specific provisions must be made for start-up and close-out requirements.
- When contemplating use of electronic data processing, the following should be considered:
  - Use of available software packages and the facilities of data processing service centers to process payroll, disbursements, and so forth.
  - The use of modified or specifically designed software packages and the facilities of data processing service centers, or computer time-sharing arrangements, to process such applications as contributions received, contributor records, cash flow projections, voter information, and statistics.
- Attention should be given to the allocation of contributions and expenditures
  - by a candidate who engages in campaign activity during the course of other business or personal activities. [11 C.F.R. 106.3]



—by one candidate campaigning on behalf of another, or between two candidates campaigning together.

—between a political party committee and the candidate(s) it supports.

—by a nonparty political committee and the candidate(s) it supports.

—by other “persons” on behalf of the candidate(s).

- Transfers of funds between checking accounts in designated depositories and savings or investment accounts must be carefully controlled.
- An imprest fund system may be used to control financial activities of affiliated committees.

When planning campaign needs, it is suggested that the foregoing and similar unique issues be identified early.

**EXHIBIT 5: AN ILLUSTRATIVE COMPLIANCE CHECKLIST**

Compliance Category	Compliance Requirement	Citation to U.S.C.	Suggested Procedures
Contribution Limitations	Contributions must be in accordance with legal definition. Exception for certain legal services, voluntary services, accounting services and loans in the ordinary course of business. Similar exceptions for other volunteer activities.	2 U.S.C. 431(8); 11 C.F.R. 100.7	<ul style="list-style-type: none"> <li>• Code all contributions by type, and report to treasurer all contributions that cannot be matched with an acceptable definition.</li> <li>• Make record of and return unacceptable contributions.</li> <li>• Calculate cumulative contributions from contributors who give more than once.</li> </ul>
	Contributions in cash; aggregate payments per person in excess of \$100 cannot be accepted. If a cash contribution in excess of \$100 is received, the amount over \$100 must be promptly returned to the contributor.	2 U.S.C. 441g; 11 C.F.R. 110.4(c)	<ul style="list-style-type: none"> <li>• Record all contributions by each separate source.</li> <li>• Compute, during each separate transaction, the cumulative contributions, and test against limits.</li> <li>• Report to treasurer all cumulative contributions exceeding limitation.</li> <li>• Record and return all excess contributions.</li> </ul>
	A maximum of \$1,000 in contributions can be received from individuals for any election. A primary election and general election are considered separate elections for purposes of this limitation. Any contribution that appears to exceed this limitation may be, within ten days of receipt, either deposited in a separate campaign depository or returned to the contributor. If the contribution is deposited and its legality cannot be established within sixty days of receipt, the contribution must be refunded to the contributor.	2 U.S.C. 441a(a)(1); 11 C.F.R. 110.1(b)(1), 110.1(j)	<ul style="list-style-type: none"> <li>• Record all contributions by each separate source.</li> <li>• Compute, during each separate transaction, the cumulative contributions, and test against limits.</li> <li>• Report to treasurer all cumulative contributions exceeding limitation.</li> <li>• Record and return all excess contributions.</li> <li>• If there is any question regarding the source of a contribution, the contribution should be placed in a separate account similar to an escrow account until such time as the permissibility of accepting the contribution can be determined.</li> </ul>
	Qualified multicandidate political committees may contribute a maximum of \$5,000 to a candidate or his or her authorized political committee for any election. A primary election and general election are considered separate elections for purposes of this limitation. Any contribution that appears to exceed this limitation may be, within ten days of receipt, either deposited in a separate campaign depository or returned to the contributor. If the contribution is deposited and its legality cannot be established within sixty days of receipt, the contribution must be refunded to the contributor.	2 U.S.C. 441a(a)(2); 11 C.F.R. 110.2(b)(1), 110.2(i)	<ul style="list-style-type: none"> <li>• Record all contributions by each separate source.</li> <li>• Compute, during each separate transaction, the cumulative contributions, and test against limits.</li> <li>• Report to treasurer all cumulative contributions exceeding limitation.</li> <li>• Record and return all excess contributions.</li> <li>• If there is any question regarding the source of a contribution, the contribution should be placed in a separate account similar to an escrow account until such time as the permissibility of accepting the contribution can be determined.</li> </ul>

Contribution Limitations  
(cont.)

Contributions by labor organizations, corporations, and government contractors are prohibited. (However, such organizations may establish and administer separate segregated funds, commonly known as PACs. Contributions from PACs are acceptable. See appendix 5.) Contributions by national banks, foreign nationals and those made in the name of another are prohibited. Any contribution that appears to be of questionable legality may be, within ten days of receipt, either deposited in a separate campaign depository or returned to the contributor. If the contribution is deposited and its legality cannot be established within thirty days of receipt, the contribution must be refunded to the contributor.

2 U.S.C. 441b; 441c;  
11 C.F.R. 114.2, 115.2;  
2 U.S.C. 441e, 441f;  
11 C.F.R. 110.4(a)(1),  
110.4(b)

- Code all contributions by source and report to treasurer all contributions that are not acceptable.
- Make a record of and return contributions from prohibited sources.
- If there is any question regarding the source of a contribution, the contribution should be placed in a separate account similar to an escrow account until such time as the permissibility of accepting the contribution can be determined.

Expenditure Limitations

Expenditures by national and state party committees in connection with a candidate's general election are limited to the greater of \$0.02 x the voting age population, or \$20,000 for a Senate candidate, or \$10,000 for a House candidate.

2 U.S.C. 441a(d)(1), (3),  
(e); 11 C.F.R. 110.7(b)

- Monitor all expenditures by national and state party committees.
- Report to treasurer all cumulative expenditures exceeding limitation.

Ensure that independent expenditures by persons are not made in consultation or concert with the candidate, or his or her committees, or any agents.

2 U.S.C. 431(17), (18);  
434(c); 11 C.F.R.  
109.1(a), (b)

- Monitor FEC indexes to identify independent expenditures made on behalf of candidate, and ensure correctness of certification statements.

Candidates may make unlimited expenditures from "personal funds" provided such contributions are made in strict accordance with FEC regulations. The regulations define personal funds as those the candidate has a legal right to control under state law. Also ensure that contributions from the candidate's immediate family are within the \$1,000 per election limitation.

2 U.S.C. 434(b)(2)(B);  
11 C.F.R. 110.1(i), 110.10

- Review all the candidate's expenditures from his personal funds to ensure compliance.

Recordkeeping and  
Reporting

Need to segregate campaign funds of a political committee from any others.

2 U.S.C. 432(b)(3);  
11 C.F.R. 102.15

- Treasurer control over establishment and maintenance of separate bank accounts.
- Coding of all contributions and expenditures as previously noted to inhibit commingling.

Record date and amount of contributions; record name and address of persons contributing between \$50 and \$200, and also occupation and name of employer for amounts in excess of \$200; record the identification of any political committee that makes a contribution, together with the date and amount of the contribution.

2 U.S.C. 432(c)(2), (3),  
(4); 431(13)(A);  
11 C.F.R. 102.9(a)

- Provide an information form to document all contributions.
- Normal accounting system controls over receipts.
- Conduct data completion check, and note contributions requiring follow-up for information or clarification.

(continued)

**EXHIBIT 5: AN ILLUSTRATIVE COMPLIANCE CHECKLIST (cont.)**

<b>Compliance Category</b>	<b>Compliance Requirement</b>	<b>Citation to U.S.C.</b>	<b>Suggested Procedures</b>
Recordkeeping and Reporting (cont.)	Record all disbursements; record name, address, date, amount, and purpose, and name of candidate and office sought. If a disbursement exceeds \$200, a receipt is required.	2 U.S.C. 432(c)(5); 11 C.F.R. 102.9(b)	<ul style="list-style-type: none"> <li>• Normal accounting system controls over disbursements.</li> <li>• Maintain records on all encumbrances (e.g., financial commitments not yet invoiced).</li> <li>• Record cumulative disbursements to each vendor.</li> </ul>
	Meet completion and mailing dates for campaign reports, including reports of all debts, and all required pre-election, post-election and quarterly reports to the Clerk of the House of Representatives or the Secretary of the Senate.	2 U.S.C. 432(g); 433(c); 434(a); 11 C.F.R. 104 et seq., 105.1, .2, 4 (see appendix 2)	<ul style="list-style-type: none"> <li>• Normal accounting and financial management system controls over summarizing and reporting of financial data.</li> <li>• Establish a schedule for preparation and issuance of all commission required, and internally required, reports.</li> </ul>
	Retention of reports, records, and supporting documents for three years after the date of filing.	2 U.S.C. 432(d); 11 C.F.R. 104.14	<ul style="list-style-type: none"> <li>• Establish a retention policy.</li> </ul>
	Petty cash limitation, \$100 per person per transaction. The treasurer must keep a written journal of all such disbursements.	2 U.S.C. 432(h)(2); 11 C.F.R. 102.11	<ul style="list-style-type: none"> <li>• Normal accounting system controls.</li> </ul>
	Operating expense reporting.	2 U.S.C. 434(b)(5)(A)	<ul style="list-style-type: none"> <li>• Normal accounting system controls.</li> </ul>
Committee Organization and Operation	Designation of principal campaign committee within fifteen days of becoming a candidate. Authorization of additional campaign committees to accept contributions and make expenditures on behalf of the candidate.	2 U.S.C. 432(e); 11 C.F.R. 101.1(a), (b); 102.12, 13	<ul style="list-style-type: none"> <li>• The designation is one of the basic initial actions required to organize a campaign.</li> </ul>
	Submission of reports of affiliated campaign committees, if any, to principal campaign committee.	2 U.S.C. 432(f), (g); 11 C.F.R. 104.3(f)	<ul style="list-style-type: none"> <li>• Normal accounting and financial management system controls for compiling financial information.</li> <li>• Establish a schedule for receipt of reports of affiliated campaign committees and monitor progress, reporting deficiencies to the candidate.</li> </ul>
	No contribution or expenditure shall be accepted or made when there is a vacancy in the office of treasurer. A committee may designate an assistant treasurer who may assume the duties of the treasurer in the event of the treasurer's absence.	2 U.S.C. 432(a); 11 C.F.R. 102.7	<ul style="list-style-type: none"> <li>• Prepare a contingency plan to fill vacancy on a timely basis.</li> </ul>
	All expenditures must be authorized by the treasurer or his or her designated agents.	2 U.S.C. 432(a); 11 C.F.R. 102.7	<ul style="list-style-type: none"> <li>• Normal accounting system controls (e.g., control through approval and signature of purchase orders, checks, contracts, and so on).</li> </ul>

Committee Organization  
and Operation (cont.)

Treasurer responsible for preparation of budgets, financial reports, tax returns, and establishment of accounting system.

2 U.S.C. 432(c); 434(a),  
(b); 11 C.F.R. 102.9

- Planning, scheduling, and progress reviews.

Registration of committee, within ten days of designation or formation.

2 U.S.C. 433; 11 C.F.R.  
102.1(a), (b)

- A basic requirement in organizing the campaign.

Designate certain banks as campaign depositories. Deposit all contributions in designated depositories and make all disbursements from such depositories.

2 U.S.C. 432(h)(1);  
11 C.F.R. 103.1, 103.2

- Schedule preparation and recording of designations.
- Authorize changes in initial designation and advise commission of changes.
- Normal accounting system controls.

# CHAPTER 3

## ADDITIONAL COMPLIANCE CONSIDERATIONS

### CONTROLLING AFFILIATED CAMPAIGN COMMITTEES (IF ANY)

All political committees authorized by the same candidate are deemed to be “affiliated.” [11 C.F.R. 100.5(g)] The Act requires that such “affiliated campaign committees” authorized by a candidate must report their activity to the candidate’s “principal campaign committee.” [2 U.S.C. 432(f)] Such reports are then to be compiled by the principal campaign committee and filed with either the Clerk of the House or Secretary of the Senate. This requirement places significant coordination responsibilities on the affiliated and principal campaign committees. [2 U.S.C. 432(f), (g); 11 C.F.R. 104.3(f)]

The principal campaign committee has primary responsibility for advising the affiliated campaign committees on the requirements of the federal election campaign laws and for issuing specific accounting, reporting, internal control, and compliance guidelines.

The candidate should approve the plans for controlling the relationship between principal and affiliated committees. These plans should provide for the following:

- Orientation of the affiliated committee to the requirements of the law
- Requirement that appropriate steps be taken to ensure compliance prior to official authorization of the affiliated committee to act on behalf of the candidate
- Assistance to the affiliated committee as it establishes its compliance plans
- Provision for the cosigning of the compliance plan by both principal and affiliated committee treasurers
- Periodic reviews of affiliated committee compliance controls by representatives of the principal committee
- Preagreement to discontinue the affiliated committee in the event of significant unresolved problems of noncompliance

### INTERNAL COMPLIANCE REVIEW AND FEDERAL ELECTION COMMISSION COMPLIANCE AUDITS

Efforts to achieve compliance can be considerably strengthened if the principal campaign voluntarily conducts internal compliance reviews. By requiring and approving such reviews, the candidate can exercise a vital control over compliance efforts.

Internal compliance reviews are important for the following reasons:

- The relatively short campaign cycle and consequent rapid turnover of events require that no material lapses in internal accounting and compliance controls be allowed to occur and/or continue. An effective way of guarding against such lapses is through the periodic monitoring and testing of controls by a person independent of the basic accounting and compliance organization.
- By conducting such internal compliance reviews, the campaign organization will enhance the degree to which it is prepared for audit by the FEC.

Auditors of the FEC will play a very significant role in determining whether or not political committees are in compliance with the federal election campaign laws.

Since audit determinations could have an adverse political consequence, it is necessary that the candidate supervise the principal campaign committee's participation in connection with commission audits. Specifically, the committee should require that—

- Staff and volunteers be informed of the positive assistance that auditors from the commission may provide in ensuring that the campaign is achieving compliance.
- Key advisers and staff clearly understand the scope and objectives of the commission audit prior to the start of the audit.
- One individual, preferably the treasurer, be designated as liaison for the commission auditors and that this individual have sufficient knowledge, experience, and available time for effective coordination.
- Key advisers and staff review and discuss, whenever possible, the findings of the commission auditors prior to the completion of the auditors' field work at the campaign site.
- Any instance of noncompliance determined by the commission auditors be brought immediately to the attention of the candidate by the individual designated as liaison.

In the event that noncompliance is determined, the candidate should—

- Ascertain that the principal campaign committee treasurer and legal counsel have reviewed the determinations and concur with the findings.
- Determine that a plan is prepared to correct, if possible, the noncompliance in past transactions and to ensure that future transactions will be in compliance.
- Ascertain that the matter is regularly reviewed until instances of noncompliance are fully corrected.

In the event that instances of noncompliance are publicly disclosed by the commission, and there is a response from the public or from an opponent, the candidate may consider making a general statement that presents the candidate's views on the importance of complying with the federal election campaign laws; examples of specific controls and procedures developed to achieve compliance; and a brief explanation of the circumstances of the specific noncompliance and the actions taken to correct the situation. A detailed statement may be appropriate in certain circumstances.

## **CANDIDATE APPROVAL OF OTHER COMPLIANCE-RELATED POLICIES**

The candidate should personally approve the establishment of all policies that are significant to compliance. In addition to those previously discussed, the two topics of campaign security and intraparty cooperation serve as examples of policy areas that should receive the attention of the candidate.

### **Campaign Security Measures**

Campaign security measures should be reviewed and approved by the candidate. It is critical to establish procedures and rules to prevent access to campaign systems and records by unauthorized persons.

Following are examples of security measures that might be employed:

- Advise staff and volunteers of the need for security.
- Whenever possible, locate accounting and recordkeeping activities in restricted areas.
- Control the distribution of keys, combinations, and so forth, that permit access to significant campaign information, and require that such information be locked in file cabinets or safes after closing.

## **Intraparty Communication**

A policy for communication with other candidates regarding compliance should be developed and approved by the candidate. Each candidate for the House or the Senate will be facing similar compliance requirements. Potential benefits from periodic exchanges of information could include—

- Knowledge of attorneys and CPAs who are qualified to provide campaign-related services.
- Identification of accounting and compliance systems that may be obtained and modified for use.
- Information about electronic data processing software packages that may be obtained and used for processing contributions, payroll, other disbursements, and the like.
- Knowledge about the audit activities of the FEC.

## **COMPLIANCE IN PERSPECTIVE**

It has been recommended that the candidate personally control key efforts to achieve compliance through approval of the following matters:

- Plans for achieving compliance
- Campaign organization structure
- Qualification criteria for advisers, staff, and volunteers
- System procedures for campaign accounting, compliance, and financial management systems
- Controls over affiliated campaign committees, if any
- Policy regarding internal compliance reviews and audits by the FEC

Having effectively exercised this kind of control, the candidate will have taken significant steps to ensure that compliance with federal election campaign laws is achieved.

However, it should be recognized that the internal accounting and compliance control procedures of any system have certain limitations. The objective of the campaign's accounting and compliance control systems is to provide reasonable assurance that (1) campaign funds are properly accounted for and distributed, (2) the accounting and compliance-related records can be relied upon in preparing required reports to the FEC, and (3) the transactions and affairs of the candidate and campaign committee are in compliance with federal election campaign laws.

Accounting and compliance control systems have inherent limitations because—

- The cost of a system of internal controls should not exceed the benefits derived.
- Control failure and errors can result from misunderstood instructions, mistakes of judgment, or other personal factors.
- Controls whose effectiveness depends upon segregation of duties can be nullified by collusion.
- Controls can be neutralized through improper execution and recording of transactions or through deficient judgments.

Although these limitations are recognized, they need not diminish the candidate's determination to achieve compliance with the federal election campaign laws.



# CHAPTER 4

## DISCLOSURE OF PERSONAL FINANCIAL INFORMATION BY CANDIDATES AND OFFICEHOLDERS

In recent years, many public officials as well as candidates for public office have been required to disclose information concerning their personal financial status. The Ethics in Government Act of 1978, Pub. L. 95-521, established comprehensive public financial disclosure requirements for the president and vice-president and candidates for those offices as well as many employees and officers of the executive branch of the federal government. In addition, all states now have some form of financial reporting requirements for many state candidates, incumbents, and employees. To date, the form and content of the required financial representations have varied widely because of differences in state statutes and regulations. Generally, required financial disclosures are incomplete financial presentations.

In the interest of open government, some candidates and elected officials have chosen to make public disclosure of their personal financial affairs in the form of personal financial statements. The AICPA guide entitled *Personal Financial Statements* deals with such statements.<sup>1</sup> This chapter is designed to assist those candidates and public officials who desire to present personal financial information in financial statements prepared in accordance with generally accepted accounting principles. Recommendations for recordkeeping are set forth to facilitate the preparation of personal financial statements. In addition, sample financial statements with appropriate disclosures are presented to aid the individual in preparing this form of public financial disclosure.

### ENTITY TO BE COVERED

Personal financial statements may be prepared for an individual, a husband and a wife, or a larger family group, as circumstances may require. Ordinarily, a combined statement of assets and liabilities of both spouses, and possibly those of minor children, will be the most appropriate presentation of personal financial information. However, in certain situations, disclosure of each individual's interest in the net assets of the combined statement may be useful and should be included. In any case, the individuals covered by the statements should be clearly indicated.

Where financial statements are prepared for only one of a group of joint owners of assets, or where additional statements are prepared for each individual owner, only the share of the assets that the individual has a right to as a beneficial owner under the property laws of the state should be included. Any liabilities, or share thereof, for which each individual is obligated should also be included.

Where property is held in joint tenancy, as community property, or in a similar situation, and the legal status of the separate equities of the parties is not clear, the advice of an attorney will be required in determining whether the interest in such property should be included among the assets

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1. The AICPA has issued Statement of Position 82-1, *Accounting and Financial Reporting for Personal Financial Statements*, which is effective for personal financial statements dated June 30, 1983, or after. The reader interested in presenting personal financial statements in accordance with generally accepted accounting principles should refer to the guide and SOP 82-1, which is appendix 7 of this book.

and, if so, its proper allocation under the applicable state laws. Where such property is included in the combined personal financial statements of a husband and wife or larger family group, full disclosure of the circumstances is generally necessary.

## **FORM AND CONTENT**

The form and content of financial statements presenting assets and liabilities of individuals have not been given as much attention by the accounting profession as those for commercial enterprises. To achieve a desirable degree of uniformity and provide meaningful information, financial statements for individuals should be prepared in conformity with generally accepted accounting principles. Accordingly, accrual accounting should be used, and cash basis statements are not appropriate.

A disparity frequently exists between cost and estimated current values. When the more common reasons for the use of personal financial statements are considered, it is evident that this disparity creates a need for a clear presentation of estimated current values. For example, financial statements may be used for personal purposes, estate and income tax planning, contemplated retirement, credit purposes, and public disclosures by political candidates. Therefore, it is recommended that personal financial statements present assets at their estimated current values and liabilities at their estimated current amounts at the date of the financial statements.

Personal financial statements consist of the following from SOP 82-1:

- a. *A statement of financial condition.* This is the basic personal financial statement. It presents the estimated current values of assets, the estimated current amounts of liabilities, estimated income taxes on the differences between the estimated current values of assets and the estimated current amounts of liabilities and their tax bases, and net worth at a specified date. The term *net worth* should be used in the statement to designate the difference between total assets and total liabilities, after deducting estimated income taxes on the differences between the estimated current values of assets and the estimated current amounts of liabilities and their tax bases.
- b. *A statement of changes in net worth.* This statement presents the major sources of increases and decreases in net worth. It should present the major sources of increases in net worth: income, increases in the estimated current values of assets, decreases in the estimated current amounts of liabilities, and decreases in estimated income taxes on the differences between the estimated current values of assets and the estimated current amounts of liabilities and their tax bases. It should present the major sources of decreases in net worth: expenses, decreases in the estimated current values of assets, increases in the estimated current amounts of liabilities, and increases in estimated income taxes on the differences between the estimated current values of assets and the estimated current amounts of liabilities and their tax bases. One statement combining income and other changes is desirable because of the mix of business and personal items in personal financial statements. The presentation of a statement of changes in net worth is optional.
- c. *Comparative financial statements.* The presentation of comparative financial statements of the current period and one or more prior periods may sometimes be desirable. Such a presentation is more informative than the presentation of financial statements for only one period. The presentation of comparative financial statements is optional.

## **CLASSIFICATION OF ASSETS AND LIABILITIES**

The financial affairs of individuals do not generally involve a business cycle because the realization of assets and the liquidation of liabilities are usually dependent upon the individual's circumstances. Accordingly, the concept of working capital, as related to business enterprises, is generally not appropriate for individuals. Ordinarily, the most useful and readily understood presentation is to set forth the assets and liabilities in order of liquidity and maturity without classification between current and noncurrent items.

Illustrative financial statements are presented on pages 42-46.

## **ITEMS FREQUENTLY INCLUDED IN PERSONAL FINANCIAL STATEMENTS**

### **Business Interests, Proprietorships, and Partnerships**

Business interests that constitute a significant part of the overall assets should ordinarily be shown separately and described specifically, with further explanatory information as necessary, in the notes to the financial statements.

An investment in a separate entity, such as a closely held corporation or a partnership, even if controlled by the principals, or a business operated as an individual proprietorship, generally should be shown in one amount as an investment. Assets and liabilities of the separate entity should not be combined with similar items of a personal nature. Where investments are material in relation to the overall statement of financial condition, information regarding the various assets and liabilities and operating results of the entity should be set forth in summary form in the footnotes or as separate supplementary financial statements.

In the case of individual proprietorships, there may be little, if any, distinction between personal and business assets and liabilities, except on a completely arbitrary basis determined by the proprietor. This fact should be considered in deciding the manner in which financial information is presented.

### **Blind Trusts**

Occasionally a public official or candidate may have financial interests that cannot be liquidated in an orderly fashion, thus creating an actual or apparent conflict of interest with the duties and responsibilities of a particular governmental position. In such cases, an officeholder and/or candidate (the beneficiary) may elect to establish a *blind trust* into which such assets are placed. Although the specific legal requirements regarding the establishment, administration, and dissolution of such a trust may vary with state laws, the trust administrator is generally given complete discretion over the disposition of the assets entrusted to him as well as discretion over future investment decisions made on behalf of the beneficiary. Typically, the composition of assets held in trust is not revealed to the beneficiary so that any apparent conflict of interest with the duties and responsibilities of a particular office can be avoided. The beneficiary is permitted, however, to request and receive cash payments from the trust.

The estimated current value of assets held in such a trust should be included in the financial statements.

## **ESTIMATED CURRENT VALUES OF ASSETS AND ESTIMATED CURRENT AMOUNTS OF LIABILITIES**

Paragraphs 12 through 30 of SOP 82-1 set forth guidelines for determining the estimated current values of assets and the estimated current amounts of liabilities.

### **FINANCIAL STATEMENT DISCLOSURES<sup>2</sup>**

Personal financial statements should include sufficient disclosures to make the statements adequately informative. The disclosures may be made in the body of the financial statements or in the notes. The following enumeration is intended not to be all-inclusive but simply indicative of the nature and type of information that ordinarily should be disclosed:

- a. A clear indication of the individuals covered by the financial statements
- b. That assets are presented at their estimated current values and liabilities are presented at their estimated current amounts
- c. The methods used in determining the estimated current values of major assets and the estimated current amounts of major liabilities or major categories of assets and liabilities, since several methods are available, and changes in methods from one period to the next
- d. If assets held jointly by the person and by others are included in the statements, the nature of the joint ownership
- e. If the person's investment portfolio is material in relation to his or her other assets and is concentrated in one or a few companies or industries, the names of the companies or industries and the estimated current values of the securities
- f. If the person has a material investment in a closely held business, at least the following:
  - The name of the company and the person's percentage of ownership
  - The nature of the business
  - Summarized financial information about assets, liabilities, and results of operations for the most recent year based on the financial statements of the business, including information about the basis of presentation (for example, generally accepted accounting principles, income tax basis, or cash basis) and any significant loss contingencies
- g. Descriptions of intangible assets and their estimated useful lives
- h. The face amount of life insurance the individuals own
- i. Nonforfeitable rights that do not have the characteristics discussed in paragraph 26, for example, pensions based on life expectancy
- j. The following tax information:
  - The methods and assumptions used to compute the estimated income taxes on the differences between the estimated current values of assets and the estimated current amounts of liabilities and their tax bases and a statement that the provision will probably differ from the amounts of income taxes that might eventually be paid because those amounts are determined by the timing and the method of disposal, realization, or liquidation and the tax laws and regulations in effect at the time of disposal, realization, or liquidation

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2. This section is from SOP 82-1, *Accounting and Financial Reporting for Personal Financial Statements* (New York: AICPA 1982).

- Unused operating loss and capital loss carryforwards
  - Other unused deductions and credits, with their expiration periods, if applicable
  - The differences between the estimated current values of major assets and the estimated current amounts of major liabilities or categories of assets and liabilities and their tax bases
- k. Maturities, interest rates, collateral, and other pertinent details relating to receivables and debt
- l. Noncancellable commitments that do not have the characteristics discussed in paragraph 28, for example, operating leases

## **COMPLIANCE WITH STATUTES AND REGULATIONS**

Personal financial disclosures that are required to be filed by officeholders or candidates for office may require disclosure of certain financial transactions in more detail than is generally necessary in financial statements. Therefore, federal and state statutes and regulations as well as the rules of the House and Senate should be carefully considered prior to adopting a recordkeeping system so that disclosure requirements regarding personal financial affairs can be complied with when personal financial statements of an officeholder or candidate are presented.

The Ethics in Government Act of 1978, 2 U.S.C. § 701 *et. seq.* (1978), as amended by the Ethics Reform Act of 1989, established certain financial disclosure requirements for Congressional officeholders and candidates. The Ethics Act requires all candidates for Congressional office to file a financial disclosure report within thirty days of becoming a candidate, or prior to May 15 of that year, whichever is later. [2 U.S.C. 701(c)]

The required disclosure must be a “full and complete” statement of—

- The source and amount of all income and honoraria received by the candidate that aggregates more than \$200 per year and, if any honoraria payments are donated by the candidate to charity, a list of all charitable organizations receiving such payments. [2 U.S.C. 702(a) (1) (A)]
- Dividend, interest, rent, and capital gains in excess of \$200. [2 U.S.C. 702(a) (1) (B)]
- Identity of any property interest in trade or business in excess of \$1,000. [2 U.S.C. 702(a) (3)]
- Value of liabilities owed to any creditor in excess of \$10,000, excluding personal residence mortgages and motor vehicles loans. [2 U.S.C. 702(a) (4)]
- Identification of prior position as officer, director, trustee, partner, or other of any business enterprise or other corporation. [2 U.S.C. 702(a)(6)]

The candidate is not required to disclose political campaign funds. [2 U.S.C. 702 (g)]

Candidates who are not currently members of Congress must file the required disclosure reports with the Federal Election Commission. Candidates who are incumbent members of Congress must file with either the Senate Select Committee on Ethics or the Standards of Official Conduct Committee of the House. [2 U.S.C. 703(3)(h)] The law provides a civil penalty of \$10,000 for the knowing and willful failure to file. [2 U.S.C. 704(a)]

## **PERSONAL ACCOUNTING RECORDS**

Anyone who contemplates issuing personal financial statements must understand the need for adequate accounting records. To facilitate the preparation of financial statements, candidates and officeholders and their families must develop a system to provide for the accumulation of financial data and the retention of documents to support:

- Acquisition, sale, or other disposal of assets
- Incurrence or liquidation of liabilities
- Sources of income
- Payment of expenses

Since each individual or family is to an extent unique, there is no simple comprehensive system that will serve everyone's needs. Accounting systems can vary from the highly sophisticated to the highly simplified, depending on the volume and nature of transactions. Therefore, prior to adopting a particular accounting system, it is suggested that individuals seek the counsel of a certified public accountant to assure that the system to be utilized will provide, in the most efficient manner, sufficient data to permit the preparation of a personal financial statement. A listing of certain accounting controls, records, and documents pertaining to some common financial activities of individuals is presented below. This listing is not intended to be all-inclusive but simply indicative of the type of control over financial matters and the documentation of transactions that individuals should adopt and maintain.

- **Bank accounts.** A bank account should be established and prenumbered deposit slips and checks used so that numerical and chronological control over transactions can be maintained. The use of separate accounts for personal and business transactions should also be considered. Separate accounts must be established for campaign-related receipts and disbursements.
- Cash received from all sources should be deposited intact and appropriately recorded. The source and nature of the receipt should be clearly identified.
- Checks drawn on the account should be recorded in a check register along with an appropriate explanation of the purpose of the disbursement.
- Checks should be utilized for the payment of all bills including household expenses.
- Periodic statements received from the bank should be reconciled with recorded deposits and withdrawals and with the balance shown in the check book. Reconciliations, including deposit slips and canceled checks, should be maintained for future reference.

In addition to establishing a bank account to systematically record and control financial transactions, documents supporting transactions, such as those described below, should be retained.

- **Marketable securities.** All brokerage advices, confirmations of sales and purchases, monthly statements, and a complete list of securities owned including the dates on which purchased, cost, and number of shares held.
- **Business interests (corporations, partnerships, proprietorships)**
  - All financial statements, tax returns, and similar documents.
  - Copies of appraisal reports.
  - Evidence of equity participation in the organization (stock certificates, bonds, notes, stock options, and so forth).
- **Residence and real property investments**
  - Deeds, closing statements, and other related documents for each piece of property held.
  - Paid invoices or other evidence for capital improvements made and property taxes paid.
  - Insurance policy files including all amendments and riders thereto.
  - Depreciation and expense records for income producing property.
- **Automobiles**
  - Paid invoices, bills of sale, receipts for excise or sales tax paid, and other related documentation concerning the purchase.
  - Insurance policy files including all amendments and riders thereto.
- **Household furnishings, jewelry, paintings, and other personal valuables**
  - Inventory of all valuable items.
  - Sales slips, agreements, or other evidence of cost including dates of purchase, sale, or exchange.
  - Insurance policies including amendments and riders thereto and other correspondence with brokers and carriers.
  - Appraisal reports or agreements for contemplated future sales.

- *Life insurance.* Policies together with amendments, riders, brokers' advices, paid invoices, and related correspondence.
- *Accounts payable.* Unpaid invoices by major vendor.
- *Notes and mortgages payable*
  - Debt instrument and related documents.
  - All correspondence with creditors.
  - Mortgage or loan reduction schedules.
- *Income*
  - Pay stubs and W-2 forms.
  - Documentation of political contributions (copies of checks, acknowledgments, and so forth).
  - Honoraria (remittance advices, correspondence, and so forth).
  - Interest and dividend remittance advices and 1099 forms.
  - Requests for travel and expense reimbursements.
  - Remittance advices pertaining to directors' fees and 1099 forms.
  - Record of drawings from business interests (proprietorship, partnership, and so forth).
- *Expenses*
  - Paid invoices and other evidence of payments made in cash.
  - Paid invoices, canceled checks, and other evidence of campaign expenses.
  - Personal expense diary.
- *Other records*
  - Personal financial statements; tax returns, including personal, gift, estate, and business; annual estimated tax payment records; and correspondence with taxing authorities.
  - A listing of all credit cards including account number, expiration date, and address and phone number of financial intermediary.

The requirements concerning the periods for which records must be retained, for example, for tax and political campaign purposes, should be carefully considered.

## **EXAMINATION OF FINANCIAL STATEMENTS BY CPAs**

Some political officeholders and candidates may consider it desirable to have their financial statements examined and reported on by an independent certified public accountant. It should be recognized that the scope of the examination and the nature of the opinion rendered will be dependent on the adequacy of the established controls and records and the accounting principles and policies used in the preparation of the financial statements.

**EXHIBIT 6: ILLUSTRATIVE FINANCIAL STATEMENTS FOR AN OFFICEHOLDER**

**MR. AND MRS. OFFICEHOLDER  
Statements of Financial Condition**

**December 31, 19X9 and 19X8**

	<b>December 31</b>	
<b>Assets</b>	<b>19X9</b>	<b>19X8</b>
Cash	\$ 16,079	\$ 11,642
U.S. Savings Bonds, Series E	7,450	3,915
Marketable securities (Note 2)	44,764	43,970
Interest in net assets of blind trust (Note 3)	105,300	101,900
Cash value of life insurance	4,647	3,916
Net assets of ABC Partnership (Note 4)	65,280	60,980
Equity in net assets of XYZ Corp. (Note 5)	4,730	4,117
Residence, pledged on mortgage note (Note 7)	77,000	75,880
Automobiles	3,000	4,125
Jewelry (Note 7)	8,400	8,400
Paintings (Note 6)	20,000	20,000
Household furnishings	2,000	2,000
Vested interest in CEH Pension Trust	17,810	17,263
Investment in rental property (Note 7)	41,000	41,000
Contingent asset (Note 9)	—	—
	<u>\$417,460</u>	<u>\$399,108</u>
 <b>Liabilities</b>		
Accounts payable and accrued expenses	\$ 3,290	\$ 4,655
9% note payable, unsecured, due January 15, 19X1	25,000	20,000
7½% mortgage, maturing in 20X2 secured by residence (annual amortization and interest payment amount to \$4,360)	49,790	51,940
Accrued income taxes payable, net of prepayments (Note 8)	2,400	3,100
	<u>80,480</u>	<u>79,695</u>
Estimated income taxes on the differences between the estimated current values of assets and the estimated current amounts of liabilities and their tax bases (Note 8)	28,100	24,900
	<u>308,880</u>	<u>294,513</u>
<b>Net Worth</b>	<u>\$417,460</u>	<u>\$399,108</u>

*The notes to the financial statements are an integral part of these statements.*



**EXHIBIT 6 (cont.)**

**MR. AND MRS. OFFICEHOLDER  
Statements of Changes in Net Worth**

**For the Years Ended December 31, 19X9 and 19X8**

	<b>December 31</b>	
	<b>19X9</b>	<b>19X8</b>
<b>Realized Increases in Net Worth</b>		
Salary	\$ 42,000	\$ 47,500
Honoraria received	4,500	—
Dividends and interest on investments	2,970	7,513
Gain on sale of securities	1,743	584
	<u>51,213</u>	<u>55,597</u>
<b>Realized Decreases in Net Worth</b>		
Personal expenditures	15,968	17,654
Expenses of office in excess of reimbursements	6,004	—
Interest expense	6,185	6,317
Real estate taxes	3,410	3,264
Current income taxes (Note 8)	12,260	14,361
	<u>43,827</u>	<u>41,596</u>
Net Realized Increase in Net Worth	<u>7,386</u>	<u>14,001</u>
<b>Unrealized Increases in Net Worth</b>		
U.S. Savings Bonds, Series E	460	215
Marketable securities	866	1,987
Blind Trust	3,400	—
Net assets in ABC Partnership	4,300	1,845
Equity in net assets of XYZ Corp.	613	971
Residence	1,120	1,450
Vested interest in CEH Pension Trust	547	487
	<u>11,306</u>	<u>6,955</u>
<b>Unrealized Decreases in Net Worth</b>		
Estimated income taxes on the differences between the estimated current values of assets and the estimated current amounts of liabilities and their tax bases (Note 8)	3,200	3,750
Decrease in value of automobiles	1,125	1,500
	<u>4,325</u>	<u>5,250</u>
Net Unrealized Increase in Net Worth	<u>6,981</u>	<u>1,705</u>
Net Increase in Net Worth	14,367	15,706
Net Worth, January 1	294,513	278,807
Net Worth, December 31	<u>\$308,880</u>	<u>\$294,513</u>

*The notes to the financial statements are an integral part of these statements.*

*(continued)*

**EXHIBIT 6 (cont.)**

**MR. AND MRS. OFFICEHOLDER  
Notes to Financial Statements**

**Note 1: Summary of Accounting Policies**

The accompanying financial statements include the assets and liabilities of Mr. and Mrs. Officeholder, prepared on the accrual basis of accounting. Assets are stated at their estimated current values and liabilities at their estimated current amounts.

**Note 2: Marketable Securities**

The estimated current values were arrived at as follows:

Stocks—quoted closing or latest bid prices

Bonds—quoted latest bid and ask prices

Marketable securities consist of the following:

	<u>December 31</u>			
	<u>19X9</u>		<u>19X8</u>	
	<u>Shares</u>	<u>Estimated Current Values</u>	<u>Shares</u>	<u>Estimated Current Values</u>
<b>Stocks</b>				
American Industries, Inc.	100	\$ 4,003	100	\$ 3,900
Charlene Ellen Cosmetics	300	1,617	300	1,800
Colleen Fabrics Corp.	1,000	10,322	1,000	9,625
Do-All Manufacturing, Ltd.	50	401	50	401
Loretta Jane Cookie Co.	100	1,285	100	950
Thomas Lighting Company	75	4,243	75	5,317
Tim Pat Productions	200	4,635	200	4,521
Maureen Fashions, Inc.	225	8,949	225	8,600
United Products	500	1,676	500	2,200
U.S. Equipment Rentals	100	920	100	1,000
Williams Electronics	—		300	5,656
		<u>38,051</u>		<u>43,970</u>
<b>Bonds</b>				
United Products 6.25 % due 7/1/95		2,713		—
U.S. Government 7.50 % due 11/15/2011		4,000		—
		<u>6,713</u>		<u>—</u>
		<u>\$44,764</u>		<u>\$43,970</u>

**Note 3: Interest in Net Assets of Blind Trust**

In 19X8 certain security investments were placed in a blind trust to avoid any apparent conflict of interest between investment decisions and the office held by Mr. Officeholder. Under the terms of the trust, the trustee has sole discretion over the disposition of the assets entrusted to him and over future investment decisions. The composition of assets held at any time cannot be revealed to the beneficiaries. The trustee can be requested to liquidate all or a portion of the trust assets and remit the proceeds to Mr. and Mrs. Officeholder.

Trust assets are held in safekeeping by the McGriff National Bank and Trust Company. LPH and Company, Certified Public Accountants, has examined the financial statements of the trust and rendered their unqualified opinion thereon.

Estimated current values at December 31, 19X9, and 19X8, were arrived at as follows:

Stocks—quoted closing or latest bid prices

Bonds—quoted latest bid and ask prices

Income taxes resulting from net realized gains on investment transactions are paid separately by the trust.

**EXHIBIT 6 (cont.)****Note 4: Net Assets of ABC Partnership**

A summary statement of the net assets of the partnership as of December 31, 19X9, and 19X8, is as follows:

	<u>19X9</u>	<u>19X8</u>
Current Assets	\$ 75,388	\$ 80,513
Land, Building, and Equipment, net	51,140	53,920
Other Assets	4,220	2,185
Total	<u>130,748</u>	<u>136,618</u>
Current Liabilities	11,580	17,247
Deferred Items	6,188	7,911
Long-Term Debt	17,040	19,650
Total	<u>34,808</u>	<u>44,808</u>
Net Assets	<u>\$ 95,940</u>	<u>\$ 91,810</u>

The ABC Partnership, which is 50-percent owned by Mr. Officeholder, is engaged in manufacturing wooden clothes hangers. Sales to governmental organizations during the year 19X9 were insignificant.

Income for the year ended December 31, 19X9 amounted to \$4,130 after partners' salaries. While in office, Mr. Officeholder has elected not to draw against partnership earnings.

A certified public accounting firm has examined the financial statements of the partnership as of December 31, 19X9, and expressed an unqualified opinion on them.

The estimated current value of the 50 percent interest in the partnership is based on net assets plus the difference between the cost of a parcel of land and the amount offered by the persons interested in acquiring the land.

**Note 5: Interest in Net Assets of XYZ Corp.**

Estimated current value of the 25 percent interest in the net assets of the corporation is based on book value as reported in unaudited financial statements as of September 30, 19X9, and 19X8, respectively. Management of XYZ Corp. has reported that no material financial changes have occurred since that date.

**Note 6: Paintings**

Estimated current value is based upon a bona fide offer to purchase the paintings by Modern Galleries, Inc. on December 16, 19X8.

**Note 7: Appraisals**

Estimated current value is based upon independent appraisals obtained from individuals and/or firms (could be named) for the following assets:

Residence	\$77,000(A)
Jewelry	8,400(B)
Rental property	41,000(C)

(A) Recent purchase of homes within the same general area approximate the appraised valuation. The assessed real estate value (100 percent valuation) was determined in 19X8 to be \$71,000.

(B) Mrs. Officeholder's jewelry has been insured in the amount of \$8,400.

(C) The assessed real estate value (100 percent valuation) was determined in 19X9 to be \$38,000.

**Note 8: Liabilities**

The estimated current amounts of liabilities at December 31, 19X9, and December 31, 19X8 equaled their tax bases.

The provision for current income tax expense is composed of federal and state income taxes amounting to \$9,345 and \$2,915, respectively. The computation of income tax expense was based primarily on tax rates applicable to ordinary income.

(continued)

**EXHIBIT 6 (cont.)**

At December 31, 19X9, Mr. and Mrs. Officeholder had a capital loss carryforward for tax purposes of \$6,700. This amount is available to reduce capital gain for tax purposes in future periods.

Estimated income taxes have been provided on the excess of the estimated current values of assets over their tax bases as if the estimated current values of the assets had been realized on the statement date, using applicable tax laws and regulations. The provision will probably differ from the amounts of income taxes that eventually might be paid because those amounts are determined by the timing and the method of disposal or realization and the tax laws and regulations in effect at the time of disposal or realization.

The estimated current values of assets exceeded their tax bases by \$91,435 at December 31, 19X9 and by \$87,325 at December 31, 19X8. The excess of estimated current values of major assets over their tax bases are as follows:

	<u>December 31</u>	
	<u>19X9</u>	<u>19X8</u>
Investment in marketable securities	\$ 9,023	\$10,403
Interest in net assets of blind trust	7,750	8,150
Net assets of ABC Partnership	17,310	15,075
Residence	15,000	13,880
Paintings	10,000	10,000
Vested interest in CEH Pension Trust	17,810	17,263
Investment in rental property	10,322	9,072

**Note 9: Contingent Asset**

*Interest in Property Subject to Life Estate.* Mrs. Officeholder is the beneficiary of the estate of John Smith, her father, remaining at the time of the death of her mother. Contingencies within the bequest preclude the actuarial determination of a present value.

# CHAPTER 5

## TAX CONSIDERATIONS FOR POLITICAL ORGANIZATIONS, CANDIDATES, OFFICEHOLDERS, AND CONTRIBUTORS

This chapter on tax considerations provides information regarding those significant aspects of federal tax law that relate to the federal election campaign process and that affect federal officeholders. The basis for this information is the Internal Revenue Code of 1986, as amended through the enactment on December 19, 1989, of the Omnibus Budget Reconciliation Act of 1989, Pub. L. No. 101-293, 103 Stat. 2106. The principal source of the taxation of political organizations was the enactment on January 3, 1975, of Pub. L. No. 93-625, 88 Stat. L108.

Although the following information principally relates to the federal area, the tax aspects discussed are generally applicable to state and local situations as well. It should be noted, however, that there is no discussion of taxation of political organizations, candidates, and contributors under state and local law. Also excluded is a discussion of the tax considerations associated with the establishment and operation of political action committees, although the tax rules involved generally do not vary from those discussed in this chapter. See appendix 5 for a discussion of political action committees.

Since the information presented represents a summary and interpretation, those directly involved with the preparation of reports and materials required under the law should refer to the Internal Revenue Code. Much of the following information is referenced to the *United States Code* (U.S.C.), the legislative history of P.L. 93-625, U.S. Treasury regulations contained in the *Code of Federal Regulations* (C.F.R.), revenue procedures (Rev. Proc.), published revenue rulings (Rev. Rul.), or private rulings (Ltr. R.). Appendix 6 contains pertinent provisions from the Internal Revenue Code (Title 26 of the United States Code).

Candidates, officeholders, political organizations, and contributors are urged to obtain advice and counsel from competent professional sources or the Internal Revenue Service regarding actions taken or contemplated.

### TAXATION OF POLITICAL ORGANIZATIONS

#### Tax Status

The Internal Revenue Service ruled in 1974 that political parties and committees were subject to tax after 1971. Prior to that ruling no special effort was made to tax political organizations, probably because there were no specific provisions in the Internal Revenue Code defining the tax status of political parties, committees, and candidates' funds. [Rev. Rul. 74-21, 1974-1 C.B. 14]

Prior to 1974, the law provided and continues to provide specific guidelines for the qualification of tax-exempt organizations. It prohibits exemptions where "a substantial part of the activities of the organization is carrying on propaganda, or otherwise attempting to influence legislation, or participating or intervening in (including the publishing or distribution of statements) any political campaign of a candidate." The courts have interpreted this section to mean that an "action" organization that engages in substantial political activities as distinguished from preparing a nonpartisan analysis and making the results available to the general public will be denied tax-exempt status. Under this concept, for example, a nonprofit organization formed to implement an orderly change of administration in

the office of state governor, including the screening and selection of applicants for state appointed offices, and the preparation of a legislative program, was held to be an "action" organization and did not qualify for tax exemption. [26 U.S.C. 501(c)(3); *Haswell v. U.S. 500 F.2d 1133*; *Rev. Rul. 74-117, 1974-1 C.B. 128*]

#### **Current Law (After 1974)**

The amendments to the tax law enacted by Pub. L. 93-625 provide that every political organization, and every fund treated as if it constituted a political organization, is required to file an income tax return, but only if it has taxable income. [26 U.S.C. 527(b)(1); 6012(a)(6)]

A political organization is defined as one that is primarily operated to accept, either directly or indirectly, contributions, make expenditures, or both, for an exempt function. In this context the exempt function of a political organization is defined as influencing, or attempting to influence, the selection, nomination, election, or appointment of an individual to any federal, state, or local public or political office. [26 U.S.C. 527(e)(2)]

The political organization, whether party, committee, trust, or separate fund, is treated as a corporation and its taxable income is taxed at the corporate rate. The rate is the highest rate of tax specified for corporations.<sup>1</sup> In addition, the law provides for the alternative tax to be applicable if the organization has capital gains and a reduced tax rate applies to capital gains (which currently is not the case). The due date of the return (Form 1120-POL) is the same as it is for a corporation, two and one-half months after the close of the organization's taxable year, subject to extensions. [26 U.S.C. 527(b) and (h)]

#### **Disclosure of Nondeductibility of Contributions**

Each fundraising solicitation by a political organization must contain an explicit statement (in a conspicuous and easily recognizable format) that contributions are not deductible. This requirement does not apply to a letter or telephone call that is not part of a coordinated fundraising campaign soliciting more than ten persons during the calendar year. It also does not apply to an organization normally having gross receipts in each taxable year of less than \$100,000. [26 U.S.C. 6113] Failure to comply is subject to penalties of up to \$10,000 per taxable year, except that the \$10,000 limit does not apply if noncompliance is intentional. [26 U.S.C. 6710]

#### **Disclosure That Certain Information or Service Is Available From Federal Government**

A political organization that offers to sell or solicits money for specific information or routine services that can readily be obtained for free or a nominal charge from the federal government must make an express statement that the information or services can be so obtained. The statement must be in a conspicuous and easily recognizable format.

If the organization fails to disclose this information and the failure is due to intentional disregard of the requirement, the organization is subject to a penalty for each day equaling the greater of \$1,000 or 50 percent of the aggregate cost of the offers and solicitations made by the organization on such day that failed to include the required disclosure. [26 U.S.C. 6711 ]

#### **Income of a Political Organization**

The taxable income of a political organization is the gross income for the taxable year less deductions directly connected with production of gross income. The law allows a specific deduction of

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1. For tax years commencing after December 31, 1981, a special rule is provided with respect to congressional candidates. Under this rule, candidates may designate one political committee as their principal campaign committee. Taxable income of such principal campaign committee shall be taxed at the graduated rates specified rather than at the maximum rate specified. [Treas. Reg. 1.527-9(a)]

\$100, but does not allow the political entity any net operating loss or special deductions, such as the dividends received deduction, among others. [26 U.S.C. 527(c)]

In computing taxable income, the so-called exempt function income is excluded. Exempt function income is any amount received as a contribution of money or other property. Membership dues, fees, or assessments from a member of the political organization are also considered exempt function income. In addition, proceeds from a political fund-raising or entertainment event or from the sale of campaign materials are exempt function income if they are not received in the ordinary course of a trade or business. Further, exempt function income may include the proceeds from conducting a bingo game if not carried out on a commercial basis. Exempt function income also includes receipt of federal, state, or local funds from public financing and filing fees paid by individuals who run in primary or general elections. [26 U.S.C. 527(c)(3); legislative history of *Pub. L. 93-625*; *Treas. Reg. 1.527-3*]

To qualify as exempt function income, such receipts must be segregated and used only for the exempt function of the political entity. [26 U.S.C. 527(c); *Treas. Reg. 1.527-2(b)(1)*]

#### **Reportable Gross Income**

For tax return purposes, the income of a political party, committee, or candidate's fund consists of interest, dividends, and net gains realized from the sale of securities as well as such other income as is referred to below. The Internal Revenue Service has indicated that gain realized on the disposal of other nondepreciable property should also be reported on the return. The reportable gain on appreciated securities acquired *before May 8, 1974*, is the excess of the selling price over the adjusted basis to the contributor. If an organization is unable to ascertain the contributor's cost basis before the return is filed, it must compute the gain by using a zero basis for the securities. When the basis is finally determined, a claim for refund should then be filed within three years after the date the return was filed or two years after the tax was paid, whichever is later. The holding period, to determine the type of gain (short-term or long-term), is the total time the securities are held by the political organization and the contributor. [26 U.S.C. 84; for effective dates see *Pub. L. 93-625, Sec. 13(a), (c)*; *Rev. Rul. 74-21, 1974-1 C.B. 14*]

The transfer of appreciated property to a political organization after May 7, 1974, is considered a sale of the property on the date of transfer. The contributor is treated as having realized an amount equal to the fair market value at the date of transfer and, accordingly, the basis of the property to the political organization will be the basis to the contributor, increased by any gain recognized. This is generally equal to the property's fair market value at the date of transfer. Where the contributor's basis exceeds fair market value at the date of transfer, the political organization's basis is limited to fair market value (see further discussion, page 62). The contribution of property that has declined in value does not constitute a sale or exchange. [26 U.S.C. 84(a), (b)]

Since the political party or committee is taxed on its income as if it were a corporation, any net capital loss is not available as an offset to taxable income but can be utilized as a carryback or carryforward against past or future capital gains. [26 U.S.C. 527(b)(1); 1212(a)(1)]

#### **Nontaxable Interest**

In determining taxable income, interest from state or municipal obligations is excludible as in the case of other taxable entities.

#### **Other Income**

Income derived from ancillary commercial activities, such as the rental of unused office space, is required to be reported on the return.

Since a political organization is considered an exempt organization, except as otherwise previously discussed, it is also taxed like any other exempt organization on its "unrelated trade or business" income. Any income substantially related to the exempt function of the organization does not qualify

as “unrelated trade or business” income. Thus, if a building owned and used by the political organization in its exempt function is disposed of, any gain from sale does not constitute income to the organization. However, if part of the building is rented to third parties, a disposition of the building generates taxable gain to the extent the proceeds allocated to the rented portion exceed its depreciated basis. It should be noted that a political organization need not apply to have exempt status. An organization that meets the definition of a political organization is deemed exempt.

#### **Campaign Contributions**

Campaign contributions are not includible in the gross income of the organization; neither are the transfers of political campaign contributions from one bank account to another. If campaign contributions are diverted to noncampaign use by the organization and the expenditure results in a direct or indirect financial benefit to the organization, the amount diverted is taxable income to the organization. [25 U.S.C. 527(d); *Rev. Rul. 74-21, 1974-1 C.B. 14*; *Treas. Reg. 1.527-5(a)(1)*] The organization is also subject to tax on amounts expended for an unlawful activity. [ *Treas. Reg. 1.527-5(a)(2)*]

#### **Expenses of a Political Organization**

Expenditures made by a political party, committee, or candidate’s fund directly attributable to the production of interest or dividend income or to the sale of securities are deductible or otherwise accounted for on the tax return. Such expenses include litigation costs incurred to collect interest or dividend income and the rental of a safe deposit box used for the safekeeping of securities. Accounting, legal, and investment counseling fees related to the earning and reporting of the political organization’s income generally are deductible. Indirect expenses, such as general administrative expenses, are not allowed as deductions, since Congress expected that these items would be relatively small and their elimination as deductions would greatly simplify tax calculations. [26 U.S.C. 527(c)(1)(B)]

There must be adherence to the basic accounting principle requiring the functional matching of revenues with expenses. Accordingly, campaign contributions are not included in gross income, and expenditures for campaign purposes are not deductible. Expenditures made by the organization to reimburse a candidate for out-of-pocket campaign expenses, or incurred in fund-raising activities are nondeductible. Likewise, any filing fees paid by the organization to have a candidate participate in a primary election cannot be deducted either as a business expense or as an expense for the production of income. [ *Senate Finance Committee Report 93-1357*]

Although wages paid to campaign workers are classified as nondeductible expenditures, they are subject to the provisions of the Federal Insurance Contributions Act and the Federal Unemployment Tax Act, which require the withholding of tax from the employee and the payment of both the employer’s and employee’s share to the government. It also follows that there must be compliance with the federal income tax withholding requirements on employees’ compensation. [ *Rev. Rul. 68-190, 1968-1 C.B. 422*]

#### **Treatment of Excess Contributions**

At the conclusion of a political campaign and after all expenses are paid by the organization, there may remain an unexpended balance, commonly referred to as *excess contributions*. Any income derived from the investment of the excess contributions, whether it be in the form of interest or dividend income or from the sale of appreciated property, is taxable income to the political organization. If the funds are transferred or refunded to known contributors, the repayments do not constitute taxable income to the contributors (except to the extent that such contributions were deducted by contributors) nor are they considered a diversion of funds taxable to the political organization. If it is impractical to refund the contributions, excess contributions may be transferred to the United States government,



the transfer being treated as an expenditure to further the principles of the organization. Therefore, such a transfer is not taxable to the political organization as a diversion for the benefit of the organization. [26 U.S.C. 527(d); *Treas. Reg.* 1.527-5(b), (c)]

Incidental amounts used by the political party for the benefit of the candidate directly in his or her campaign are not deemed to be a diversion. Therefore, expenditures such as those for voice and speech lessons paid for by the political organization are not amounts diverted for the personal benefit of the candidate. Transition expenses of the candidate paid by the political organization are not considered a diversion if the amount paid is reasonable. The law does not define transition expenses. However, it may be implied that any costs incurred in becoming acquainted with the new job or office will qualify as transition expenses. With respect to persons who were not members of Congress on January 8, 1980, the Federal Election Campaign Act Amendments of 1979 disallow any personal use of excess campaign funds other than to defray the ordinary and necessary expenses of holding office or to repay loans used for campaign expenses. [*Senate Finance Committee Report 93-1357*; 2 U.S.C. 439a] Members of the House of Representatives elected prior to January 8, 1980, are currently eligible under the so-called "grandfather" clause to convert excess campaign funds to their personal use on retirement from Congress. However, this conversion right is being phased out, and beginning in January 1993 no member of Congress will be permitted to convert excess campaign funds to personal uses. [*Ethics Reform Act of 1989, Pub. L. No. 101-194, 103 Stat. 1716*]

The following transfers of money or property are deemed nontaxable and are permitted on the premise that they do not represent a diversion of political funds:

- Transfers to another political organization to be used for that organization's exempt function
- Transfers to a tax-exempt charitable organization that is not a private foundation
- Transfers to the general fund of any state or local government [26 U.S.C. 527(d)]

But no political organization, candidate, or contributor is entitled to a charitable deduction even though the funds are transferred by the political organization to the federal government, a state or local government, or a public charity. [*Treas. Reg.* 1.527-5(c)]

## **Miscellaneous Tax Considerations**

### **Tax-Exempt Organization Disbursing Funds to Political Parties**

A tax-exempt organization, such as one described in 26 U.S.C. 501(c)(4), that disburses funds directly or indirectly for an exempt function of a political organization is taxed on the expenditure. The tax is based on the lesser of the net investment income for the year or the aggregate amount so spent during the year. The rate of tax is the same as the rate imposed upon political organizations (as discussed on page 48). [26 U.S.C. 527(f)(1); *Treas. Reg.* 1.527-6]

Legislative history indicates that this rule is not intended to make the tax-exempt organization absolutely liable for tax on any expenditures made by an organization to which it gives funds. For instance, if there is a reasonable expectation that the transferee organization may expend monies for political purposes and the transferor organization wishes to avoid imposition of tax, it should require the transferee organization to segregate the funds received from the transferor organization from its other receipts. This procedure is considered satisfactory to demonstrate that indirect payments do not result from the payment by the tax-exempt organization and thus are not taxable to the tax-exempt organization collecting the funds.

### **Newsletter Funds**

A newsletter fund maintained by a candidate or any elected official is treated as if the fund is a political organization (see discussion on page 58).

## TAXATION OF CANDIDATES

This section is addressed specifically to candidates for the Senate and the House of Representatives. However, most of the rules set forth will be equally applicable to presidential, vice-presidential, and state and local candidates. The tax law generally provides that campaign contributions received by a candidate are not taxable to him or her if they are segregated from his or her personal funds and are used for generally recognized campaign expenses. The money earned on contributions received by a candidate, such as interest and dividend income, is subject to federal income taxation as previously discussed. If a candidate spends his or her own money in his or her campaign, such expenses are generally not deductible on his or her own return.

### Contributions Received by the Candidate

Running for the Senate or House can be very expensive. Very few candidates are able to personally assume such expenditures solely from their personal funds, although such expenditures are now allowed without limit under the 1976 amendments (see discussion in chapter 2). Consequently, most individuals seeking public office immediately set up machinery for raising campaign funds.

#### Segregate the Campaign Receipts

Although funds can be obtained from national, state, or local political parties, they are most often contributed by the individual or interested groups. The tax law provides that even though an individual candidate personally receives campaign contributions, such funds will not be included in his or her income if they are immediately deposited into a special campaign fund set up on behalf of the candidate.

The qualifying fund must be organized and operated primarily for accepting contributions and making expenditures related to the nomination and/or election of the office seeker. It can be established in the year before the individual officially announces his or her candidacy, and the rules in this section will still apply. There is no mandatory organizational structure for a qualifying fund—it may be incorporated with a formal charter or merely consist of a separate bank account; it may consist solely of a checking account or may include separate savings and brokerage accounts. Regardless of the formality of the fund, it must be organized and operated as an entity separate from all of the candidate's personal funds. In addition to these tax rules, candidates should be sure to comply with the campaign depository requirements as detailed on page 22. [26 U.S.C. 527(e), Rev. Rul. 79-11, 1979-1 C.B. 207; Treas. Reg. 1.527-2(b)]

#### Types of Campaign Receipts

If a qualifying fund is established, contributions made to the candidate by his or her supporters and by political parties and other political organizations will not be included in the candidate's income provided they are immediately deposited into the fund accounts. Money, securities, loans, advances, or anything of value, including receipts derived from fund-raising activities, can be received by a qualifying fund. Fund-raising activities such as breakfasts, dinners, receptions, picnics, dances, or the sale of political campaign materials, such as bumper stickers or buttons, must be clearly political and not carried on in the ordinary course of the candidate's trade or business.

[26 U.S.C. 527(c)(3); Treas. Reg. 1.527-3]

#### Maintain Proper Records

The candidate's treasurer must maintain a complete and separate set of books and records for the campaign fund. Detailed substantiating records of all receipts and disbursements must be maintained to ensure that the campaign fund is in fact kept separate and distinct from the candidate's private funds. *The importance of this physical segregation and accounting cannot be overemphasized.* If campaign contributions are received but are not segregated from the candidate's personal funds, they will be included in his or her income even if the candidate is able to establish that the same amount he or she received as a political contribution was spent for a valid campaign expense.

[Treas. Reg. 1.527-2(b)(2); Rev. Proc. 68-19, 1968-1 C.B. 810]

Campaign expenditures paid by the candidate's special campaign fund are not deductible on the candidate's tax return. Even when a candidate spends personal funds directly on his or her own political campaign, the candidate may not deduct such expenditures. [26 U.S.C. 162(e)(2)]

### **Taxability of Segregated Campaign Receipts**

The campaign fund established by the candidate is a separate taxable entity, and certain of its receipts are subject to federal taxation. Nevertheless, other receipts of the fund are not includible in its income and are therefore not taxable. (See discussion under "Taxation of Political Organizations," pages 47-51.) It should be noted that, while the designated treasurer is responsible for the filing of the fund's tax return, the tax liability is assessed against the fund assets.

### **Campaign Funds Distributed to the Candidate**

Campaign contributions received by a candidate and immediately deposited into a separate campaign fund are not includible in the candidate's income. Similarly, the candidate does not recognize income when his or her valid campaign expenses are paid by the fund. A distribution made by the fund directly to the candidate to reimburse him or her for valid out-of-pocket campaign expenses also is not subject to taxation if adequate substantiation is made by the candidate to the fund. [Rev. Proc. 68-19, 1968-1 C.B. 810; Rev. Rul. 71-449, 1971-2 C.B. 77]

In summary, all campaign contributions will be included in the candidate's income if he or she fails to segregate them from his or her personal funds or fails to maintain adequate records to substantiate their receipt and disbursement.

### **Disposition of Unexpended Campaign Funds**

Occasionally, a candidate will have campaign funds remaining after the election. There are several means of disposing of excess funds, including a winning candidate's use of a portion of such funds for the payment of transition expenses. Caution must be exercised in the disposition of excess campaign funds since various laws and House and Senate rules may apply (see the discussion on pages 50 and 51).

### **Illustration of the Taxation of a Candidate and His Campaign Fund**

John W. Jones announced his candidacy for the U.S. Congress on February 12, 1988, and on the same day designated Mrs. White as his campaign manager and Mr. Green as his campaign treasurer. The following day, candidate Jones and Mr. Green opened two new accounts with a bank—a savings account and a checking account—both in the name of "John W. Jones, candidate for U.S. Congress." They also opened a new account with a local stockbroker in the same name. Mr. Green had been delegated responsibility for maintaining books and records of all campaign receipts and validating all disbursement claims for campaign expenditures. All checks in excess of \$200 were to be approved by Mrs. White and cosigned by Jones and Green. During the period prior to the November election, the following items were received by Mr. Green.

	<b>Description</b>	<b>Amount</b>
1	Checks payable to "John W. Jones" from individual supporters for campaign purposes.	\$ 30,500
2	Checks payable to "Jones for Congress" from individual supporters for campaign purposes.	40,500
3	1,000 shares of XYZ common stock received from various individual supporters. (Value on date of gifts, April 15, 1988; cost to contributors in each case was less than the value at date of gift.)	10,000
4	Loans from various supporters received on March 1, 1988, payable by October 31, 1988, at 12% interest.	10,000

	<b>Description</b>	<b>Amount</b>
5	Gross receipts from sale of tickets for fund-raising dinner held June 12th.	20,000
6	Gross receipts from sale of campaign material (buttons, hats, bumper stickers, matchbooks, etc.).	1,000
7	Contributions from national political party.	5,000
8	ABC 8% bonds received from various supporters. (Value on date of gifts, July 1, 1988, excluding purchased interest.)	5,000
9	Interest received on savings account.	3,500
10	Interest received on ABC bonds attributable to period after date of gift.	100
11	Dividends received on XYZ stock.	300
12	Gain on the sale of XYZ stock. (Sold on Nov. 1, 1988, for \$12,000.)	2,000
13	Gain on sale of ABC bonds. (Sold on Sept. 1, 1988, for \$5,000.)	0
	<b>Total Receipts Prior to Election</b>	<u><u>\$127,900</u></u>

All of the above receipts were immediately deposited into either the campaign checking, savings, or brokerage accounts when received. The treasurer, Mr. Green, recorded all of the necessary details of each receipt such as date, amount, and contributor. During the course of the campaign the following amounts were authorized and disbursed by Mr. Green.

	<b>Description</b>	<b>Amount</b>
14	Local television and radio stations for campaign advertising.	\$ 30,620
15	Local newspapers and magazines for campaign advertising.	15,000
16	Billboards for campaign advertising.	15,000
17	Purchase of campaign materials (buttons, hats, bumper stickers, posters, handbills, etc.)	10,000
18	Rental of hall and caterer's bill for June 12 fund-raising dinner.	5,000
19	Rental of office space.	7,000
20	Office supplies (stationery, stamps, etc.)	8,000
21	Reimbursed transportation expenses of candidate (documented by candidate).	1,200
22	Brokerage expenses on sale of stock (no brokerage expenses on sale of bond).	800
23	Safe deposit box for safekeeping of securities.	100
24	Repayment of loan plus interest of \$800 on Oct. 31, 1988.	10,800
25	Production costs of advertisements.	2,080
	<b>Total Preelection Disbursements</b>	<u><u>\$105,600</u></u>

On election day the remaining campaign fund balance was \$22,300; this amount was transferred to the campaign fund savings account. In November, Mr. Jones was elected to Congress by a landslide vote. During the remainder of 1988, the newly elected congressman received an additional \$5,000 in contributions (item 26), all of which were duly recorded by Mr. Green and deposited in the fund savings account. On December 31, 1988, the savings account was credited with an additional \$400 in interest (item 27), and on that date Mr. Green made the following disbursements.

	<b>Description</b>	<b>Amount</b>
28	\$1,000 contribution made by individual A on June 15, 1988, returned to A at his request.	\$1,000
29	Disbursement to the national political party.	5,000
30	Disbursement to the U.S. Treasury general fund.	5,000
31	Disbursement to the United Way.	5,000

After the above disbursements were made, the remaining fund balance in the savings account was \$11,700. It was then decided to retain this sum in the campaign fund savings account for the 1990 reelection campaign.

## Tax Consequences

### Candidate

None of the receipts (items 1 through 13 and items 26 and 27) are includible in Jones's income for 1988 even though at least one of them (item 1) was received personally by Jones. This is because immediately upon receipt these funds were segregated from Jones's other personal accounts and deposited into the account specifically designated as a campaign fund.

Although Jones received a disbursement from the fund (item 21), such disbursement is not includible in his income because it represents a reimbursement for a valid out-of-pocket campaign expense personally incurred by him and adequately documented to the fund for reimbursement.

All of the other disbursements listed (items 14 through 25 and items 28 through 31) constitute valid campaign expenditures made by the fund and are therefore not includible in the candidate's income. It should be noted that neither Jones nor any of his contributors is entitled to a charitable deduction for the fund's postelection contribution to the United Way (item 31).

Finally, the remaining balance of the campaign fund account, which is to be kept for the 1990 reelection campaign, is not to be included in Jones's income for 1988 or any year thereafter, so long as it remains segregated from his personal funds and is not diverted for his personal use.

### Campaign Fund

Items 1 through 8 and item 26 are not includible in the fund's taxable income because contributions of money or other property to a campaign fund are not taxable income to it. Nevertheless, the earnings on such funds (items 9, 10, 11, and 27) and the gain on the sale of appreciated property (item 12) are includible in the fund's taxable income.

General campaign expenditures (items 14 through 21 and items 24 and 25) and dispositions of unexpended campaign funds (items 28 through 31) are not deductible from the campaign fund's taxable income. Nevertheless, expenses incurred directly in earning the fund's taxable income (item 23) are deductible. Also, the brokerage commissions on the sale of the stock (item 22) reduce the amount of gain on the sale of the stock. The fund is not entitled to a dividend exclusion. In addition to its expenses incurred directly in earning its investment income, a fund is entitled to a specific \$100 deduction from income.

## Campaign Fund Reporting for Tax Purposes

Jones and his treasurer prepared a 1988 tax return (Form 1120-POL) for the principal campaign committee fund. Because a single set of books was maintained for the three accounts, the tax return treated the three accounts as a single campaign fund. It reflected the following information.

<u>Item of income and deduction</u>	<u>Taxable income</u>	<u>Tax liability</u>
Interest income	\$4,000	
Dividend income (no dividend exclusion allowed)	300	
Long-term capital gain: (1,000 shares of XYZ stock acquired April 15, sold on November 1):		
Amount realized on sale	\$12,000	
Basis (value on date of gifts)	(10,000)	
Selling expenses	<u>(800)</u>	
Net long-term capital gain		1,200

(continued)

<u>Item of income and deduction</u>	<u>Taxable income</u>	<u>Tax liability</u>
Short-term capital gain: (ABC bond acquired March 1, sold September 1):		
Amount realized on sale	\$ 5,000	
Basis (value on date of gifts)	(5,000)	
Selling expenses	—	
Net short-term capital gain	—	
Expenses directly attributable to earning income (safe deposit box)	(100)	
Specific deduction	(100)	
1988 campaign fund taxable income	<u>\$5,300</u>	
1988 campaign fund tax liability (\$5,300 at 15%)		<u>\$795</u>

Mr. Jones and Mr. Green must withdraw \$795 from the remaining balance of the campaign fund and enclose that amount together with the fund's tax return and mail them to the Internal Revenue Service on or before March 15, 1989.

## TAXATION OF THE FEDERAL OFFICEHOLDER

Once a candidate for the Senate or House of Representatives has been elected, he or she is faced with the problem of maintaining contact with constituents while keeping abreast of and participating in the operation of the federal government in Washington, D.C. To fulfill this dual function, most members find it necessary to maintain not only an office in Washington, but also at least one office in their home district. The government provides each member, in addition to a regular salary, several expense allowances to maintain and operate such offices. The tax treatment of these allowances and the unreimbursed expenses of a member are discussed below. For a full description of the allowances, reference should be made to the *Congressional Handbook* issued to each member upon arriving in Washington.

### Annual Salary and Benefits

The basic salary of a member is established by federal statutes and, of course, is fully taxable to the member. Each member may authorize a variety of payroll deductions, such as group life insurance premiums, health insurance premiums, and savings bond purchases. He or she can also voluntarily participate in the Federal Employee's Retirement System and have contributions withheld from his or her salary. [5 U.S.C. 8331, 8401] None of these payroll deductions is deductible on the member's tax return except, to a limited extent, his or her health insurance premiums.

### Office Space and Equipment

#### Washington Office

Each member is assigned an office in one of the congressional office buildings adjacent to the Capitol in Washington. In addition, each member is given an allowance to requisition office equipment from the government for his or her Washington office. Office equipment purchased in excess of the allowance from either the government or a commercial outlet must be paid for out of the member's own funds.

#### District Offices

##### Senators

Senators' office space is chosen from space available in federal buildings in each Senator's home state. Although no limitation exists with respect to the number of offices, there is a limitation on the aggregate square footage space based on the population of the state.

### **Representatives**

As part of their official office expense allowance (see discussion below), each representative receives an amount for office space in his or her district. The amount varies according to the cost of renting space in the various districts.

### **Staff Allowances**

Each member is authorized to staff his or her Washington and home-district offices for assistance in fulfilling official duties. The staff allowances of Senators and Representatives have differing limitations concerning the number of aides to be employed, their individual compensation, and the aggregate payroll expense. The staff is paid directly by the government, and consequently, the member should not include the allowance in his or her income. Some members find it necessary to hire additional staff whose salaries must be paid with the member's personal funds. Such expenses qualify as "miscellaneous deductions" deductible by the member on Schedule A (Form 1040). No deduction is allowed, however, if the assistant is employed for political or campaign purposes. [Rev. Rul. 75-146, 1975-1 C.B. 23] Such miscellaneous deductions, including deductions for food and lodging while "away from home," are deductible only to the extent that, in the aggregate, they exceed 2 percent of the member's adjusted gross income. This 2 percent "floor" on miscellaneous deductions is applied before the separate \$3000 limit on "away from home" deductions but after the 20 percent cutback applicable to meal and entertainment expenses. The amount disallowed because of the 2 percent "floor" would be disallowed proportionately between "away from home" deductions and other miscellaneous deductions (see the section "Illustration of the Taxation of an Officeholder"). [General Explanation of the Tax Reform Act of 1986 ("General Explanation"), at 80 n. 57]

### **Intern Programs**

Occasionally, a member of Congress will solicit funds from his or her constituents to establish a congressional intern program. The program is designed to provide on-the-job education and training in the legislative process for a student chosen from the member's district. The intern will work in the member's office and perform the same services as his or her staff, who are compensated by the government. The funds solicited from his or her constituents for such an intern program must be included in the member's income, and he or she may deduct the amount paid to such interns in arriving at adjusted gross income. Any amounts paid to such interns in excess of funds solicited may be deducted as a miscellaneous deduction on Schedule A (Form 1040) subject to the 2 percent "floor." (See the section "Illustration of the Taxation of an Officeholder.") [Rev. Rul. 75-146, 1975-1 C.B. 23; Committee Reports Accompanying Technical and Miscellaneous Revenue Act of 1988, Pub. L. No. 100-647, 102 Stat. 3342]

### **Official Office Expenses**

At the beginning of each session of Congress, each member is given an allowance for official office expenses. Official office expenses include such items as telephone and telegraph, stationery, and travel.

Each member is entitled to reimbursement for official office expenses up to the maximum amount of the allowance. In order to obtain reimbursement, the member must submit an expense voucher, together with supporting documents, to the appropriate officer of the House or Senate.

The official office expense allowance is not includible in the member's income, and expenses paid through the allowance are not deductible by the member. If the member incurs expenses in excess

of such allowance, such expenses must be paid out of the member's personal funds and may be deducted as a "miscellaneous deduction" on Schedule A (Form 1040) if the expenses constitute ordinary and necessary expenses incurred in an official capacity. (For examples of a member's deductible expenses, see the section, "Illustration of the Taxation of an Officeholder.") [Rev. Rul. 73-464, 1973-2 C.B. 35]

### **Newsletters and Questionnaires**

Many members request funds from constituents during their term in order to publish and mail a newsletter or questionnaire to all or to selected constituents in their districts. Other members finance the newsletter by charging a subscription price. The purpose of such newsletters or questionnaires is to keep constituents informed about the affairs of the federal government and the member's official actions and to seek constituents' opinions on pertinent issues. The tax law has been amended to provide that these receipts will not be includible in the member's income if they are immediately deposited into a newsletter or questionnaire account separate and apart from his or her own personal accounts. Withdrawals from the separate account must be used solely for the purpose of preparing and circulating the publication, such as for the cost of secretarial services, printing, addressing, and mailing. No such funds may be used for campaign expenditures. [26 U.S.C. 527(g)]

#### **Newsletter Fund Taxed as Separate Entity**

In most respects, a newsletter fund will be treated for tax purposes in the same manner as a candidate's campaign fund. The contributions received by the member and deposited into the newsletter fund are not taxable income either to the member or to the fund; expenditures out of the fund for preparing and circulating the publication are not deductible expenses to either the member or the fund. On the other hand, earnings on deposited newsletter funds (such as dividends, interest, and so forth) are taxable income to the newsletter fund, and a tax return (Form 1120-POL) must be filed annually to report such earnings. The resulting tax must be paid in the same manner as is required for campaign funds described earlier in this chapter. The only exception is that the newsletter fund is not entitled to the \$100 specific deduction.

Any funds remaining after the newsletter is published can be (1) retained for use for a future newsletter or questionnaire; (2) contributed to public charities; or (3) contributed to the general funds of the federal, state (including the District of Columbia), or local government. No deduction is available to the fund, member, or contributor if the unexpended funds are contributed to a public charity. If the member withdraws the unexpended newsletter funds for personal use, he or she must report the withdrawal as taxable income. It should be noted that the unexpended newsletter funds cannot be transferred to the member's separate campaign funds, nor may they be used directly to pay campaign expenditures. [26 U.S.C. 527(g); Treas. Reg. 1.527-7]

#### **Expenses in Excess of Contributions to Fund**

Expenses of preparing and circulating a newsletter or questionnaire in excess of the newsletter fund balance, paid by the member, are deductible as described on page 57 under "Staff Allowances." [Rev. Rul. 73-356, 1973-2 C.B. 31; 26 U.S.C. 527(g)(1)]

#### **Newsletter Allowance Supplied by Government**

The House of Representatives has established a program whereby its members can be reimbursed by the government for a portion of the printing and production costs of newsletters and questionnaires for constituents. Any reimbursement received from the government must be included in the member's income on Form 1040 and offset by the related deductible expenses.

### **Contributions Received by Members From Constituents**

Contributions received by members for their reelection campaign and immediately deposited into qualified campaign funds, described earlier in this chapter, are not includible in their income.



Likewise, contributions received by members for the financial support of newsletters or questionnaires and immediately deposited into qualified newsletter funds, described earlier in this chapter, are not includible in their income.

Nevertheless, all other contributions received by members for the financial support of their other official duties, such as the operation of their Washington and home-district offices or their official business travel, are includible in their income. This is true whether the contributions are received directly by the members or received by special segregated funds established specifically for such purposes. However, the members will be entitled to claim a deduction on their tax returns for any such contributions that are actually spent on official congressional business.

### **Honoraria**

Often a member will be asked to speak to a group or organization either in his or her own district or elsewhere in the country. If the member is given money or other property for making the speech or appearance, such money or the value of such property must be included as taxable income and may be subject to self-employment tax. Travel expenses may be deducted, but if a spouse accompanies him or her on the trip, the spouse's travel expenses generally are not deductible. Under current law, the maximum amount a member may receive is \$2,000 per appearance. (The \$2,000 limitation is not violated where a member's honorarium exceeds the limits to the extent that the excessive portion was paid to a charitable organization selected by the payor from a list of five or more charitable organizations supplied by the member. The member must include the additional amount in income but such amount is deductible as a charitable contribution.) [2 U.S.C. 441i; 26 U.S.C. 61(a)]

However, the practice of accepting and keeping honoraria is gradually being phased out. Current House rules permit representatives to earn an amount up to 30 percent of a member's salary from all sources of outside earned income, whether from honoraria or other sources. Beginning on January 1, 1991, House members may no longer accept and keep any honorarium, although they may continue to earn up to \$2,000 per appearance as long as such money is donated on their behalf to a charitable organization. (Such amounts donated to charity at that time will no longer be included in a House member's income nor deducted as a charitable contribution.) All other forms of outside earned income will be capped for House members at 15 percent of a member's salary.

The Senate operates under a somewhat more generous set of rules. Senators are permitted to receive and keep honoraria amounting up to 27 percent of their salary. That percentage will gradually decrease over the next few years commensurate with annual cost of living salary increases until the receipt of honoraria by senators is eventually phased out. (It appears to be the case that any honoraria otherwise paid to the Senator that exceeds the honoraria limits may be donated to a charitable organization on behalf of the Senator. The Senator must include the amount donated in income, but such amount is deductible as a charitable contribution.) Senators will still be able to earn other forms of outside earned income without limit. [Ethics Reform Act of 1989, Pub. L. No. 101-194, 103 Stat. 1716; 2 U.S.C. 31-1(b)]

### **Foreign Gifts**

Representatives of the federal government, including members of Congress, the president, and vice-president, may not accept gifts from foreign governments or their representatives, unless the gift is merely a souvenir worth less than \$100 and refusal of the gift would cause diplomatic offense. Nevertheless, if larger gifts are received, they must be turned over to the chief of protocol at the U.S. State Department. In either case, the value of the gift is not includible in the income of the recipient. In addition, there are detailed reporting requirements relating to the purchase of gifts abroad. [5 U.S.C. 7342]

## Moving to Washington and Washington Living Expenses

A newly elected member can deduct, as an itemized deduction, the expenses incurred in moving his or her family to Washington if he or she pays for the move out of personal funds [*Temp. Treas. Reg. 1.62-1T(g)*] If, however, the member's principal place of employment prior to the election was located near Washington, D.C., generally within fifty miles of the Capitol, he or she is not entitled to a moving expense deduction. [26 U.S.C. 217; *Rev. Rul. 73-468, 1973-2 C.B. 77*]

Most members are considered for tax purposes to be "away from home" while attending a session of Congress in Washington and are therefore entitled to deduct their meals and lodging ("living expenses") while in Washington. This deduction is presently limited by law to \$3,000 yearly, which covers only the member's own expenses. These expenses are deductible only to the extent that, together with other miscellaneous expenses, they exceed 2 percent of the member's adjusted gross income. The 2 percent floor is applied before application of the \$3000 limit but after the 20 percent cutback applicable to meal and entertainment expenses. The amount disallowed because of the 2 percent "floor" would be disallowed proportionately between "away from home" deductions and other miscellaneous deductions (see the section "Illustration of the Taxation of an Officeholder"). [*General Explanation, supra; Temporary Treas. Regs. 1.67-1T(d)*] Adequate records must be kept documenting the expenses claimed as a "living expense" deduction. A member who represents a district close enough to Washington not to be considered "away from home" while in Washington may not claim a "living expense" deduction. [26 U.S.C. 162(a); *Rev. Rul. 73-468, 1973-2 C.B. 77*]

## Illustration of the Taxation of an Officeholder

The discussions and exhibits that follow offer examples of certain items of income and expense that an officeholder might experience. Comments are offered on their inclusion in the computation of taxable income or their inclusion as a deductible expense.

### Illustration of Reportable Income and Expense Items of a Federal Officeholder

During 1989, John W. Jones, a member of Congress, pays the following amounts:

1 Business travel expense.	\$ 9,000
2 Office stationery and supplies.	15,000
3 Official office general expenses.	5,000
4 Official office telephone expenses.	16,000
5 Official office rent.	18,000
6 Salary expense of additional staff (only amounts paid in excess of government allowance).	7,000
7 Salary expense of student intern (paid entirely by member, partly out of personal funds, partly out of funds contributed for such purpose by constituents).	8,000
8 Expenses of preparing, publishing, and mailing newsletter.	12,000
9 Expenses of reelection campaign for 1988 (only amount paid from personal funds).	2,000
10 Expenses of moving member's family to Washington, D.C.	4,000
11 Living expenses in Washington, D.C. (including meals and business entertainment of \$9,000)	18,000

During 1989, Congressman Jones received the following amounts:

12 Congressional salary.*	\$89,500
13 Official office expense allowance.	67,000
14 Funds contributed by constituents for campaign purposes (deposited by him into reelection fund).	1,000

\*Congress recently enacted a series of salary increases and cost of living adjustments for both Senate and House members. House salaries will increase to \$96,600 in 1990 and \$120,800 in 1991. Senate salaries are scheduled to increase to \$98,400 in 1990. Additionally, both chambers will be eligible to receive automatic annual cost of living adjustments in 1991 and subsequent years.

15 Funds contributed by constituents for preparation, publication, and circulation of newsletter (deposited by him into newsletter fund).	6,000
16 Reimbursement by government for printing and production costs of newsletter.	4,000
17 Funds contributed by constituents for student intern program.	4,500

Campaign contributions (item 14) and newsletter contributions (item 15) are not includible in the member's income if immediately deposited into a separate campaign fund and newsletter fund, respectively. Campaign expenses personally incurred (item 9) are not deductible by the member. All other items must be reported on the member's tax return.

Salary (item 12) is reported on the appropriate line of Form 1040. The member's moving expense deduction (item 10) is computed on Form 3903. All other items may be reported on a separate statement attached to the return in a manner similar to exhibit 7.

**EXHIBIT 7: SCHEDULE OF CONGRESSIONAL EXPENSES IN EXCESS OF REIMBURSEMENTS**  
(An attachment to Form 1040)

**Official Office Expenses**

Travel	\$ 9,000	
Office stationery and supplies	15,000	
General	5,000	
Telephone	16,000	
Rent	18,000	
	<u>63,000</u>	
Reimbursement	(60,000)	
Excess expenses		\$ 3,000

**Student Intern Program**

Total salary expenses	8,000	
Funds contributed by constituents	(4,500)	
Excess expenses		3,500

**Newsletter**

Total newsletter expenses	12,000	
Reimbursement by government	(4,000)	
Funds contributed by constituents	(6,000)	
Excess expenses		2,000

**Staff Salaries**

Expenses in excess of government allowance		<u>7,000</u>
Total Deductible Excess Expenses		<u>\$15,500</u>

Assuming Congressman Jones's only source of income for 1989 is his salary of \$89,500 and that his only miscellaneous deductions for 1989 are those included in this illustration, the Schedule A (Form 1040) miscellaneous deductions would be limited as follows:

Living expenses in Washington, D.C. (item 11)	\$18,000
Less: 20% disallowance of meals and entertainment (9,000 x 20%)	<u>(1,800)</u>
Living expenses after 20% disallowance	16,200
Total Deductible Excess Expenses (see above)	<u>15,500</u>
	31,700
Less: 2% of adjusted gross income (89,500 x 2%)	<u>(1,790)</u>
Total miscellaneous deductions to be allocated as follows:	<u>\$29,910</u>
Living expenses (16,200/31,700 x 29,910)	15,285
Total Deductible Excess Expenses (15,500/31,700 x 29,910)	<u>14,625</u>
	<u>\$29,910</u>

Since living expenses while away-from-home are limited to \$3,000, the total allowed miscellaneous deductions for 1989 would be as follows:

Living expenses	\$ 3,000
Total Deductible Excess Expenses	<u>14,625</u>
Miscellaneous deductions	<u><u>\$17,625</u></u>

## **TAX CONSIDERATIONS FOR CONTRIBUTORS TO POLITICAL CAMPAIGNS**

Individuals who have made contributions to candidates running for federal office in the past should note that federal laws and regulations relating to political contributions have been altered considerably. Limits have been imposed on the amounts that may be donated legally to candidates for federal office in any election and the amount of income tax deduction or credit allowance as a result of such contributions. The gift tax on political contributions was repealed retroactively for donations made after May 7, 1974. The contributor must recognize gain, but not loss, on contributions of appreciated property made to a political organization.

### **Business Expenditures of a Quasi-Political Nature**

#### **Political Contributions by Corporations**

As previously discussed, the federal election campaign laws prohibit contributions by corporations to candidates for election to federal office. Absent state law to the contrary, a corporation may, of course, make political contributions to candidates seeking office at the state or local level. As fully discussed below, such contributions are not deductible.

#### **Deductible Expenses**

The tax law does, however, contemplate certain situations wherein corporations are allowed deductions for expenditures in connection with various transactions of a political nature. For example, a corporation (or other business entity) is specifically allowed to deduct ordinary and necessary business expenses "in direct connection with appearances before, submissions of statements to, or sending communications to, committees or individual members of Congress or of any legislative body of a State, a possession or a political subdivision of any of the foregoing with respect to legislation or proposed legislation of direct interest to the taxpayer." [26 U.S.C. 162(e)]

Deductions are also allowed for expenses "in direct connection with communication of information between the taxpayer and an organization of which he or she is a member with respect to legislation or proposed legislation of direct interest to the taxpayer and to the organization." To the extent attributable to the activities outlined above, the portion of the dues paid to that organization, for example, a chamber of commerce, may also be deducted.

Examples of expenses that meet the tests of deductibility include travel expenses and the cost of preparing testimony. Additional tests are provided for determining whether the legislation or proposed legislation is of "direct interest" to the taxpayer. In short, the legislation is of direct interest to the taxpayer when it will, or may reasonably be expected to, affect the trade or business of the taxpayer, either detrimentally or beneficially. [Treas. Reg. 1.162-20(c)]

Under certain circumstances, corporations and other business entities may make deductible donations to organizations that do not qualify as charitable organizations under the tax law. Of course, the donation would not qualify as a charitable contribution; however, donations to such organizations may nevertheless give rise to valid trade or business expense deductions when the donation bears a direct relationship to the taxpayer's business and is made with a reasonable expectation of a financial return commensurate with the amount of the deduction. [Treas. Reg. 1.162-15(b)]

### **Nondeductible Expenses**

The law specifically prohibits certain indirect political contributions. No deduction is allowed to corporations for amounts expended for expenses of advertising in political programs or for admission to political fund-raising functions. The prohibition applies to all advertising in political programs, such as pamphlets distributed at a convention or placed in a publication, when a political party or candidate will directly or indirectly receive the proceeds therefrom. [26 U.S.C. 276(a)]

Deductions are also barred for costs of admission to any dinner or similar event, the proceeds of which will benefit a political party or candidate. If proceeds from these events are used directly or indirectly for the purposes of furthering a political candidate's selection, nomination, or election to any elective public office, the deduction will be disallowed.

However, if the proceeds are received by the candidate in the ordinary course of his trade or business (other than the trade or business of holding elective public office), the prohibition does not apply. [26 U.S.C. 276(b)]

The law specifically prohibits a deduction for any amount paid—

- For participation in, or intervention in, any political campaign on behalf of any candidate for public office.
- In connection with any attempt to influence the general public, or segments thereof, with respect to legislative matters, elections, or referendums. [26 U.S.C. 162(e)]

The tax law contains another provision that disallows a deduction in the event a debt owed to the taxpayer by a political organization becomes worthless. No bad debt deduction may be claimed when a political party, or a national, state, or local committee of a political party, defaults on any debt, regardless of whether the debt may have arisen in the ordinary course of the taxpayer's trade or business. The disallowance also applies to defaulted debts owed to the taxpayer by other committees, associations, or organizations that accept contributions and make expenditures for the purpose of influencing the election of candidates for public office. In this regard, taxpayers are also prohibited from taking this deduction disguised as a loss from worthlessness of securities. This provision does not, however, apply to banks when it appears that the debt was acquired in accordance with their usual commercial practices. In addition, an exception to this provision exists in the case of a taxpayer who, with respect to such debt, has accrued a receivable on a bona fide sale of goods or services in the ordinary course of the taxpayer's trade or business provided that—

1. More than 30 percent of all receivables that accrued in the ordinary course of the trades and businesses of the taxpayer were due from political parties, and
2. The taxpayer made substantial continuing efforts to collect on the debt. [26 U.S.C. 271]

### **Other Tax Aspects of Gifts to Political Organizations**

#### **The Gift Tax Aspect**

Perhaps the greatest area of uncertainty in the area of political contributions was removed with the repeal of the gift tax on donations made after May 7, 1974. The entire area had been a quagmire for taxpayers and the Treasury alike. The need for the proliferation of gifts among artificially created committees, trusts, and other political entities has been eliminated. [26 U.S.C. 2501]

#### **Income Taxation of Appreciated Property at Date of Gift**

Under the law, however, any unrealized appreciation on property transferred to political organizations after May 7, 1974, subjects the contributor to income tax. Thus, if a person transfers property to a political organization, and at the time of the transfer, the fair market value of the property exceeds its adjusted basis to the contributor, the contributor is treated as having sold the property on the date of the transfer. The contributor is deemed to have realized gain in an amount equal to such excess. The basis of the property to the organization is the basis to the transferor plus the amount

of gain recognized by the transferor on account of the transfer. No loss is allowed, however, when the fair market value of the property at the date of transfer is less than its adjusted basis to the contributor. It appears in that case that the basis to the organization would be limited to the fair market value of the property at the date of contribution. However, in the absence of statutory guidance, the Internal Revenue Service may consider contributions of depreciated property to be gifts for purposes of determining basis to the political organization. [26 U.S.C. 84]

If gain on the sale would have been treated as ordinary income if sold to an independent third party, it will be taxed as ordinary income. Similarly, if the gain would have qualified for capital gains treatment had the property been otherwise sold, it would also be treated as capital gain under this provision. Other provisions of the law, such as depreciation recapture and minimum tax on preference items, will apply as if the property had been sold.

**EXHIBIT 8**

**Sample Receipt—Individual Candidate**

I, John Doe, of Illinois, in connection with my campaign for nomination and election to the U.S. Senate in 1988, acknowledge receipt during 1988 of \$ \_\_\_\_\_ from \_\_\_\_\_

\_\_\_\_\_  
John Doe

**EXHIBIT 9**

**Sample Receipt—Campaign Committee for Named Candidates**

The Illinois Committee for John Doe, for the nomination and election of John Doe to the U.S. Senate in 1988, acknowledges receipt during 1988 of \$ \_\_\_\_\_ from \_\_\_\_\_

The Illinois Committee for John Doe

By \_\_\_\_\_  
Authorized Agent

*Note:* These forms have been modified to eliminate the declaration that Form 4908 or Form 4909 will be filed by the recipient. (IR 1545, December 24, 1975.)

**EXHIBIT 10**

**Sample Receipt—Campaign Committee for Multiple Candidates**

The Illinois Committee for an Effective Congress, for the nomination and election of certain individuals to the Congress of the United States in 1988, acknowledges receipt during 1988 of \$\_\_\_\_\_ from \_\_\_\_\_

Illinois Committee for an Effective Congress

By \_\_\_\_\_  
Authorized Agent

**EXHIBIT 11**

**Sample Receipt—  
Campaign Committee for Multiple Candidates in More Than One State**

The Illinois Committee for Good Government, for the nomination and election of certain individuals to Federal, State, or local elective public offices in 1988, acknowledges receipt during 1988 of \$\_\_\_\_\_ from \_\_\_\_\_

Illinois Committee for Good Government

By \_\_\_\_\_  
Authorized Agent

*Note:* These forms have been modified to eliminate the declaration that Form 4908 or Form 4909 will be filed by the recipient. (IR 1545, December 24, 1975.)



# CHAPTER 6

## INTERNAL CONTROLS

This chapter provides suggested internal control policies, and procedures so that the campaign committee's related objectives can be achieved. The suggested control policies and procedures are not intended to be all-inclusive nor minimums. They should be established by the campaign treasurer to meet the individual needs and requirements of the campaign committee. The treasurer may wish to consult with a certified public accountant and legal counsel for advice on the types of procedures and policies appropriate in the circumstances.

### CAMPAIGN FINANCIAL REPORTING

Campaign committees must report their financial status and activities periodically from their inception through the election. Financial disclosures generally include the name of each contributor and dollar amount of each receipt and the payee and dollar amount of each disbursement. Except for limited statutory exceptions, all disbursements must be made by check drawn on a checking account established in the name of the campaign committee and controlled by the campaign treasurer or his or her designee.

### CAMPAIGN BUDGET

An essential activity in the financial management of a campaign is the budgeting of contributions and disbursements. Campaign budgets should include estimates of expected contributions and expenditures by type and by period—usually weekly or monthly. Receipts and expenditures should be carefully estimated so that cash shortfalls can be anticipated.

Below is an illustration of a budgeted and cash flow for the four-month period preceding a May election.

	<u>February</u>	<u>March</u>	<u>April</u>	<u>May</u>	<u>Campaign Total</u>
Contributions	\$1,000	\$2,000	\$3,000	\$1,000	\$7,000
Expenditures:					
Radio advertising	800	1,200	2,200	1,300	5,500
Campaign literature	—	100	200	75	375
Newspaper advertising	100	200	200	100	600
Clerical salaries	—	100	100	100	300
Travel expenses	—	50	100	75	225
Total expenses	<u>900</u>	<u>1,650</u>	<u>2,800</u>	<u>1,650</u>	<u>7,000</u>
Excess (deficit) of contributions over expenditures	<u>100</u>	<u>350</u>	<u>200</u>	<u>(650)</u>	<u>—</u>
Cash balance forward	<u>—</u>	<u>100</u>	<u>450</u>	<u>650</u>	<u>—</u>
Ending cash balance	<u>\$ 100</u>	<u>\$ 450</u>	<u>\$ 650</u>	<u>—</u>	<u>—</u>

The availability of funds to finance the budget plan relies on the campaign committee's success in raising contributions. If contributions are not received as projected, the committee may have to seek other sources of financing (such as loans) or modify the budget plan. The budget should be revised periodically based on current information and expectations.

Good financial management requires that the treasurer submit periodic reports to the candidate and to the campaign committee. The reports should disclose receipts and expenditures, provide comparisons with the budgeted amounts, and list open pledges and unpaid obligations during the course of the campaign.

## **BANKING**

Banking services that provide adequate and timely account information and services should be arranged. Bank statements should be requested at least monthly.

Control procedures over bank accounts should include the following:

- Bank statement(s) should be reconciled to the general ledger cash balance and compared to the cash receipts and disbursement records by persons other than those handling cash receipts, signing checks, or preparing the related accounting records.
- Bank statements, together with paid checks and debit and credit memos, should be received directly by the person performing the bank reconciliation.
- Bank reconciliation procedures should include—
  - Reconciling the balance per bank statement to the balance per the general ledger cash account.
  - Comparing deposits per the bank statement to the cash receipts records.
  - Comparing disbursements per the bank statement to the cash disbursements records (check register) as to date, payee, and amount.
  - Comparing check endorsements to payee and scanning for evidence of any alterations.
  - Investigating reconciling items and recording bank charges for returned checks, insufficient funds, and other charges.
  - Investigating the status of checks written that are not presented for payment within a reasonable time period.
  - Reviewing and approving bank reconciliation(s) by the treasurer.

## **GENERAL LEDGER**

A general ledger should be prepared to summarize cash receipts and disbursement records and journal entries. It serves as a basis for preparing summarized financial reports. To ensure that all accounting entries are appropriately accumulated, classified, and summarized in the general ledger, good accounting controls must be in place. The following are examples of general ledger accounting controls:

- A chart of accounts should be prepared. It should include a description of each account and explanations of the items to be included in each account.
- The general ledger should be maintained by persons without access to cash or other portable assets.
- The general ledger and related cash receipts and disbursement records should be safeguarded against loss or damage.
- Insurance coverage should include indemnification of loss of records and fidelity bonding of persons having access to assets.
- Journal entries should provide adequate description and support and be reviewed and approved by the treasurer.

## **CASH RECEIPTS**

Cash receipts typically include campaign contributions and advances. Access to cash receipts and cash receipts records should be controlled to prevent or detect, on a timely basis, theft or loss of cash. Below are examples of control procedures over cash receipts:

- Access to cash and preparation of cash receipt records should be segregated between persons.
- Person(s) who open the mail should restrictively endorse checks received for deposit only.
- Persons who have access to cash receipts should be adequately bonded.
- Cash receipts should be deposited on a timely basis and deposit slips prepared in sufficient detail to identify the source and amount of each receipt. Copies of the deposit slips should be retained.
- Cash receipts should be recorded immediately upon receipt, noting the source and amounts received. A cash receipts list should be prepared and posted to the cash receipts journal on a daily basis.
- Daily cash receipts records should be compared to bank deposit slips.
- Contribution documents should be received by person(s) not having access to cash for review of acceptability and updating of cash receipt records.
- Cash on hand should be safeguarded against theft and maintained at an absolute minimum. Surprise cash counts should be performed periodically by persons who do not handle or record cash and amounts of cash on hand compared to recorded cash.
- Banks should be instructed not to cash checks or money orders drawn to the order of the campaign committee or "cash," or to accept them for deposit in payroll or other special accounts.

## **CASH DISBURSEMENTS**

Cash disbursement records indicating the check date, payee, and amount of disbursement should be prepared. Access to cash disbursements and cash disbursement records should be controlled to prevent or detect errors or theft. Below are examples of control procedures over cash disbursements:

- Disbursements should be made by check. An imprest system (such as a petty-cash fund) may be used for *minor cash disbursements*.
- Dual signatures should be required for checks over a certain amount (for example, over \$500).
- Authorized check signers should adequately compare details of checks to supporting documentation and authorization for payment.
- Persons authorized to sign checks, manually or in facsimile, should not have duties that include preparing or proofing vouchers, preparing checks, or reconciling bank accounts.
- The check signer should cancel supporting vouchers by appropriate means to prevent their reuse to support duplicate payments.
- Checks should not be signed or countersigned in advance.
- Signed checks should be kept in custody of the signer or until mailed or delivered. Signed checks should be mailed by a person independent of the processing and preparation functions.
- Unissued checks should be kept in a safe place with access restricted to those authorized to prepare checks. Persons with check signatory functions should not have access to unissued checks.
- Checks should be protected against alteration by use of special paper and a protective writing device. Checks should be prenumbered and all numbers accounted for. Voided checks should be retained and mutilated.
- If a mechanical check signer is used, the access to the check signing machine should be controlled at all times by the official whose signature is on the plate.

- Checks should never be drawn payable to “cash” or “bearer.”
- The responsibility for the petty-cash fund should be placed with a single individual whose duties do not include handling other cash receipts or approving disbursement vouchers.

### **FEDERAL ELECTION COMMISSION**

The financial disclosure provisions of the Federal Election Commission relate primarily to receipts and disbursements. Reports must be filed until all debts and obligations are extinguished and the committee has filed a Notice of Termination.

**WEEKLY CAMPAIGN TREASURER'S REPORT**

Week ended \_\_\_\_\_

(Date)

Cash balance forward \_\_\_\_\_

(Date)

Contributions received \_\_\_\_\_

Expenditures \_\_\_\_\_

Cash balance \_\_\_\_\_

(Date)

Unpaid authorized expenditures \_\_\_\_\_

Amount available for expenditures \_\_\_\_\_

**MONTHLY CAMPAIGN TREASURER'S BUDGET REPORT**

\_\_\_\_\_

(Month/Year)

	<u>Actual</u>	<u>Budget</u>	<u>Variance</u>
<b>Receipts</b>			
Cash balance forward	_____	_____	_____
Contributions	_____	_____	_____
TOTAL	=====	=====	=====
<b>Expenditures</b>			
Radio and TV advertising	_____	_____	_____
Clerical salaries	_____	_____	_____
Newspaper advertising	_____	_____	_____
Dinner expense	_____	_____	_____
Rent	_____	_____	_____
Miscellaneous	_____	_____	_____
TOTAL	=====	=====	=====

# APPENDIXES

## APPENDIX 1

# THE FEDERAL ELECTION COMMISSION: COMMUNICATION, ORGANIZATION, AND RESPONSIBILITIES

### HOW TO COMMUNICATE WITH THE COMMISSION

The official address of the Federal Election Commission (FEC) is

The Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463  
(202) 376-5122

The FEC maintains the following toll-free information line: (800) 424-9530.

The FEC publishes “notices” regarding Advisory Opinions, Advisory Opinion Requests, Interim Guidelines, Proposed Regulations, and like material in the *Federal Register*. The *Federal Register* is published daily, Monday through Friday, by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408.

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Government Printing Office  
Washington, D.C. 20402

The FEC has published a number of valuable books, pamphlets, and guides relating to federal election campaign laws and their implementation. Many of these are listed in appendix 3 under the following section headings:

- Federal Election Campaign Laws
- Federal Election Commission Advisory Opinions, Advisory Opinion Requests, Regulations, Guidelines, and Notices

The FEC “Record” is a newsletter published monthly by the commission.

### COMMISSION ORGANIZATION AND RESPONSIBILITIES

The Federal Election Commission comprises six full-time commissioners who are appointed by the president, with the advice and consent of the Senate, together with the Secretary of the Senate and the Clerk of the House of Representatives who are ex officio, nonvoting members of the commission. [2 U.S.C. 437c(a); 438]

The commission has the following responsibilities:

- Prescribe suitable rules and regulations to carry out the provisions of the Act. [2 U.S.C. 437d(a)(8); 438(a)(8)]
- Prescribe and distribute forms for reports and statements required to be filed under the Act. [2 U.S.C. 437(a)(8); 438(a)(1), (2)]
- Develop and distribute a manual setting forth recommended uniform methods of bookkeeping and reporting. [2 U.S.C. 438(a)(2)]

- Make all reports available for public inspection and copying. [2 U.S.C. 438(a)(4)]
- Prepare and publish periodically lists of authorized committees that fail to file reports as required by the Act. [2 U.S.C. 438(a)(10)]
- Serve as a national clearinghouse for the compilation of information and review of procedures with respect to the administration of federal elections. [2 U.S.C. 438(a)(10)]
- Publish lists of filed reports and statements. [2 U.S.C. 438(a)(6)]
- Make audits and field investigations with respect to reports and statements filed and alleged failures to file. [2 U.S.C. 438(b)]

The commission has the authority to—

- Require any person to submit such statements or reports as it may prescribe. [2 U.S.C. 437(a)(1).]
- Administer oaths. [2 U.S.C. 437d(a)(2)]
- Subpoena witnesses and evidence. [2 U.S.C. 437d(a)(3)]
- Initiate, defend, or appeal any civil action for the purpose of enforcing the provisions of the Act and chapters 95 and 96 of the Internal Revenue Code. [2 U.S.C. 437(a)(6)]
- Render advisory opinions concerning the application of a general rule of law stated within the Act or chapters 95 and 96 of the Internal Revenue Code. [2 U.S.C. 437d(a)(7)]
- Formulate general policy with respect to administration of the Act and chapters 95 and 96 of the Internal Revenue Code. [2 U.S.C. 437c(b)]
- Conduct investigations and hearings expeditiously, to encourage voluntary compliance, and to report apparent violations of law to proper law enforcement authorities (the commission is the primary civil enforcement agency). [2 U.S.C. 437d(a)(9)]

Appendix 4 contains an overview of fines and penalties that may be imposed under the Federal Election Campaign Act of 1971, as amended.

An annual report containing a detailed statement of its activities, together with its recommendations, shall be submitted by the commission to the president and to each house of the Congress. [2 U.S.C. 438(a)(9)] Appendix 3 contains mention of the availability of this report.

The commission's enforcement capability appears to rest largely in its investigatory powers, followed by informal persuasion, reserving legal action for only the more serious violations or more stubborn violators. It is therefore critical that the candidate seek to correct on a timely basis all instances of noncompliance determined by internal reviews or commission investigations. [2 U.S.C. 437g(a)(4)]

### **Advisory Opinion**

The law provides that upon a complete written request of a person with regard to a specific transaction, the commission shall render an advisory opinion concerning the application of the Act or chapter 95 or chapter 96 of the Internal Revenue Code or a rule or regulation prescribed by the commission, no later than sixty days after the commission receives such a request.

[2 U.S.C. 437f(a)(1)]

If an advisory opinion is requested by a candidate, or any authorized committee of such candidate during the sixty-day period before any election for federal office involving the requesting party, the commission shall render a written advisory opinion relating to such request no later than twenty days after the commission receives a complete written request. [2 U.S.C. 432f(a)(2)] The law further provides that—

- Any person who acts in good faith in accordance with the provisions and findings of an advisory opinion will not be subject to sanctions provided by the Act.



- Any person may rely on an advisory opinion who is involved in the specific transaction or activity that is the subject of the rendered advisory opinion. [2 U.S.C. 437f(c)]

Requests for advisory opinions should be sent to the Office of General Counsel of the Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463. [11 C.F.R. 112.1(e)] The General Counsel's office must then review such requests within ten days to determine if they qualify for FEC action.

Further instructions for the submission of advisory opinions should be obtained by contacting the FEC.

### **General Information Letter**

In the case of general requests for guidance and specific inquiries that do not meet the statutory requirements for a formal Advisory Opinion, the FEC Office of General Counsel or Office of Information will endeavor to provide information, answers, or guidance. The organization and operation of the FEC reflects its dedication to assisting individuals, candidates, and committees in their efforts to understand and comply with the law.

### **Complaints**

The law provides that any person who believes that a violation has occurred may file a complaint with the commission. Complaints must be submitted in writing to the Office of General Counsel with the notarized and sworn to signature of the person submitting the complaint.

[2 U.S.C. 437g; 11 C.F.R. 111.4]

### **Regulations**

As noted above, the FEC has responsibility for prescribing regulations to carry out the provisions of the Federal Election Campaign Laws. The commission will, from time to time, publish proposed and final regulations in the *Federal Register*. It is important for the candidate and his or her principal campaign committee to monitor the development of such regulations and to consider carefully the requirements imposed by final regulations. The FEC can be expected to publish a compilation of such final regulations under separate cover. (See Title 11 C.F.R.)

## APPENDIX 2

# A SUMMARY OF KEY REQUIREMENTS FOR REPORTING TO THE FEDERAL ELECTION COMMISSION

(Clerk of the House and Secretary of the Senate)

## REPORTING BY PRINCIPAL CAMPAIGN COMMITTEES AND, IF ANY, AFFILIATED CAMPAIGN COMMITTEES

The federal election campaign laws contain various requirements for the periodic reporting of the activities of the principal campaign committee and, if any, affiliated campaign committees. According to FEC regulations, all authorized political committees of the same candidate are affiliated. [11 C.F.R. 100.5(g)] These requirements are summarized below.

### Statement of Organization

Principal campaign committees designated in writing by the candidates for the House and Senate must file a statement of organization with the Clerk of the House of Representatives or the Secretary of the Senate within ten days following designation. The statement of organization of the principal campaign committee should be signed by the treasurer and include the following information: the name, address, and type of committee; name and address of any affiliated committee; the name and address of the treasurer and custodian of books; and the name and address of the candidate and party affiliation. Additionally, a listing of all bank safety deposit boxes, or other depositories used by the committee, should be reported on the organization statement. [2 U.S.C. 433(b); 11 C.F.R. 102.2] The statement must reflect information supplied by affiliated campaign committees, which therefore must file statements of organization with their appropriate principal campaign committee. [2 U.S.C. 432(e), (f), (g); 433(a), (b); 11 C.F.R. 102.1(b)]

Each respective statement of organization must be kept up-to-date by reporting any change in information previously submitted within ten days after its occurrence. [2 U.S.C. 433(c)]

Notification must be sent to the Clerk of the House or Secretary of the Senate when the principal campaign committee intends to disband and that it will no longer receive any contributions or make any disbursements. A principal campaign committee may not terminate unless and until all of its outstanding debts and the debts of any other authorized committee have been satisfied. [2 U.S.C. 433(d); 11 C.F.R. 102.3, 105]

A copy of each statement of organization of a principal campaign committee must also be filed with the Secretary of State of the state in which the candidate seeks election. [2 U.S.C. 439(a)(1), (2); 11 C.F.R. 108.1, 108.3]

Each committee is required to designate one or more state banks or other approved institutions as depositories. All affiliated campaign committees authorized by the candidate to receive contributions or make expenditures on his behalf must use a checking account in a designated depository. [2 U.S.C. 432(h); 433(b); 11 C.F.R. 103.2]

### Reports of Receipts and Disbursements

Each principal campaign committee treasurer is required to file periodic reports of receipts and disbursements in accordance with the Act. The reports must disclose the cash balance at the beginning of the reporting period as well as the total amount of all receipts and disbursements. [2 U.S.C. 434(b)] A summary of the main reporting provisions follows:

### Receipts

- All cash on hand, including currency and bank deposits. [11 C.F.R. 104.3(a)(1)]
- The total amount of all contributions, including itemized and total contributions from individuals, total contributions from the candidate, contributions from other political committees, and transfers from other authorized committees [11 C.F.R. 104.3(a)(3)]
- Loans made to the committee, except those made by the candidate [11 C.F.R. 104.3(a)(3)]
- Offsets and other receipts, including refunds, dividends, interest [11 C.F.R. 104.3(a)(3)]
- The name, address, occupation, and employer of any person contributing more than \$200 per calendar year, together with the date and amounts of such contributions [11 C.F.R. 104.3(4)]

### Disbursements

- All disbursements made by the committee, including expenditures for operating expenses, repayments of loans, offsets to contributions and refunds, transfers made to other authorized committees [11 C.F.R. 104.3(b)(2)]
- The name and address of each person receiving any disbursement aggregating more than \$200 per calendar year, including the date and amount of such disbursements as well as a brief description of the purpose of such disbursements [11 C.F.R. 104.3(b)(4)]
- The name and address of each person receiving a loan repayment from the committee or candidate exceeding \$200 per year, together with the date and amount of such payments [11 C.F.R. 104.3(b)(4)]

Reports of receipts and expenditures must be filed by principal campaign committees of candidates for the House of Representatives or for the Senate as follows:

#### In a Calendar Year in Which a Regularly Scheduled Election for Federal Office Is Held

- *Preelection report.* A preelection report is due not later than the twelfth day before the election, complete as of the twentieth day before (must be sent by registered or certified mail and post-marked not later than the fifteenth day before). [2 U.S.C. 434(a)(2)(A)(i)] Such reports are required for both primary and general elections. [11 C.F.R. 104.5(a)(1)(i)]
- *Post-general-election report.* A post-general-election report is due not later than the thirtieth day after the general election, complete as of the twentieth day after the election. [2 U.S.C. 434(a)(2)(A)(ii); 11 C.F.R. 104.5(a)(1)(ii)]
- *Quarterly reports.* Additional quarterly reports complete as of the end of the quarter shall be filed no later than the fifteenth day following the close of the quarter except for the quarter ending December 31, which shall be filed no later than January 31. [2 U.S.C. 434(a)(2)(A)(iii)] However, the need to file such additional quarterly reports will be waived if the required preelection report was filed between the fifth and fifteenth day after the close of the calendar quarter. [2 U.S.C. 434(a)(8); 11 C.F.R. 104.5(a)(1)(ii)]
- *Special report.* Any contribution of \$1,000 or more received after the twentieth day but more than forty-eight hours before any election must be reported within forty-eight hours after its receipt. [2 U.S.C. 434(a)(6); 11 C.F.R. 104.5(f)]

#### In Nonelection Years: Semiannual Reports

In any other calendar year a report shall be filed covering the period beginning January 1 and ending June 30, which shall be filed no later than July 31; and a report covering the period beginning July 1 and ending December 31, which shall be filed no later than January 31. [2 U.S.C. 434(a)(2)(B); 11 C.F.R. 104.5(a)(2)]

### Miscellaneous

Treasurers of affiliated campaign committees must file the above reports with the appropriate principal campaign committee. [2 U.S.C. 432(f); 11 C.F.R. 104.4(f)]

The reports of receipts and disbursements must be cumulative during the calendar year to which they relate, but when there has been no change in an item reported previously, only the amount need be carried forward. If there have been no contributions or expenditures during a calendar year, the treasurer must file a statement to that effect. [2 U.S.C. 434(a)(7); 11 C.F.R. 104.4(i)]

If a designation, report, or statement filed is sent by registered or certified mail, the United States postmark shall be considered the date of filing. [2 U.S.C. 434(a)(5); 11 C.F.R. 104.5(e)]

### **Other Reports and Notifications**

#### **Notification Relating to Campaign Advertising**

Any communication expressly advocating the election or defeat of a candidate or any contribution solicitation made through any broadcasting station, newspaper, magazine, billboard, direct mailing, or other general public media, must indicate clearly either that the candidate or his or her committee has authorized the communication or that the candidate or his or her committee has not authorized the statement. In the case of the latter, the name of the person or committee sponsoring the communication must be indicated. [2 U.S.C. 441d] FEC regulations require a "clear and conspicuous" disclaimer that provides the reader or listener with adequate notice of the identity of the person who paid for the advertisement. [11 C.F.R. 110.11]

#### **Reports Filed With State Officers**

A copy of all reports filed by the principal campaign committee with the Clerk of the House of Representatives or the Secretary of the Senate must be filed with the Secretary of State (or the equivalent state officer) of the state in which the candidate seeks election. [2 U.S.C. 439; 11 C.F.R. 108.1]

## APPENDIX 3

# PUBLISHED REFERENCE MATERIALS RELATING TO FEDERAL ELECTION CAMPAIGN LAWS AND THEIR IMPLEMENTATION

This appendix provides a list of reference publications that may be obtained for the campaign committee's library. Instructions for acquisition are included.

These materials may be particularly helpful in—

- Designing and operating the accounting, compliance, and financial management systems of the campaign.
- Staff orientation and education related to accounting, compliance, and financial management.
- Developing a common ground of knowledge to be responsive to consulting assistance.
- Having a consistent source of reference in dealings with the Federal Election Commission and affiliated campaign committees, if any.

## SIGNIFICANT PUBLISHED REFERENCE MATERIALS

Topic	Reference	Acquisition Instructions
Federal Election Campaign Laws	<ul style="list-style-type: none"> <li>• <i>Election Law Updates</i> (Washington, D.C.: American Law Division of the Congressional Research Service, Library of Congress).</li> </ul> <p>(This quarterly publication summarizes recent state and federal legislation affecting election laws, with a separate section on state campaign finance laws.)</p>	<p>Sales Desk National Technical Information Service Department of Commerce 5285 Port Royal Road Springfield, Va. 22161</p> <p>Report No. NTISUB/E/234-03 Price: \$7.50 per quarter</p>
	<ul style="list-style-type: none"> <li>• United States Senate, <i>Senate Election Law Guidebook 1982</i> (Washington, D.C.: U.S. Government Printing Office, 1988.)</li> </ul> <p>(Prepared under the direction of the Committee on Rules and Administration, Charles McC. Mathias, Jr., chairman, the guidebook combines information previously found in two publications, <i>Senate Campaign Information and Election Law Guidebook</i>. It includes statistical information related to past and present campaigns and elections and summarizes federal and state laws pertaining to the nomination and election of senators.)</p>	<p>Superintendent of Documents U.S. Government Printing Office Washington, D.C. 20402</p>
	<ul style="list-style-type: none"> <li>• <i>Federal Election Campaign Financing Guide</i> (Chicago: Commerce Clearing House, Inc.).</li> </ul> <p>(This two-volume looseleaf service contains the full text of the basic law governing the financing of federal election campaigns and relevant directives issued by the FEC. Periodic reports will be added to this guide. It is organized with indexes, finding lists, and in the topical format typically found in CCH publications.)</p>	<p>Order Department Commerce Clearing House, Inc. 4025 West Peterson Avenue Chicago, Ill. 60646 Price: \$295.00 per year</p>
	<ul style="list-style-type: none"> <li>• <i>Campaign Finance: An Analysis of State and Federal Election Campaign Laws</i> (Washington, D.C.: Chamber of Commerce of the United States, 1989.)</li> </ul> <p>(An analysis of federal and state campaign laws with periodic updates.)</p>	<p>Public Affairs Department Chamber of Commerce of the United States 1615 H Street, N.W. Washington, D.C. 20062 Price: \$300.00—reference manual and supplements</p>
	<ul style="list-style-type: none"> <li>• <i>Federal Election Campaign Laws</i> (Washington, D.C.: Federal Election Commission).</li> </ul> <p>(An FEC-prepared compilation of federal election laws.)</p>	<p>Federal Election Commission Information Services Washington, DC. 20463</p>

**Federal Election Commission Advisory Opinions, Advisory Opinion Requests, Regulations, Guidelines, and Notices**

- *Federal Register*, published daily, Monday through Friday, by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

(The *Federal Register* provides a uniform system for making available to the public regulations and legal notices issued by federal agencies, including the Federal Election Commission. These include presidential proclamations and executive orders and federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other federal agency documents of public interest.)

- *The Federal Election Commission Record* (Washington, D.C.: Federal Election Commission.)

(A newsletter published monthly by the commission.)

- *The FEC and The Federal Campaign Finance Law* (Washington, D.C.: Federal Election Commission.)

(An FEC introductory pamphlet.)

- *Campaign Guide for Party Committees* (Washington, D.C.: Federal Election Commission.)

(The FEC has prepared this guide to help state and subordinate party committees supporting federal candidates comply with the Federal Election Campaign Act, as amended.)

- *Campaign Guide for Congressional Candidates and Their Committees* (Washington, D.C.: Federal Election Commission.)

(This guide focuses on those requirements affecting federal candidates and their principal campaign committees and any other authorized committees.)

- *Campaign Guide for Corporations and Labor Organizations* (Washington, D.C.: Federal Election Commission.)

(The FEC has prepared this guide to help corporations and labor organizations comply with the Federal Election Campaign Act and FEC regulations.)

- *Federal Election Commission Brochure Series* (Washington, D.C.: Federal Election Commission.)

(A series of thirteen brochures discussing the following specific aspects of the federal election law: volunteer activity, local party activity, candidate registration, using FEC information, contributions, independent expenditures, corporate and labor communications, corporate and labor facilities, political ads and solicitations, and advisory opinions, committee treasurers, trade associations, state elections and Federal Campaign Law.)

Superintendent of Documents  
U.S. Government Printing Office  
Washington, D.C. 20402

Price: \$340.00 per year

Federal Election Commission  
Information Services  
Washington, D.C. 20463

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Federal Election Commission  
Information Services  
Washington, D.C. 20463

## SIGNIFICANT PUBLISHED REFERENCE MATERIALS (cont.)

Topic	Reference	Acquisition Instructions
Federal Election Commission Advisory Opinions, Advisory Opinion Requests, Regulations, Guidelines, and Notices (cont.)	<ul style="list-style-type: none"> <li>• <i>Federal Election Commission Regulations</i> (Washington, D.C.: Federal Election Commission)</li> </ul> <p>(The FEC has prepared this volume of FEC regulations to help federal candidates, political committees, and other persons involved in federal elections comply with the Federal Election Campaign Act of 1971, as amended.)</p>	Federal Election Commission Information Services Washington, D.C. 20463
Accounting, Reporting, and Financial Management	<ul style="list-style-type: none"> <li>• <i>Annual Report</i> (Washington, D.C.: Federal Election Commission).</li> </ul> <p>(An in-depth review of the organization, operation, and accomplishments of the FEC)</p> <ul style="list-style-type: none"> <li>• <i>Campaign Treasurer's Handbook</i>, 3rd rev. ed. (New York, N.Y.: American Institute of Certified Public Accountants, 1987).</li> </ul> <p>(This handbook offers information relating to the duties of campaign treasurers who are responsible for campaigns at the state or local government level.)</p>	Federal Election Commission Information Services Washington, D.C. 20463
Other Relevant Publications	<ul style="list-style-type: none"> <li>• Durbin, Thomas M.; Reimer, Rita A.; and Ripy, Thomas E., <i>Nomination and Election of the President and Vice-President of the United States</i> (Washington, D.C.: Congressional Research Service, Library of Congress, 1988).</li> </ul> <p>(This document is an analysis of the constitutional clauses, federal and state laws and rules of the two major political parties governing the nominations and election of the president and vice-president of the United States. Included is the manner of selecting delegates to national political conventions.)</p> <ul style="list-style-type: none"> <li>• <i>PAC Manager</i> (Washington, D.C.: National Association of Manufacturers).</li> </ul> <p>(This monthly newsletter analyzes business political action committees (PACs) and highlights techniques that business PAC movements have found effective for their operations. It also focuses on key federal legislation that would affect PACs.)</p> <ul style="list-style-type: none"> <li>• <i>Guidelines for Corporate Political Action Committees</i> (Washington, D.C.: Chamber of Commerce of the United States, 1989).</li> </ul> <p>(This publication provides an informational reference source for business and professional organizations' executives and their legal counsel pertaining to the organization, registration, and conduct of political action committees.)</p>	<p>Publication Order Department American Institute of CPAs 1211 Avenue of the Americas New York, N.Y. 10036 Price: \$19.00</p> <p>Superintendent of Documents U.S. Government Printing Office Washington, D.C. 20402</p> <p>Stock No. 052-002-00038-9 Price: \$11.00</p> <p>Public Affairs Department National Association of Manufacturers 1331 Pennsylvania Ave., N.W. Suite 1500 Washington, D.C. 20004</p> <p>Price: \$75.00 per year—members \$90.00 per year—nonmembers</p> <p>Public Affairs Department Chamber of Commerce of the United States 1615 H Street, N.W. Washington, D.C. 20062</p> <p>Doc. No. 6120 Price: \$65.00</p>



Other Relevant Publications (cont.)

- *Parties, Interest Groups and Campaign Finance Laws* (Washington, D.C.: American Enterprise Institute for Public Policy Research).  
(Edited by Edwin M. Epstein and Michael J. Malbin. Political activists and experts in campaign finance laws debate the impact of federal regulation on campaigns.)
- *Guide to U.S. Elections* (Washington, D.C.: Congressional Quarterly, Inc.).  
(A 1103-page document containing a history of political parties and extensive statistical data, going back to the 1800s, concerning congressional, presidential, and gubernatorial elections.)
- *Campaigns & Elections* (Washington, D.C.: Campaigns and Elections).  
(A national quarterly review of campaign and election strategies, tactics, and management. The journal is designed to help candidates, campaign managers, and others involved in the political process to learn how to run for public office, at all levels, and win.)

University Press of America  
4720-A Boston Way  
Lanham, Md. 20706  
Price: \$16.25 paperback  
\$29.00 hardback

Congressional Quarterly, Inc.  
1414 22nd Street, N.W.  
Washington, D.C. 20037

Campaigns & Elections  
1835 K Street, N.W.  
Suite 403  
Washington, D.C. 20006  
Price: \$29.95 per year

## APPENDIX 4

# AN OVERVIEW OF FINES AND PENALTIES IMPOSED BY THE FEDERAL ELECTION CAMPAIGN ACT OF 1971, AS AMENDED

## FINES AND PENALTIES REGARDING CONTRIBUTIONS

### Individuals

Violators of the contribution limitations are subject to a fine of not more than the greater of 300 percent of the amount of the contribution in violation or \$25,000, or to imprisonment for not more than one year, or both. These penalties pertain to knowing and willful violations involving the making, receiving, or reporting of contributions having a value, in the aggregate, of \$2,000 or more during the calendar year. [2 U.S.C. 437g(d)(1)(A)]

Lesser civil penalties are set forth in 2 U.S.C. 437g(a)(5), (6).

### Corporations and Labor Organizations

Officers and directors of corporations and labor unions who consent to contributions in violation of the Act, and recipients of such contributions, are subject to fines not to exceed the greater of 300 percent of the amount of the contribution or \$25,000, or to imprisonment for not more than one year, or both. [2 U.S.C. 437g(d)(1)(A); 441(b)]

These penalties pertain to knowing and willful violations involving the making, receiving, or reporting of contributions having a value, in the aggregate, of \$2,000 or more during a calendar year or \$250 if the violation involves unlawful solicitation to a separate segregated fund. [2 U.S.C. 437g(d)(1)(A)]

### National and State Political Party Committees

Violators of the contribution limitations are subject to a fine of not more than the greater of 300 percent of the amount of the contribution in violation or \$25,000, or to imprisonment for not more than one year, or both. These penalties pertain to knowing and willful violations involving the making, receiving, or reporting of contributions having a value, in the aggregate, of \$2,000 or more during a calendar year. [2 U.S.C. 437g(d)(1)(A)]

### Government Contractors and Foreign Principals

The fine for contributions in violation of the Act by government contractors is not more than the greater of 300 percent of the amount of the contribution or \$25,000, or one year's imprisonment, or both. These penalties pertain to violations involving the making, receiving, or reporting of contributions having a value, in the aggregate, of \$2,000 or more during a calendar year. The fine for knowingly and willfully soliciting, accepting, or receiving contributions from foreign nationals is the same as above. [2 U.S.C. 437g(d)(1)(A); 441c; 441e]

### Misrepresentation and Cash Contributions

Fines of not more than the greater of 300 percent of the amount of contribution in violation or \$25,000, or one year's imprisonment, or both, will be imposed for making a contribution in the

name of another person or knowingly permitting one's name to be used to effect such a contribution, or making a contribution in currency in excess of \$2,000 for any campaign. These penalties pertain to knowing and willful violations. [2 U.S.C. 437g(d)(1)(A); 441f]

### **Political Action Committees**

Fines of not more than the greater of 300 percent of the amount of the contribution in violation or \$25,000, or imprisonment for not more than one year, or both, can be imposed on knowing and willful violators of the rules relating to the operation of PACs for the following offenses:

- The use of coercion in obtaining contributions to the PAC fund
- Failure to notify an employee at the time of the solicitation of the political purpose of the fund
- Failure to notify an employee of his right to refuse to contribute to the fund

These penalties pertain to violations involving amounts in the aggregate of \$250 or more during a calendar year. [2 U.S.C. 437g(d)(1)(B); 441b(b)]

### **Intimidation of Voters**

Fines of \$1,000, or one year's imprisonment, or both, will be imposed on anyone interfering with the right of another person to vote as he or she chooses in any federal election. Interference includes coercion, threat, or other forms of intimidation. [18 U.S.C. 594]

## **OTHER FINES AND PENALTIES**

### **Fraudulent Misrepresentation of Campaign Authority**

Any candidate or employee or agent of a candidate who knowingly and willfully misrepresents himself or participates in a plan in a manner damaging to any other candidate or political party will be fined not more than \$25,000, or will be subject to one year's imprisonment, or both. [2 U.S.C. 437g(d); 441h]

### **Solicitations**

Any senator, representative, delegate, resident commissioner, or candidate for Congress or any officer or employee of the United States or of any department or agency thereof or any person receiving compensation for services from the Treasury of the United States who solicits or receives a political contribution from any other such person shall be fined not more than \$5,000, or imprisoned not more than three years, or both. In addition, any such person who solicits or receives any political contribution in any room or building used in the discharge of his or her official duties or in any army fort, navy yard, or arsenal will be fined not more than \$5,000, or imprisoned not more than three years, or both. [18 U.S.C. 602, 607]

### **Expenditures to Influence Voting**

Any person who makes, or offers to make, an expenditure to any other person, either to vote or withhold his vote, or to vote for or against any candidate, and any person who solicits, accepts, or receives any such expenditure, will be fined not more than \$1,000, or imprisoned not more than one year, or both, unless the violation was willful; in which case, the guilty party is subject to a fine not to exceed \$10,000, or to imprisonment not to exceed two years, or both. [18 U.S.C. 597]

## **Noncompliance With Recordkeeping and Reporting Requirements**

Campaign participants who knowingly and willfully commit a violation of the recordkeeping and reporting provisions of the Act are subject to fines and penalties if the violation involves the making, receiving, or reporting of any contribution or expenditure having a value in the aggregate of \$2,000 or more during a calendar year. Such violators may be fined an amount not to exceed the greater of \$25,000 or 300 percent of the amount involved in the violation or may be imprisoned for not more than one year, or both. [2 U.S.C. 437g(d)(1)(A)]

## APPENDIX 5

# POLITICAL ACTION COMMITTEES

## INTRODUCTION

Federal law prohibits corporations, labor organizations, government contractors, or persons negotiating for government contracts from making direct or indirect contributions or expenditures in connection with any federal election. This prohibition covers efforts to influence a primary election, political convention, or a caucus held to select candidates for federal office. Penalties may be imposed upon violators. [2 U.S.C. 441b; 441c; 11 C.F.R. 114.2] In addition, it is illegal for corporations, labor organizations, or government contractors to make loans to candidates or political organizations for the purpose of influencing an election. Banking institutions can make loans in the ordinary course of business, applying standard banking laws. [2 U.S.C. 441b; 11 C.F.R. 114.1]

However, despite this blanket prohibition on direct or indirect contributions by corporations, labor unions, and government contractors, the law permits such organizations to establish a separate segregated fund, commonly organized by a political action committee (PAC). PACs may be established by a corporation, labor organization, membership organization, cooperative, or corporation without capital stock. The administrators of the committee have the advantage of selecting the recipients of the funds. Although the corporation may not contribute to the committee, it can use its general treasury monies to pay the establishment, administrative, and solicitation costs of its separate segregated fund. [2 U.S.C. 441b(b)(2), (c); 11 C.F.R. 114.5(b)]

Individual contributions received may be commingled and distributed in the name of the committee unless the funds received are earmarked for a particular candidate or the candidate's authorized committee. If there are "earmarked" contributions, the designated candidate must be notified of the names of the individual donors. [2 U.S.C. 441a(a)(8); 11 C.F.R. 110.6]

## ORGANIZATION

Although the law places a general prohibition on corporate contributions, any political committee (including a separate segregated fund) that incorporates for liability purposes only is not subject to such a prohibition. [11 C.F.R. 114.12(a)] A governing document, similar to a set of corporate bylaws, setting forth the manner of operation should be adopted. The committee must have a treasurer. [2 U.S.C. 432(a)] In addition, the committee should appoint the treasurer's successor, since the organization may not accept contributions or make expenditures if there is a vacancy in the office. [11 C.F.R. 102.7] Another reason for appointing a successor to the treasurer is that this officer must authorize each expenditure of money.

## REGISTRATION

Each authorized campaign committee shall file a statement of organization no later than ten days after designation. Each separate, segregated fund shall file a statement of organization no later than ten days after being established. Activities requiring registration within the meaning of the Act include, but are not limited to, a vote by the board of directors to create such a fund, selection of initial officers to administer such a fund, or payment of initial operating expenses. [11 C.F.R. 102.1(c)]

The registration statement of the political action committee should be filed with the FEC and various state officials. [2 U.S.C. 433(a); 439; 11 C.F.R. 102.1(c), 108.1]

## **SOLICITATION**

The Federal Election Campaign Act of 1971, as amended, prescribes specific rules and prohibitions to guide a PAC in the solicitation of funds. These include—

- A strong prohibition against the use of coercion. [2 U.S.C. 441b(b)(3)(A); 11 C.F.R. 114.5(a)]
- A requirement to fully inform a person as to the purpose of the solicitation and his right to refuse participation. [2 U.S.C. 441b(B) 3(b); 11 C.F.R. 114.5]
- A restriction on corporate PACs to regularly solicit only from stockholders and executive or administrative personnel and their families and not from other employees. [2 U.S.C. 441b(b) 4(A); 11 C.F.R. 114.5(g)] However, membership organizations, cooperatives, and corporations without capital stock, and such organizations' separate segregated funds remain free to solicit their members for contributions to the fund. [2 U.S.C. 441b(b) 4(C); 11 C.F.R. 114.7]
- A restriction on labor organization PACs to solicit only from members and their families. [2 U.S.C. 441b(b)(3)(A); 11 C.F.R. 114.5(g)]
- An exception to the no solicitation rule that allows both corporations and labor union PACs to make special written solicitations twice each year to regular employees of the corporation and families of such persons. [2 U.S.C. 441b(b)(1)-(7); 11 C.F.R. 114.6] However, the manner and form of such biannual solicitations are highly restricted. The written solicitation may only be made by mail addressed to the employee at his or her residence and the process used must ensure that the corporation is not informed of the identity of those employees who do not contribute. [11 C.F.R. 114.6(c)]
- A payroll deduction plan may be used to facilitate the receipt of contributions to the separate segregated fund by stockholders and other executive personnel. Such a payroll deduction plan may not be used to obtain contributions from regular employees. [11 C.F.R. 114.5(k); 114.6(e)] However, despite the prohibition on regular employee payroll deduction plans for contributions to the separate segregated fund, a corporation may establish a separate employee "trustee" plan based on payroll deductions deposited in separate accounts for each participating employee. Such a plan would function as a separate political-giving program where the corporation pays the costs of establishing and administering separate bank accounts for its employees who wish to make political contributions. Any such program must ensure that the employees exercise complete control and discretion over disbursement of monies in the accounts. [11 C.F.R. 114.11(a)] The corporation performs a bookkeeping function, exercising no control over the disposition of any funds. The participation should be available to all employees and must be on a nonpartisan basis. [11 C.F.R. 114.11(b)]

## **LIMITATION ON CONTRIBUTIONS RECEIVED**

Under the Federal Election Campaign Act of 1971, as amended, \$5,000 is the maximum amount an individual may contribute to a given PAC in a calendar year. [2 U.S.C. 441a(a)(1)(C); 11 C.F.R. 110.1(d)]

A further limit is imposed upon earmarked contributions. Earmarked contributions are those contributions made on behalf of a candidate that are designated or otherwise directed to a specific candidate through an intermediary or conduit. [11 C.F.R. 110.6(b)] These contributions are deemed to be made to a candidate by the original donor and not by the committee. The Act provides that no individual may contribute to any candidate for federal office an amount exceeding \$1,000 per election. Therefore, the committee must not accept from any contributor more than \$1,000 of earmarked contributions per candidate per election. [2 U.S.C. 441a(a)(1)(A); 11 C.F.R. 110.6(b)]

## EXPENDITURES

The selection and determination of the amounts to be given to candidates by the political action committee is important. The selection process aids the candidate in deciding whether to run for office. Priorities must be developed, however, since the election laws limit the amounts the committee may contribute to a candidate. If the political action committee qualifies as a "multicandidate committee," its contribution to any one candidate cannot exceed \$5,000 per election. [2 U.S.C. 441a(a)(2); 11 C.F.R. 110.2] A multicandidate committee is defined as a committee that has more than fifty contributors, has made contributions to five or more candidates for federal office, and has been registered as a political action committee for at least six months. [2 U.S.C. 441a(a)(4); 11 C.F.R. 100.5(e)(5)] If the above requirements are not met by the committee, it is limited to a maximum contribution to any one candidate for federal office of \$1,000 per election. Moreover, all PACs established and controlled by a corporation or labor union are considered affiliated for the purpose of applying limitations on contributions to candidates and thus share one contribution limit. [2 U.S.C. 441a(a)(1)(A), (2)(A), (4), (5), (6), (8); 11 C.F.R. 110.3(a)(1); 11 C.F.R. 100.5(g)]

Regardless of these limitations, the Supreme Court in *Buckley v. Valeo* opened the opportunity for PACs to support or oppose any candidate for federal office without any limitation on expenditures, so long as this is done independently of the candidate or authorized delegate. Independent expenditures are not considered "contributions" within the meaning of the statute and hence are not subject to the Act's contribution limits. [2 U.S.C. 431(17); 11 C.F.R. 109.1(c)] "Independence," for this purpose, should be narrowly construed and no proximate or even remote nexus should be tolerated for this purpose. [2 U.S.C. 431(17); 434(b)(4)(H)(iii), (c); 11 C.F.R. 109.1(b)] In order to qualify as "independent expenditures," such expenditures must not be made with the cooperation or prior consent of, or in consultation with the candidate or the candidate's authorized committee. [11 C.F.R. 109.1(a)] Otherwise, the expenditure will be considered a contribution in-kind and will be subject to the Act's limitations. [11 C.F.R. 109.1(c)]

Any such independent expenditures must be reported by the separate segregated fund, including the name and address of each person to whom an independent expenditure is made in excess of \$200 in a calendar year as well as the total of all independent expenditures below \$200 per calendar year. [11 C.F.R. 104.3(b), 104.4]

## RECORDKEEPING AND REPORTING REQUIREMENTS

Generally, a separate segregated fund is subject to the same disclosure and reporting requirements as any political committee. [11 C.F.R. 114.5(e)(3)] The committee treasurer must open a checking account in a designated depository separate from any maintained by the corporation affiliated with the committee. Each check received should be a personal one. The treasurer must keep detailed records of all contributions, including a list of the names and addresses of every person who contributes \$50 or more. [2 U.S.C. 432(b), (c); 11 C.F.R. 102.9(a)]

The disbursement records maintained by the treasurer must indicate the name of the candidate, office being sought, date, amount and purpose of the disbursement, and the name and address of every person to whom a disbursement is made. All expenditures over \$200 must be evidenced by a receipt, invoice, or canceled check. The treasurer must also maintain a record of expenditures of less than \$200. [2 U.S.C. 432(c)(5), (d); 11 C.F.R. 102.9(b)]

Following initial organization and registration, the ongoing reporting requirements of a PAC are those of a political committee. In addition, the PAC must certify under penalty of perjury that such independent expenditures were not made in cooperation, consultation or concert with, or at the request or suggestion of, any candidate or his or her agent. [2 U.S.C. 434(b)(6)(B)(iii); 11 C.F.R. 109.2(a)(1)]

Separate segregated funds must file their reports with either the Clerk of the House, the Secretary of the Senate, or the FEC depending upon whether the committee supports only House candidates, Senate candidates, or both. [11 C.F.R. 105.1; 105.2; 105.4]

Separate segregated funds have the option of submitting either election year and nonelection year reports (quarterly, pre-election, and post-election reports) or alternatively submitting monthly reports. [2 U.S.C. 434(a)(4); 11 C.F.R. 104.5(c)] Generally, the filing deadlines for election year and nonelection year reports are identical to such reports submitted by authorized political committees. [2 U.S.C. 434(a)(4)(i); 11 C.F.R. 104.5(1), (2)] Monthly reports, if chosen, must be filed twenty days after the last day of the month. [11 C.F.R. 104.5(c)(3)]

## **TAXATION OF THE ORGANIZATION**

The fund organized by a political action committee is treated as a political organization for tax purposes (see chapter 5).



**FEDERAL ELECTION  
CAMPAIGN LAWS**

Compiled by

**THE  
FEDERAL  
ELECTION  
COMMISSION**

**OCTOBER 1988**

**THE FEDERAL ELECTION COMMISSION**  
Washington, D.C. 20463

**COMMISSIONERS**

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*Clerk of the House of Representatives*

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## PREFACE

The Federal Election Commission (FEC) has prepared this new compilation of Federal campaign laws as an informative service to the general public.

There are three major sections of this new compilation:

1. **FEDERAL ELECTION CAMPAIGN LAWS:** The text of the "Federal Election Campaign Act (FECA) of 1971," as amended, the "Presidential Election Campaign Fund Act," as amended, and the "Presidential Primary Matching Payment Account Act," as amended, contained in titles 2 and 26 of the United States Code. (*See* Amendments in 1974, 1976, 1977, 1979, 1981, 1983 and 1984: Pub. L. No. 93-443, Pub. L. No. 94-283, Pub. L. No. 95-216, Pub. L. No. 96-187, Pub. L. No. 97-51, Pub. L. No. 98-63, Pub. L. No. 98-355, Pub. L. No. 98-620 and Pub. L. No. 100-352, respectively.)

2. **APPENDIX:** The text of additional provisions of the United States Code, which are not in the FECA but may be relevant to persons involved with Federal elections.

3. **INDEX TO TITLES 2 and 26:** A special index prepared by the FEC.

This compilation is presented in codified form, with FECA section numbers converted to United States Code section numbers, in order to facilitate cross-references between this pamphlet, the United States Code, and the United States Code Annotated.

Readers should be aware that some terms in the law are defined differently in different titles. Thus, the meaning of a particular term may not be consistent throughout this pamphlet. Note, therefore, the definitions provided in each title or section.

Copies of this compilation are available from the Federal Election Commission, Washington, D.C. 20463.

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## TITLE 2. THE CONGRESS

### Chapter 14—Federal Election Campaigns

#### Subchapter 1—Disclosure of Federal Campaign Funds

##### § 431. Definitions

When used in this Act:

- (1) The term “election” means—
  - (A) a general, special, primary, or runoff election;
  - (B) a convention or caucus of a political party which has authority to nominate a candidate;
  - (C) a primary election held for the selection of delegates to a national nominating convention of a political party; and
  - (D) a primary election held for the expression of a preference for the nomination of individuals for election to the office of President.
- (2) The term “candidate” means an individual who seeks nomination for election, or election, to Federal office, and for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election—
  - (A) if such individual has received contributions aggregating in excess of \$5,000 or has made expenditures aggregating in excess of \$5,000; or
  - (B) if such individual has given his or her consent to another person to receive contributions or make expenditures on behalf of such individual and if such person has received such contributions aggregating in excess of \$5,000 or has made such expenditures aggregating in excess of \$5,000.
- (3) The term “Federal office” means the office of President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress.
- (4) The term “political committee” means—
  - (A) any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or

which makes expenditures aggregating in excess of \$1,000 during a calendar year; or

(B) any separate segregated fund established under the provisions of section 441b(b) of this title; or

(C) any local committee of a political party which receives contributions aggregating in excess of \$5,000 during a calendar year, or makes payments exempted from the definition of contribution or expenditure as defined in paragraphs (8) and (9) of this section aggregating in excess of \$5,000 during a calendar year, or makes contributions aggregating in excess of \$1,000 during a calendar year or makes expenditures aggregating in excess of \$1,000 during a calendar year.

(5) The term “principal campaign committee” means a political committee designated and authorized by a candidate under section 432(e)(1) of this title.

(6) The term “authorized committee” means the principal campaign committee or any other political committee authorized by a candidate under section 432(e)(1) of this title to receive contributions or make expenditures on behalf of such candidate.

(7) The term “connected organization” means any organization which is not a political committee but which directly or indirectly establishes, administers, or financially supports a political committee.

(8) (A) The term “contribution” includes—

(i) any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office; or

(ii) the payment by any person of compensation for the personal services of another person which are rendered to a political committee without charge for any purpose.

(B) The term “contribution” does not include—

(i) the value of services provided without compensation by any individual who volunteers on behalf of a candidate or political committee;

(ii) the use of real or personal property, including a church or community room used on a regular basis by members of a community for non-commercial purposes, and the cost of invitations, food, and beverages, voluntarily provided by an individual to any candidate or any political com-

mittee of a political party in rendering voluntary personal services on the individual's residential premises or in the church or community room for candidate-related or political party-related activities, to the extent that the cumulative value of such invitations, food, and beverages provided by such individual on behalf of any single candidate does not exceed \$1,000 with respect to any single election, and on behalf of all political committees of a political party does not exceed \$2,000 in any calendar year;

(iii) the sale of any food or beverage by a vendor for use in any candidate's campaign or for use by or on behalf of any political committee of a political party at a charge less than the normal comparable charge, if such charge is at least equal to the cost of such food or beverage to the vendor, to the extent that the cumulative value of such activity by such vendor on behalf of any single candidate does not exceed \$1,000 with respect to any single election, and on behalf of all political committees of a political party does not exceed \$2,000 in any calendar year;

(iv) any unreimbursed payment for travel expenses made by any individual on behalf of any candidate or any political committee of a political party, to the extent that the cumulative value of such activity by such individual on behalf of any single candidate does not exceed \$1,000 with respect to any single election, and on behalf of all political committees of a political party does not exceed \$2,000 in any calendar year;

(v) the payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card or sample ballot, or other printed listing, of 3 or more candidates for any public office for which an election is held in the State in which such committee is organized, except that this clause shall not apply to any cost incurred by such committee with respect to a display of any such listing made on broadcasting stations, or in newspapers, maga-

zines, or similar types of general public political advertising;

(vi) any payment made or obligation incurred by a corporation or a labor organization which, under section 441b(b) of this title, would not constitute an expenditure by such corporation or labor organization;

(vii) any loan of money by a State bank, a federally chartered depository institution, or a depository institution the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration, other than any overdraft made with respect to a checking or savings account, made in accordance with applicable law and in the ordinary course of business, but such loan—

(I) shall be considered a loan by each endorser or guarantor, in that proportion of the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors;

(II) shall be made on a basis which assures repayment, evidenced by a written instrument, and subject to a due date or amortization schedule; and

(III) shall bear the usual and customary interest rate of the lending institution;

(viii) any gift, subscription, loan, advance, or deposit of money or anything of value to a national or a State committee of a political party specifically designated to defray any cost for construction or purchase of any office facility not acquired for the purpose of influencing the election of any candidate in any particular election for Federal office;

(ix) any legal or accounting services rendered to or on behalf of—

(I) any political committee of a political party if the person paying for such services is the regular employer of the person rendering such services and if such services are not attributable to activities which direct-

ly further the election of any designated candidate to Federal office; or

(II) an authorized committee of a candidate or any other political committee, if the person paying for such services is the regular employer of the individual rendering such services and if such services are solely for the purpose of ensuring compliance with this Act or chapter 95 or chapter 96 of title 26,

but amounts paid or incurred by the regular employer for such legal or accounting services shall be reported in accordance with section 434(b) of this title by the committee receiving such services;

(x) the payment by a State or local committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids, and yard signs) used by such committee in connection with volunteer activities on behalf of nominees of such party: *Provided, That—*

(1) such payments are not for the cost of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or particular candidates;

(xi) the payment by a candidate, for nomination or election to any public office (including State or local office), or authorized committee of a candidate, of the costs of campaign materials which include information on or reference to any other candidate and which are used in connection with volunteer activities (including pins, bumper stickers, handbills, brochures, posters, and yard signs, but not including the use of broadcasting, newspapers, magazines, billboards, direct mail, or similar types of general public communication or

political advertising): *Provided*, That such payments are made from contributions subject to the limitations and prohibitions of this Act;

(xii) the payment by a State or local committee of a political party of the costs of voter registration and get-out-the-vote activities conducted by such committee on behalf of nominees of such party for President and Vice President: *Provided*, That—

(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or candidates;

(xiii) payments made by a candidate or the authorized committee of a candidate as a condition of ballot access and payments received by any political party committee as a condition of ballot access; and

(xiv) any honorarium (within the meaning of section 441i of this title).

(9) (A) The term “expenditure” includes—

(i) any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office; and

(ii) a written contract, promise, or agreement to make an expenditure.

(B) The term “expenditure” does not include—

(i) any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate;



(ii) nonpartisan activity designed to encourage individuals to vote or to register to vote;

(iii) any communication by any membership organization or corporation to its members, stockholders, or executive or administrative personnel, if such membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any individual to Federal office, except that the costs incurred by a membership organization (including a labor organization) or by a corporation directly attributable to a communication expressly advocating the election or defeat of a clearly identified candidate (other than a communication primarily devoted to subjects other than the express advocacy of the election or defeat of a clearly identified candidate), shall, if such costs exceed \$2,000 for any election, be reported to the Commission in accordance with section 434(a)(4)(A)(i) of this title, and in accordance with section 434(a)(4)(A)(ii) of this title with respect to any general election;

(iv) the payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card or sample ballot, or other printed listing, of 3 or more candidates for any public office for which an election is held in the State in which such committee is organized, except that this clause shall not apply to costs incurred by such committee with respect to a display of any such listing made on broadcasting stations, or in newspapers, magazines, or similar types of general public political advertising;

(v) any payment made or obligation incurred by a corporation or a labor organization which, under section 441b(b) of this title, would not constitute an expenditure by such corporation or labor organization;

(vi) any costs incurred by an authorized committee or candidate in connection with the solicitation of contributions on behalf of such candidate, except that this clause shall not apply with

respect to costs incurred by an authorized committee of a candidate in excess of an amount equal to 20 percent of the expenditure limitation applicable to such candidate under section 441a(b), but all such costs shall be reported in accordance with section 434(b);

(vii) the payment of compensation for legal or accounting services—

(I) rendered to or on behalf of any political committee of a political party if the person paying for such services is the regular employer of the individual rendering such services, and if such services are not attributable to activities which directly further the election of any designated candidate to Federal office; or

(II) rendered to or on behalf of a candidate or political committee if the person paying for such services is the regular employer of the individual rendering such services, and if such services are solely for the purpose of ensuring compliance with this Act or chapter 95 or chapter 96 of title 26,

but amounts paid or incurred by the regular employer for such legal or accounting services shall be reported in accordance with section 434(b) by the committee receiving such services;

(viii) the payment by a State or local committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids, and yard signs) used by such committee in connection with volunteer activities on behalf of nominees of such party: *Provided, That—*

(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or particular candidates;

(ix) the payment by a State or local committee of a political party of the costs of voter registration and get-out-the-vote activities conducted by such committee on behalf of nominees of such party for President and Vice President: *Provided, That—*

(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or candidates; and

(x) payments received by a political party committee as a condition of ballot access which are transferred to another political party committee or the appropriate State official.

(10) The term "Commission" means the Federal Election Commission.

(11) The term "Person" includes an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons, but such term does not include the Federal Government or any authority of the Federal Government.

(12) The term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

(13) The term "identification" means—

(A) in the case of any individual, the name, the mailing address, and the occupation of such individual, as well as the name of his or her employer; and

(B) in the case of any other person, the full name and address of such person.

(14) The term “national committee” means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level, as determined by the Commission.

(15) The term “State committee” means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level, as determined by the Commission.

(16) The term “political party” means an association, committee, or organization which nominates a candidate for election to any Federal office whose name appears on the election ballot as the candidate of such association, committee, or organization.

(17) The term “independent expenditure” means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate.

(18) The term “clearly identified” means that—

(A) the name of the candidate involved appears;

(B) a photograph or drawing of the candidate appears; or

(C) the identity of the candidate is apparent by unambiguous reference.

(19) The term “Act” means the Federal Election Campaign Act of 1971 as amended.

#### § 432. Organization of political committees

(a) *Treasurer; vacancy; official authorizations.* Every political committee shall have a treasurer. No contribution or expenditure shall be accepted or made by or on behalf of a political committee during any period in which the office of treasurer is vacant. No expenditure shall be made for or on behalf of a politi-

cal committee without the authorization of the treasurer or his or her designated agent.

(b) *Account of contributions; segregated funds.*

(1) Every person who receives a contribution for an authorized political committee shall, no later than 10 days after receiving such contribution, forward to the treasurer such contribution, and if the amount of the contribution is in excess of \$50 the name and address of the person making the contribution and the date of receipt.

(2) Every person who receives a contribution for a political committee which is not an authorized committee shall—

(A) if the amount of the contribution is \$50 or less, forward to the treasurer such contribution no later than 30 days after receiving the contribution; and

(B) if the amount of the contribution is in excess of \$50, forward to the treasurer such contribution, the name and address of the person making the contribution, and the date of receipt of the contribution, no later than 10 days after receiving the contribution.

(3) All funds of a political committee shall be segregated from, and may not be commingled with, the personal funds of any individual.

(c) *Recordkeeping.* The treasurer of a political committee shall keep an account of—

(1) all contributions received by or on behalf of such political committee;

(2) the name and address of any person who makes any contribution in excess of \$50, together with the date and amount of such contribution by any person;

(3) the identification of any person who makes a contribution or contributions aggregating more than \$200 during a calendar year, together with the date and amount of any such contribution;

(4) the identification of any political committee which makes a contribution, together with the date and amount of any such contribution; and

(5) the name and address of every person to whom any disbursement is made, the date, amount, and purpose of the disbursement, and the name of the candidate and the office sought by the candidate, if any, for whom the disbursement was made, including a receipt, invoice, or cancelled check for each disbursement in excess of \$200.

(d) *Preservation of records and copies of reports.* The treasurer shall preserve all records required to be kept by this section and copies of all reports required to be filed by this subchapter for 3 years after the report is filed.

(e) *Principal and additional campaign committees; designations, status of candidate, authorized committees, etc.*

(1) Each candidate for Federal office (other than the nominee for the office of Vice President) shall designate in writing a political committee in accordance with paragraph (3) to serve as the principal campaign committee of such candidate. Such designation shall be made no later than 15 days after becoming a candidate. A candidate may designate additional political committees in accordance with paragraph (3) to serve as authorized committees of such candidate. Such designation shall be in writing and filed with the principal campaign committee of such candidate in accordance with subsection (f)(1) of this section.

(2) Any candidate described in paragraph (1) who receives a contribution, or any loan for use in connection with the campaign of such candidate for election, or makes a disbursement in connection with such campaign, shall be considered, for purposes of this Act, as having received the contribution or loan, or as having made the disbursement, as the case may be, as an agent of the authorized committee or committees of such candidate.

(3) (A) No political committee which supports or has supported more than one candidate may be designated as an authorized committee, except that—

(i) the candidate for the office of President nominated by a political party may designate the national committee of such political party as a principal campaign committee, but only if that national committee maintains separate books of account with respect to its function as a principal campaign committee; and

(ii) candidates may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee.

(B) As used in this section, the term “support” does not include a contribution by any authorized committee in amounts of \$1,000 or less to an authorized committee of any other candidate.

(4) The name of each authorized committee shall include the name of the candidate who authorized such committee under paragraph (1). In the case of any political committee which is not an authorized committee, such political committee shall not include the name of any candidate in its name.

(5) The name of any separate segregated fund established pursuant to section 441b(b) shall include the name of its connected organization.

*(f) Filing with and receipt of designations, statements, and reports by principal campaign committees.*

(1) Notwithstanding any other provision of this Act, each designation, statement, or report of receipts or disbursements made by an authorized committee of a candidate shall be filed with the candidate's principal campaign committee.

(2) Each principal campaign committee shall receive all designations, statements, and reports required to be filed with it under paragraph (1) and shall compile and file such designations, statements, and reports in accordance with this Act.

*(g) Filing with and receipt of designations, statements, and reports by Clerk of House of Representatives or Secretary of Senate; forwarding to Commission; filing requirements with Commission; public inspection and preservation of designations, etc.*

(1) Designations, statements, and reports required to be filed under this Act by a candidate or by an authorized committee of a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, and by the principal campaign committee of such a candidate, shall be filed with the Clerk of the House of Representatives, who shall receive such designations, statements, and reports as custodian for the Commission.

(2) Designations, statements, and reports required to be filed under this Act by a candidate for the office of Senator, and by the principal campaign committee of such candidate, shall be filed with the Secretary of the Senate, who shall receive such designations, statements, and reports, as custodian for the Commission.

(3) The Clerk of the House of Representatives and the Secretary of the Senate shall forward a copy of any designation, statement, or report filed with them under this subsection to the Commission as soon as possible (but no later

than 2 working days) after receiving such designation, statement, or report.

(4) All designations, statements, and reports required to be filed under this Act, except designations, statements, and reports filed in accordance with paragraphs (1) and (2), shall be filed with the Commission.

(5) The Clerk of the House of Representatives and the Secretary of the Senate shall make the designations, statements, and reports received under this subsection available for public inspection and copying in the same manner as the Commission under section 438(a)(4), and shall preserve such designations, statements, and reports in the same manner as the Commission under section 438(a)(5).

(h) *Campaign depositories; designations, maintenance of accounts, etc.; petty cash fund for disbursements; record of disbursements.*

(1) Each political committee shall designate one or more State banks, federally chartered depository institutions, or depository institutions the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration, as its campaign depository or depositories. Each political committee shall maintain at least one checking account and such other accounts as the committee determines at a depository designated by such committee. All receipts received by such committee shall be deposited in such accounts. No disbursements may be made (other than petty cash disbursements under paragraph (2)) by such committee except by check drawn on such accounts in accordance with this section.

(2) A political committee may maintain a petty cash fund for disbursements not in excess of \$100 to any person in connection with a single purchase or transaction. A record of all petty cash disbursements shall be maintained in accordance with subsection (c)(5) of this section.

(i) When the treasurer of a political committee shows that best efforts have been used to obtain, maintain, and submit the information required by this Act for the political committee, any report or any records of such committee shall be considered in compliance with this Act or chapter 95 or chapter 96 of title 26.



**§ 433. Registration of political committees**

(a) *Statements of organization.* Each authorized campaign committee shall file a statement of organization no later than 10 days after designation pursuant to section 432(e)(1). Each separate segregated fund established under the provisions of section 441b(b) shall file a statement of organization no later than 10 days after establishment. All other committees shall file a statement of organization within 10 days after becoming a political committee within the meaning of section 431(4).

(b) *Contents of statements.* The statement of organization of a political committee shall include—

- (1) the name, address, and type of committee;
- (2) the name, address, relationship, and type of any connected organization or affiliated committee;
- (3) the name, address, and position of the custodian of books and accounts of the committee;
- (4) the name and address of the treasurer of the committee;
- (5) if the committee is authorized by a candidate, the name, address, office sought, and party affiliation of the candidate; and
- (6) a listing of all banks, safety deposit boxes, or other depositories used by the committee.

(c) *Change of information in statements.* Any change in information previously submitted in a statement of organization shall be reported in accordance with section 432(g) no later than 10 days after the date of the change.

(d) *Termination, etc., requirements and authorities.*

(1) A political committee may terminate only when such a committee files a written statement, in accordance with section 432(g), that it will no longer receive any contributions or make any disbursement and that such committee has no outstanding debts or obligations.

(2) Nothing contained in this subsection may be construed to eliminate or limit the authority of the Commission to establish procedures for—

- (A) the determination of insolvency with respect to any political committee;
- (B) the orderly liquidation of an insolvent political committee, and the orderly application of its assets for the reduction of outstanding debts; and
- (C) the termination of an insolvent political committee after such liquidation and application of assets.

**§ 434. Reporting requirements**

(a) *Receipts and disbursements by treasurers of political committees; filing requirements.*

(1) Each treasurer of a political committee shall file reports of receipts and disbursements in accordance with the provisions of this subsection. The treasurer shall sign each such report.

(2) If the political committee is the principal campaign committee of a candidate for the House of Representatives or for the Senate—

(A) in any calendar year during which there is a regularly scheduled election for which such candidate is seeking election, or nomination for election, the treasurer shall file the following reports:

(i) a pre-election report, which shall be filed no later than the 12th day before (or posted by registered or certified mail no later than the 15th day before) any election in which such candidate is seeking election, or nomination for election, and which shall be complete as of the 20th day before such election;

(ii) a post-general election report, which shall be filed no later than the 30th day after any general election in which such candidate has sought election, and which shall be complete as of the 20th day after such general election; and

(iii) additional quarterly reports, which shall be filed no later than the 15th day after the last day of each calendar quarter, and which shall be complete as of the last day of each calendar quarter: except that the report for the quarter ending December 31 shall be filed no later than January 31 of the following calendar year; and

(B) in any other calendar year the following reports shall be filed:

(i) a report covering the period beginning January 1 and ending June 30, which shall be filed no later than July 31; and

(ii) a report covering the period beginning July 1 and ending December 31, which shall be filed no later than January 31 of the following calendar year.

(3) If the committee is the principal campaign committee of a candidate for the office of President—

(A) in any calendar year during which a general election is held to fill such office—

(i) the treasurer shall file monthly reports if such committee has on January 1 of such year, received contributions aggregating \$100,000 or made expenditures aggregating \$100,000 or anticipates receiving contributions aggregating \$100,000 or more or making expenditures aggregating \$100,000 or more during such year: such monthly reports shall be filed no later than the 20th day after the last day of each month and shall be complete as of the last day of the month, except that, in lieu of filing the report otherwise due in November and December, a pre-general election report shall be filed in accordance with paragraph (2)(A)(i), a post-general election report shall be filed in accordance with paragraph (2)(A)(ii), and a year end report shall be filed no later than January 31 of the following calendar year;

(ii) the treasurer of the other principal campaign committees of a candidate for the office of President shall file a pre-election report or reports in accordance with paragraph (2)(A)(i), a post-general election report in accordance with paragraph (2)(A)(ii), and quarterly reports in accordance with paragraph (2)(A)(iii); and

(iii) if at any time during the election year a committee filing under paragraph (3)(A)(ii) receives contributions in excess of \$100,000 or makes expenditures in excess of \$100,000, the treasurer shall begin filing monthly reports under paragraph (3)(A)(i) at the next reporting period; and

(B) in any other calendar year, the treasurer shall file either—

(i) monthly reports, which shall be filed no later than the 20th day after the last day of each month and shall be complete as of the last day of the month; or

(ii) quarterly reports, which shall be filed no later than the 15th day after the last day of

each calendar quarter and which shall be complete as of the last day of each calendar quarter.

(4) All political committees other than authorized committees of a candidate shall file either—

(A) (i) quarterly reports, in a calendar year in which a regularly scheduled general election is held, which shall be filed no later than the 15th day after the last day of each calendar quarter: except that the report for the quarter ending on December 31 of such calendar year shall be filed no later than January 31 of the following calendar year;

(ii) a pre-election report, which shall be filed no later than the 12th day before (or posted by registered or certified mail no later than the 15th day before) any election in which the committee makes a contribution to or expenditure on behalf of a candidate in such election, and which shall be complete as of the 20th day before the election;

(iii) a post-general election report, which shall be filed no later than the 30th day after the general election and which shall be complete as of the 20th day after such general election; and

(iv) in any other calendar year, a report covering the period beginning January 1 and ending June 30, which shall be filed no later than July 31 and a report covering the period beginning July 1 and ending December 31, which shall be filed no later than January 31 of the following calendar year; or

(B) monthly reports in all calendar years which shall be filed no later than the 20th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of any year in which a regularly scheduled general election is held, a pre-general election report shall be filed in accordance with paragraph (2)(A)(i), a post-general election report shall be filed in accordance with paragraph (2)(A)(ii), and a year end report shall be filed no later than January 31 of the following calendar year.

(5) If a designation, report, or statement filed pursuant to this Act (other than under paragraph (2)(A)(i) or

(4)(A)(ii) is sent by registered or certified mail, the United States postmark shall be considered the date of filing of the designation, report, or statement.

(6) (A) The principal campaign committee of a candidate shall notify the Clerk, the Secretary, or the Commission, and the Secretary of State, as appropriate, in writing, of any contribution of \$1,000 or more received by any authorized committee of such candidate after the 20th day, but more than 48 hours before, any election. This notification shall be made within 48 hours after the receipt of such contribution and shall include the name of the candidate and the office sought by the candidate, the identification of the contributor, and the date of receipt and amount of the contribution.

(B) The notification required under this paragraph shall be in addition to all other reporting requirements under this Act.

(7) The reports required to be filed by this subsection shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during such year, only the amount need be carried forward.

(8) The requirement for a political committee to file a quarterly report under paragraph (2)(A)(iii) or paragraph (4)(A)(i) shall be waived if such committee is required to file a pre-election report under paragraph (2)(A)(i), or paragraph (4)(A)(ii) during the period beginning on the 5th day after the close of the calendar quarter and ending on the 15th day after the close of the calendar quarter.

(9) The Commission shall set filing dates for reports to be filed by principal campaign committees of candidates seeking election, or nomination for election, in special elections and political committees filing under paragraph (4)(A) which make contributions to or expenditures on behalf of a candidate or candidates in special elections. The Commission shall require no more than one pre-election report for each election and one post-election report for the election which fills the vacancy. The Commission may waive any reporting obligation of committees required to file for special elections if any report required by paragraph (2) or (4) is required to be filed within 10 days of a report required under this subsection. The Commission shall establish the reporting dates within 5 days of the setting of such election and shall publish such dates and notify the principal cam-

paign committees of all candidates in such election of the reporting dates.

(10) The treasurer of a committee supporting a candidate for the office of Vice President (other than the nominee of a political party) shall file reports in accordance with paragraph (3).

(b) *Contents of reports.* Each report under this section shall disclose—

(1) the amount of cash on hand at the beginning of the reporting period;

(2) for the reporting period and calendar year, the total amount of all receipts, and the total amount of all receipts in the following categories:

(A) contributions from persons other than political committees;

(B) for an authorized committee, contributions from the candidate;

(C) contributions from political party committees;

(D) contributions from other political committees;

(E) for an authorized committee, transfers from other authorized committees of the same candidate;

(F) transfers from affiliated committees and, where the reporting committee is a political party committee, transfers from other political party committees, regardless of whether such committees are affiliated;

(G) for an authorized committee, loans made by or guaranteed by the candidate;

(H) all other loans;

(I) rebates, refunds, and other offsets to operating expenditures;

(J) dividends, interest, and other forms of receipts; and

(K) for an authorized committee of a candidate for the office of President, Federal funds received under chapter 95 and chapter 96 of title 26;

(3) the identification of each—

(A) person (other than a political committee) who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions have an aggregate amount or value in excess of \$200 within the calendar year, or in any lesser amount if the reporting committee should so elect, together with the date and amount of any such contribution;

(B) political committee which makes a contribution to the reporting committee during the reporting period, together with the date and amount of any such contribution;

(C) authorized committee which makes a transfer to the reporting committee;

(D) affiliated committee which makes a transfer to the reporting committee during the reporting period and, where the reporting committee is a political party committee, each transfer of funds to the reporting committee from another political party committee, regardless of whether such committees are affiliated, together with the date and amount of such transfer;

(E) person who makes a loan to the reporting committee during the reporting period, together with the identification of any endorser or guarantor of such loan, and date and amount or value of such loan;

(F) person who provides a rebate, refund, or other offset to operating expenditures to the reporting committee in an aggregate amount or value in excess of \$200 within the calendar year, together with the date and amount of such receipt; and

(G) person who provides any dividend, interest, or other receipt to the reporting committee in an aggregate value or amount in excess of \$200 within the calendar year, together with the date and amount of any such receipt;

(4) for the reporting period and the calendar year, the total amount of all disbursements, and all disbursements in the following categories:

(A) expenditures made to meet candidate or committee operating expenses;

(B) for authorized committees, transfers to other committees authorized by the same candidate;

(C) transfers to affiliated committees and, where the reporting committee is a political party committee, transfers to other political party committees, regardless of whether they are affiliated;

(D) for an authorized committee, repayment of loans made by or guaranteed by the candidate;

(E) repayment of all other loans;

(F) contribution refunds and other offsets to contributions;

(G) for an authorized committee, any other disbursements;

(H) for any political committee other than an authorized committee—

(i) contributions made to other political committees;

(ii) loans made by the reporting committees;

(iii) independent expenditures;

(iv) expenditures made under section 441a(d) of this title; and

(v) any other disbursements; and

(I) for an authorized committee of a candidate for the office of President, disbursements not subject to the limitation of section 441a(b);

(5) the name and address of each—

(A) person to whom an expenditure in an aggregate amount or value in excess of \$200 within the calendar year is made by the reporting committee to meet a candidate or committee operating expense, together with the date, amount, and purpose of such operating expenditure;

(B) authorized committee to which a transfer is made by the reporting committee;

(C) affiliated committee to which a transfer is made by the reporting committee during the reporting period and, where the reporting committee is a political party committee, each transfer of funds by the reporting committee to another political party committee, regardless of whether such committees are affiliated, together with the date and amount of such transfers;

(D) person who receives a loan repayment from the reporting committee during the reporting period, together with the date and amount of such loan repayment; and

(E) person who receives a contribution refund or other offset to contributions from the reporting committee where such contribution was reported under paragraph (3)(A) of this subsection, together with the date and amount of such disbursement;

(6) (A) for an authorized committee, the name and address of each person who has received any disbursement not disclosed under paragraph (5) in an aggregate amount or value in excess of \$200 within the calendar



year, together with the date and amount of any such disbursement;

(B) for any other political committee, the name and address of each—

(i) political committee which has received a contribution from the reporting committee during the reporting period, together with the date and amount or any such contribution;

(ii) person who has received a loan from the reporting committee during the reporting period, together with the date and amount of such loan;

(iii) person who receives any disbursement during the reporting period in an aggregate amount or value in excess of \$200 within the calendar year in connection with an independent expenditure by the reporting committee, together with the date, amount, and purpose of any such independent expenditure and a statement which indicates whether such independent expenditure is in support of, or in opposition to, a candidate, as well as the name and office sought by such candidate, and a certification, under penalty of perjury, whether such independent expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such committee;

(iv) person who receives any expenditure from the reporting committee during the reporting period in connection with an expenditure under section 441a(d) of this title, together with the date, amount, and purpose of any such expenditure as well as the name of, and office sought by, the candidate on whose behalf the expenditure is made; and

(v) person who has received any disbursement not otherwise disclosed in this paragraph or paragraph (5) in an aggregate amount or value in excess of \$200 within the calendar year from the reporting committee within the reporting period, together with the date, amount, and purpose of any such disbursement;

(7) the total sum of all contributions to such political committee, together with the total contributions less offsets

to contributions and the total sum of all operating expenditures made by such political committee, together with total operating expenditures less offsets to operating expenditures, for both the reporting period and the calendar year; and

(8) the amount and nature of outstanding debts and obligations owed by or to such political committee; and where such debts and obligations are settled for less than their reported amount or value, a statement as to the circumstances and conditions under which such debts or obligations were extinguished and the consideration therefor.

(c) *Statements by other than political committees; filing; contents; indices of expenditures.*

(1) Every person (other than a political committee) who makes independent expenditures in an aggregate amount or value in excess of \$250 during a calendar year shall file a statement containing the information required under subsection (b)(3)(A) of this section for all contributions received by such person.

(2) Statements required to be filed by this subsection shall be filed in accordance with subsection (a)(2) of this section, and shall include—

(A) the information required by subsection (b)(6)(B)(iii) of this section, indicating whether the independent expenditure is in support of, or in opposition to, the candidate involved;

(B) under penalty of perjury, a certification whether or not such independent expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and

(C) the identification of each person who made a contribution in excess of \$200 to the person filing such statement which was made for the purpose of furthering an independent expenditure.

Any independent expenditure (including those described in subsection (b)(6)(B)(iii) of this section) aggregating \$1,000 or more made after the 20th day, but more than 24 hours, before any election shall be reported within 24 hours after such independent expenditure is made. Such statement shall be filed with the Clerk, the Secretary, or the Commission and the Secretary of State and shall contain the information required by subsection (b)(6)(B)(iii) of this section indicating whether the independent expenditure is in support of, or in opposition to, the candidate involved.

(3) The Commission shall be responsible for expeditiously preparing indices which set forth, on a candidate-by-candidate basis, all independent expenditures separately, including those reported under subsection (b)(6)(B)(iii) of this section, made by or for each candidate, as reported under this subsection, and for periodically publishing such indices on a timely pre-election basis.

**§ 437. Reports on convention financing**

Each committee or other organization which—

(1) represents a State, or a political subdivision thereof, or any group of persons, in dealing with officials of a national political party with respect to matters involving a convention held in such State or political subdivision to nominate a candidate for the office of President or Vice President, or

(2) represents a national political party in making arrangements for the convention of such party held to nominate a candidate for the office of President or Vice President, shall, within 60 days following the end of the convention (but not later than 20 days prior to the date on which presidential and vice-presidential electors are chosen), file with the Commission a full and complete financial statement, in such form and detail as it may prescribe, of the sources from which it derived its funds, and the purpose for which such funds were expended.

**§ 437c. Federal Election Commission**

(a) *Establishment; membership; term of office; vacancies; qualifications; compensation; chairman and vice chairman.*

(1) There is established a commission to be known as the Federal Election Commission. The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives or their designees, ex officio and without the right to vote, and 6 members appointed by the President, by and with the advice and consent of the Senate. No more than 3 members of the Commission appointed under this paragraph may be affiliated with the same political party.

(2) (A) Members of the Commission shall serve for terms of 6 years, except that of the members first appointed—

(i) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1977;

(ii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1979; and

(iii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1981.

(B) A member of the Commission may serve on the Commission after the expiration of his or her term until his or her successor has taken office as a member of the Commission.

(C) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he or she succeeds.

(D) Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment.

(3) Members shall be chosen on the basis of their experience, integrity, impartiality, and good judgment and members (other than the Secretary of the Senate and the Clerk of the House of Representatives) shall be individuals who, at the time appointed to the Commission, are not elected or appointed officers or employees in the executive, legislative, or judicial branch of the Federal Government. Such members of the Commission shall not engage in any other business, vocation, or employment. Any individual who is engaging in any other business, vocation, or employment at the time of his or her appointment to the Commission shall terminate or liquidate such activity no later than 90 days after such appointment.

(4) Members of the Commission (other than the Secretary of the Senate and the Clerk of the House of Representatives) shall receive compensation equivalent to the compensation paid at level IV of the Executive Schedule (5 U.S.C. 5315).

(5) The Commission shall elect a chairman and a vice chairman from among its members (other than the Secretary of the Senate and the Clerk of the House of Representatives) for a term of one year. A member may serve as chairman only once during any term of office to which such member is appointed. The chairman and the vice chairman

shall not be affiliated with the same political party. The vice chairman shall act as chairman in the absence or disability of the chairman or in the event of a vacancy in such office.

(b) *Administration, enforcement, and formulation of policy; exclusive jurisdiction of civil enforcement; Congressional authorities or functions with respect to elections for Federal office.*

(1) The Commission shall administer, seek to obtain compliance with, and formulate policy with respect to, this Act and chapter 95 and chapter 96 of title 26. The Commission shall have exclusive jurisdiction with respect to the civil enforcement of such provisions.

(2) Nothing in this Act shall be construed to limit, restrict, or diminish any investigatory, informational, oversight, supervisory, or disciplinary authority or function of the Congress or any committee of the Congress with respect to elections for Federal office.

(c) *Voting requirements; delegation of authorities.* All decisions of the Commission with respect to the exercise of its duties and powers under the provisions of this Act shall be made by a majority vote of the members of the Commission. A member of the Commission may not delegate to any person his or her vote or any decision-making authority or duty vested in the Commission by the provisions of this Act, except that the affirmative vote of 4 members of the Commission shall be required in order for the Commission to take any action in accordance with paragraph (6), (7), (8), or (9) of section 437d(a) of this title or with chapter 95 or chapter 96 of title 26.

(d) *Meetings.* The Commission shall meet at least once each month and also at the call of any member.

(e) *Rules for conduct of activities; judicial notice of seal; principal office.* The Commission shall prepare written rules for the conduct of its activities, shall have an official seal which shall be judicially noticed, and shall have its principal office in or near the District of Columbia (but it may meet or exercise any of its powers anywhere in the United States).

(f) *Staff director and general counsel; appointment and compensation; appointment and compensation of personnel and procurement of intermittent services by staff director; use of assistance, personnel, and facilities of Federal agencies and departments; counsel for defense of actions.*

(1) The Commission shall have a staff director and a general counsel who shall be appointed by the Commission. The staff director shall be paid at a rate not to exceed the rate of basic pay in effect for level IV of the Executive

Schedule (5 U.S.C. 5315). The general counsel shall be paid at a rate not to exceed the rate of basic pay in effect for level V of the Executive Schedule (5 U.S.C. 5316). With the approval of the Commission, the staff director may appoint and fix the pay of such additional personnel as he or she considers desirable without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.<sup>1</sup>

(2) With the approval of the Commission, the staff director may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-15 of the General Schedule (5 U.S.C. 5332).

(3) In carrying out its responsibilities under this Act, the Commission shall, to the fullest extent practicable, avail itself of the assistance, including personnel and facilities of other agencies and departments of the United States. The heads of such agencies and departments may make available to the Commission such personnel, facilities, and other assistance, with or without reimbursement, as the Commission may request.

(4) Notwithstanding the provisions of paragraph (2), the Commission is authorized to appear in and defend against any action instituted under this Act, either—

(A) by attorneys employed in its office, or

(B) by counsel whom it may appoint, on a temporary basis as may be necessary for such purpose, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title. The compensation of counsel so appointed on a temporary basis shall be paid out of any funds otherwise available to pay the compensation of employees of the Commission.

#### § 437d. Powers of the Commission

(a) *Specific authorities.* The Commission has the power—

<sup>1</sup>Section 203 of Pub. L. No. 96-187 amended section 3132(a)(1)(C) of title 5, United States Code, to exclude the Federal Election Commission from the Senior Executive Service.

(1) to require by special or general orders, any person to submit, under oath, such written reports and answers to questions as the Commission may prescribe;

(2) to administer oaths or affirmations;

(3) to require by subpoena, signed by the chairman or the vice chairman, the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

(4) in any proceeding or investigation, to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths and, in such instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (3);

(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States;

(6) to initiate (through civil actions for injunctive, declaratory, or other appropriate relief), defend (in the case of any civil action brought under section 437g(a)(8) of this title) or appeal any civil action in the name of the Commission to enforce the provisions of this Act and chapter 95 and chapter 96 of title 26, through its general counsel;

(7) to render advisory opinions under section 437f of this title;

(8) to develop such prescribed forms and to make, amend, and repeal such rules, pursuant to the provisions of chapter 5 of title 5, United States Code, as are necessary to carry out the provisions of this Act and chapter 95 and chapter 96 of title 26; and

(9) to conduct investigations and hearings expeditiously, to encourage voluntary compliance, and to report apparent violations to the appropriate law enforcement authorities.

(b) *Judicial orders for compliance with subpoenas and orders of Commission; contempt of court.* Upon petition by the Commission, any United States district court within the jurisdiction of which any inquiry is being carried on may, in case of refusal to obey a subpoena or order of the Commission issued under subsection (a) of this section, issue an order requiring compliance. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

(c) *Civil liability for disclosure of information.* No person shall be subject to civil liability to any person (other than the

Commission or the United States) for disclosing information at the request of the Commission.

(d) *Concurrent transmissions to Congress or member of budget estimates, etc.; prior submission of legislative recommendations, testimony, or comments on legislation.*

(1) Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of such estimate or request to the Congress.

(2) Whenever the Commission submits any legislative recommendation, or testimony, or comments on legislation, requested by the Congress or by any Member of the Congress, to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress or to the Member requesting the same. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, testimony, or comments on legislation, to any office or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

(e) *Exclusive civil remedy for enforcement.* Except as provided in section 437g(a)(8) of this title, the power of the Commission to initiate civil actions under subsection (a)(6) of this section shall be the exclusive civil remedy for the enforcement of the provisions of this Act.

#### § 437f. Advisory opinions

(a) *Requests by persons, candidates, or authorized committees; subject matter; time for response.*

(1) Not later than 60 days after the Commission receives from a person a complete written request concerning the application of this Act, chapter 95 or chapter 96 of title 26, or a rule or regulation prescribed by the Commission, with respect to a specific transaction or activity by the person, the Commission shall render a written advisory opinion relating to such transaction or activity to the person.

(2) If an advisory opinion is requested by a candidate, or any authorized committee of such candidate, during the 60-day period before any election for Federal office involving the requesting party, the Commission shall render a written advisory opinion relating to such request no later



than 20 days after the Commission receives a complete written request.

(b) *Procedures applicable to initial proposal of rules or regulations, and advisory opinions.* Any rule of law which is not stated in this Act or in chapter 95 or chapter 96 of title 26 may be initially proposed by the Commission only as a rule or regulation pursuant to procedures established in section 438(d) of this title. No opinion of an advisory nature may be issued by the Commission or any of its employees except in accordance with the provisions of this section.

(c) *Persons entitled to rely upon opinions; scope of protection for good faith reliance.*

(1) Any advisory opinion rendered by the Commission under subsection (a) of this section may be relied upon by—

(A) any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered; and

(B) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.

(2) Notwithstanding any other provisions of law, any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of paragraph (1) and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction provided by this Act or by chapter 95 or chapter 96 of title 26.

(d) *Requests made public; submission of written comments by interested public.* The Commission shall make public any requests made under subsection (a) of this section for an advisory opinion. Before rendering an advisory opinion, the Commission shall accept written comments submitted by any interested party within the 10-day period following the date the request is made public.

#### § 437g. Enforcement

(a) *Administrative and judicial practice and procedure.*

(1) Any person who believes a violation of this Act or of chapter 95 or chapter 96 of title 26 has occurred, may file a complaint with the Commission. Such complaint shall be in writing, signed and sworn to by the person filing such

complaint, shall be notarized, and shall be made under penalty of perjury and subject to the provisions of section 1001 of title 18, United States Code. Within 5 days after receipt of a complaint, the Commission shall notify, in writing, any person alleged in the complaint to have committed such a violation. Before the Commission conducts any vote on the complaint, other than a vote to dismiss, any person so notified shall have the opportunity to demonstrate, in writing, to the Commission within 15 days after notification that no action should be taken against such person on the basis of the complaint. The Commission may not conduct any investigation or take any other action under this section solely on the basis of a complaint of a person whose identity is not disclosed to the Commission.

(2) If the Commission, upon receiving a complaint under paragraph (1) or on the basis of information ascertained in the normal course of carrying out its supervisory responsibilities, determines, by an affirmative vote of 4 of its members, that it has reason to believe that a person has committed, or is about to commit, a violation of this Act or chapter 95 or chapter 96 of title 26, the Commission shall, through its chairman or vice chairman, notify the person of the alleged violation. Such notification shall set forth the factual basis for such alleged violation. The Commission shall make an investigation of such alleged violation, which may include a field investigation or audit, in accordance with the provisions of this section.

(3) The general counsel of the Commission shall notify the respondent of any recommendation to the Commission by the general counsel to proceed to a vote on probable cause pursuant to paragraph (4)(A)(i). With such notification, the general counsel shall include a brief stating the position of the general counsel on the legal and factual issues of the case. Within 15 days of receipt of such brief, respondent may submit a brief stating the position of such respondent on the legal and factual issues of the case, and replying to the brief of general counsel. Such briefs shall be filed with the Secretary of the Commission and shall be considered by the Commission before proceeding under paragraph (4).

(4) (A) (i) Except as provided in clause (ii), if the Commission determines, by an affirmative vote of 4 of its members, that there is probable cause to believe that any person has committed, or is about

to commit, a violation of this Act or of chapter 95 or chapter 96 of title 26, the Commission shall attempt, for a period of at least 30 days, to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with any person involved. Such attempt by the Commission to correct or prevent such violation may continue for a period of not more than 90 days. The Commission may not enter into a conciliation agreement under this clause except pursuant to an affirmative vote of 4 of its members. A conciliation agreement, unless violated, is a complete bar to any further action by the Commission, including the bringing of a civil proceeding under paragraph (6)(A).

(ii) If any determination of the Commission under clause (i) occurs during the 45-day period immediately preceding any election, then the Commission shall attempt, for a period of at least 15 days, to correct or prevent the violation involved by the methods specified in clause (i).

(B) (i) No action by the Commission or any person, and no information derived, in connection with any conciliation attempt by the Commission under subparagraph (A) may be made public by the Commission without the written consent of the respondent and the Commission.

(ii) If a conciliation agreement is agreed upon by the Commission and the respondent, the Commission shall make public any conciliation agreement signed by both the Commission and the respondent. If the Commission makes a determination that a person has not violated this Act or chapter 95 or chapter 96 of title 26, the Commission shall make public such determination.

(5) (A) If the Commission believes that a violation of this Act or of chapter 95 or chapter 96 of title 26 has been committed, a conciliation agreement entered into by the Commission under paragraph (4)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of \$5,000 or an amount

equal to any contribution or expenditure involved in such violation.

(B) If the Commission believes that a knowing and willful violation of this Act or of chapter 95 or chapter 96 of title 26 has been committed, a conciliation agreement entered into by the Commission under paragraph (4)(A) may require that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of \$10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation.

(C) If the Commission by an affirmative vote of 4 of its members, determines that there is probable cause to believe that a knowing and willful violation of this Act which is subject to subsection (d) of this section, or a knowing and willful violation of chapter 95 or chapter 96 of title 26, has occurred or is about to occur, it may refer such apparent violation to the Attorney General of the United States without regard to any limitations set forth in paragraph (4)(A).

(D) In any case in which a person has entered into a conciliation agreement with the Commission under paragraph (4)(A), the Commission may institute a civil action for relief under paragraph (6)(A) if it believes that the person has violated any provision of such conciliation agreement. For the Commission to obtain relief in any civil action, the Commission need only establish that the person has violated, in whole or in part, any requirement of such conciliation agreement.

(6) (A) If the Commission is unable to correct or prevent any violation of this Act or of chapter 95 or chapter 96 of title 26, by the methods specified in paragraph (4)(A), the Commission may, upon an affirmative vote of 4 of its members, institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order (including an order for a civil penalty which does not exceed the greater of \$5,000 or an amount equal to any contribution or expenditure involved in such violation) in the district court of the United States for the district in which the person against whom such action is brought is found, resides, or transacts business.

(B) In any civil action instituted by the Commission under subparagraph (A), the court may grant a permanent or temporary injunction, restraining order, or other order, including a civil penalty which does not exceed the greater of \$5,000 or an amount equal to any contribution or expenditure involved in such violation, upon a proper showing that the person involved has committed, or is about to commit (if the relief sought is a permanent or temporary injunction or a restraining order), a violation of this Act or chapter 95 or chapter 96 of title 26.

(C) In any civil action for relief instituted by the Commission under subparagraph (A), if the court determines that the Commission has established that the person involved in such civil action has committed a knowing and willful violation of this Act or of chapter 95 or chapter 96 of title 26, the court may impose a civil penalty which does not exceed the greater of \$10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation.

(7) In any action brought under paragraph (5) or (6), subpoenas for witnesses who are required to attend a United States district court may run into any other district.

(8) (A) Any party aggrieved by an order of the Commission dismissing a complaint filed by such party under paragraph (1), or by a failure of the Commission to act on such complaint during the 120-day period beginning on the date the complaint is filed, may file a petition with the United States District Court for the District of Columbia.

(B) Any petition under subparagraph (A) shall be filed, in the case of a dismissal of a complaint by the Commission, within 60 days after the date of the dismissal.

(C) In any proceeding under this paragraph the court may declare that the dismissal of the complaint or the failure to act is contrary to law, and may direct the Commission to conform with such declaration within 30 days, failing which the complainant may bring, in the name of such complainant, a civil action to remedy the violation involved in the original complaint.

(9) Any judgment of a district court under this subsection may be appealed to the court of appeals, and the

judgment of the court of appeals affirming or setting aside, in whole or in part, any such order of the district court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(10) *Repealed.*<sup>1</sup>

(11) If the Commission determines after an investigation that any person has violated an order of the court entered in a proceeding brought under paragraph (6), it may petition the court for an order to hold such person in civil contempt, but if it believes the violation to be knowing and willful it may petition the court for an order to hold such person in criminal contempt.

(12) (A) Any notification or investigation made under this section shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.

(B) Any member or employee of the Commission, or any other person, who violates the provisions of subparagraph (A) shall be fined not more than \$2,000. Any such member, employee, or other person who knowingly and willfully violates the provisions of subparagraph (A) shall be fined not more than \$5,000.

(b) *Notice to persons not filing reports prior to institution of enforcement action; publication of identity of persons and unfiled reports.* Before taking any action under subsection (a) of this section against any person who has failed to file a report required under section 434(a)(2)(A)(iii) of this title for the calendar quarter immediately preceding the election involved, or in accordance with section 434(a)(2)(A)(i), the Commission shall notify the person of such failure to file the required reports. If a satisfactory response is not received within 4 business days after the date of notification, the Commission shall, pursuant to section 438(a)(7) of this title, publish before the election the name of the person and the report or reports such person has failed to file.

(c) *Reports by Attorney General of apparent violations.* Whenever the Commission refers an apparent violation to the Attorney General, the Attorney General shall report to the

<sup>1</sup> *Expedited Judicial Review.* Section 402(1)(A) of Pub. L. No. 98-620, effective November 11, 1984, repealed subparagraph (a)(10). The repealed provision had required that actions brought under this subsection be advanced on the docket of the court in which filed and put ahead of all other actions.

Commission any action taken by the Attorney General regarding the apparent violation. Each report shall be transmitted within 60 days after the date the Commission refers an apparent violation, and every 30 days thereafter until the final disposition of the apparent violation.

(d) *Penalties; defenses; mitigation of offenses.*

(1) (A) Any person who knowingly and willfully commits a violation of any provision of this Act which involves the making, receiving, or reporting of any contribution or expenditure aggregating \$2,000 or more during a calendar year shall be fined, or imprisoned for not more than one year, or both. The amount of this fine shall not exceed the greater of \$25,000 or 300 percent of any contribution or expenditure involved in such violation.

(B) In the case of a knowing and willful violation of section 441b(b)(3), the penalties set forth in this subsection shall apply to a violation involving an amount aggregating \$250 or more during a calendar year. Such violation of section 441b(b)(3) may incorporate a violation of section 441c(b), 441f or 441g of this title.

(C) In the case of a knowing and willful violation of section 441h of this title, the penalties set forth in this subsection shall apply without regard to whether the making, receiving, or reporting of a contribution or expenditure of \$1,000 or more is involved.

(2) In any criminal action brought for a violation of any provision of this Act or of chapter 95 or chapter 96 of this title 26, any defendant may evidence their lack of knowledge or intent to commit the alleged violation by introducing as evidence a conciliation agreement entered into between the defendant and the Commission under subsection (a)(4)(A) which specifically deals with the act or failure to act constituting such violation and which is still in effect.

(3) In any criminal action brought for a violation of any provision of this Act or of chapter 95 or chapter 96 of title 26, the court before which such action is brought shall take into account, in weighing the seriousness of the violation and in considering the appropriateness of the penalty to be imposed if the defendant is found guilty, whether—

(A) the specific act or failure to act which constitutes the violation for which the action was brought is the subject of a conciliation agreement entered into be-

tween the defendant and the Commission under subparagraph (a)(4)(A);

(B) the conciliation agreement is in effect; and

(C) the defendant is, with respect to the violation involved, in compliance with the conciliation agreement.

#### § 437h. Judicial review

*Actions including declaratory judgments, for construction of constitutional questions; eligible plaintiffs; certification of such questions to courts of appeals sitting en banc.* The Commission, the national committee of any political party, or any individual eligible to vote in any election for the office of President may institute such actions in the appropriate district court of the United States, including actions for declaratory judgment, as may be appropriate to construe the constitutionality of any provision of this Act. The district court immediately shall certify all questions of constitutionality of this Act to the United States court of appeals for the circuit involved, which shall hear the matter sitting en banc.

NOTE: *Appeal to Supreme Court; time for appeal.* Section 6(a) of Pub. L. No. 100-352, effective September 24, 1988, repealed former subsection (b) of 2 U.S.C. § 437h. The deleted provision provided for review, by direct appeal to the Supreme Court of the United States, of any decision on a matter certified under this section.

#### § 438. Administrative provisions

(a) *Duties of Commission.* The Commission shall—

(1) prescribe forms necessary to implement this Act;

(2) prepare, publish, and furnish to all persons required to file reports and statements under this Act a manual recommending uniform methods of bookkeeping and reporting;

(3) develop a filing, coding, and cross-indexing system consistent with the purposes of this Act.

(4) within 48 hours after the time of the receipt by the Commission of reports and statements filed with it, make them available for public inspection, and copying, at the expense of the person requesting such copying, except that any information copied from such reports or statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other



than using the name and address of any political committee to solicit contributions from such committee. A political committee may submit 10 pseudonyms on each report filed in order to protect against the illegal use of names and addresses of contributors, provided such committee attaches a list of such pseudonyms to the appropriate report. The Clerk, Secretary, or the Commission shall exclude these lists from the public record;

(5) keep such designations, reports, and statements for a period of 10 years from the date of receipt, except that designations, reports, and statements that relate solely to candidates for the House of Representatives shall be kept for 5 years from the date of their receipt;

(6) (A) compile and maintain a cumulative index of designations, reports, and statements filed under this Act, which index shall be published at regular intervals and made available for purchase directly or by mail;

(B) compile, maintain, and revise a separate cumulative index of reports and statements filed by multicandidate committees, including in such index a list of multicandidate committees; and

(C) compile and maintain a list of multicandidate committees, which shall be revised and made available monthly;

(7) prepare and publish periodically lists of authorized committees which fail to file reports as required by this Act;

(8) prescribe rules, regulations, and forms to carry out the provisions of this Act, in accordance with the provisions of subsection (d) of this section;

(9) transmit to the President and each House of the Congress no later than June 1 of each year, a report which states in detail the activities of the Commission in carrying out its duties under this Act, and any recommendations for any legislative or other action the Commission considers appropriate; and

(10) serve as a national clearinghouse for the compilation of information and review of procedures with respect to the administration of Federal elections. The Commission may enter into contracts for the purpose of conducting studies under this paragraph. Reports or studies made under this paragraph shall be available to the public upon the payment of the cost thereof, except that copies shall be made available without cost, upon request, to agencies and branches of the Federal Government.

(b) *Audits and field investigations.* The Commission may conduct audits and field investigations of any political committee required to file a report under section 434 of this title. All audits and field investigations concerning the verification for, and receipt and use of, any payments received by a candidate or committee under chapter 95 or chapter 96 of title 26 shall be given priority. Prior to conducting any audit under this subsection, the Commission shall perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act. Such thresholds for compliance shall be established by the Commission. The Commission may, upon an affirmative vote of 4 of its members, conduct an audit and field investigation of any committee which does meet the threshold requirements established by the Commission. Such audit shall be commenced within 30 days of such vote, except that any audit of an authorized committee of a candidate, under the provisions of this subsection, shall be commenced within 6 months of the election for which such committee is authorized.

(c) *Statutory provisions applicable to forms and information-gathering activities.* Any forms prescribed by the Commission under subsection (a)(1) of this section, and any information-gathering activities of the Commission under this Act, shall not be subject to the provisions of section 3512 of title 44, United States Code.

(d) *Rules, regulations, or forms; issuance, procedures applicable, etc.*

(1) Before prescribing any rule, regulation, or form under this section or any other provision of this Act, the Commission shall transmit a statement with respect to such rule, regulation, or form to the Senate and the House of Representatives, in accordance with this subsection. Such statements shall set forth the proposed rule, regulation, or form, and shall contain a detailed explanation and justification of it.

(2) If either House of the Congress does not disapprove by resolution any proposed rule or regulation submitted by the Commission under this section within 30 legislative days after the date of the receipt of such proposed rule or regulation or within 10 legislative days after the date of receipt of such proposed form, the Commission may prescribe such rule, regulation, or form.

(3) For purposes of this subsection, the term "legislative day" means, with respect to statements transmitted to

the Senate, any calendar day on which the Senate is in session, and with respect to statements transmitted to the House of Representatives, any calendar day on which the House of Representatives is in session.

(4) For purposes of this subsection, the terms “rule” and “regulation” mean a provision or series of interrelated provisions stating a single, separable rule of law.

(5) (A) A motion to discharge a committee of the Senate from the consideration of a resolution relating to any such rule, regulation, or form or a motion to proceed to the consideration of such a resolution, is highly privileged and shall be decided without debate.

(B) Whenever a committee of the House of Representatives reports any resolution relating to any such form, rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and is not in order to move to reconsider the vote by which the motion is agreed to or disagreed with.

(e) *Scope of protection for good faith reliance upon rules or regulations.* Notwithstanding any other provision of law, any person who relies upon any rule or regulation prescribed by the Commission in accordance with the provisions of this section and who acts in good faith in accordance with such rule or regulation shall not, as a result of such act, be subject to any sanction provided by this Act or by chapter 95 or chapter 96 of title 26.

(f) *Promulgation of rules, regulations, and forms by Commission and Internal Revenue Service; report to Congress on cooperative efforts.* In prescribing such rules, regulations, and forms under this section, the Commission and the Internal Revenue Service shall consult and work together to promulgate rules, regulations, and forms which are mutually consistent. The Commission shall report to the Congress annually on the steps it has taken to comply with this subsection.

NOTE: *Voting System Study.* Section 302 of Pub. L. No. 96-187 provided that:

*The Federal Election Commission, with the cooperation and assistance of the National Bureau of Standards, shall conduct a preliminary study with respect to the future development of voluntary engineering and procedural performance standards for voting systems*

*used in the United States. The Commission shall report to the Congress the results of the study, and such report shall include recommendations, if any, for the implementation of a program of such standards (including estimates of the cost and time requirements of implementing such a program). The costs of the study shall be paid out of any funds otherwise available to defray the expenses of the Commission.*

**§ 439. Statements filed with State officers; “appropriate State” defined; duties of State officers**

(a) (1) A copy of each report and statement required to be filed by any person under this Act shall be filed by such person with the Secretary of State (or equivalent State officer) of the appropriate State, or, if different, the officer of such State who is charged by State law with maintaining State election campaign reports. The chief executive officer of such State shall designate any such officer and notify the Commission of any such designation.

(2) For purposes of this subsection, the term “appropriate State” means—

(A) for statements and reports in connection with the campaign for nomination for election of a candidate to the office of President or Vice President, each State in which an expenditure is made on behalf of the candidate; and

(B) for statements and reports in connection with the campaign for nomination for election, or election, of a candidate to the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, the State in which the candidate seeks election; except that political committees other than authorized committees are only required to file, and Secretaries of State required to keep, that portion of the report applicable to candidates seeking election in that State.

(b) The Secretary of State (or equivalent State officer), or the officer designated under subsection (a)(1) of this section, shall—

(1) receive and maintain in an orderly manner all reports and statements required by this Act to be filed therewith;

(2) keep such reports and statements (either in original form or in facsimile copy by microfilm or otherwise) for 2 years after their date of receipt;

(3) make each report and statement filed therewith available as soon as practicable (but within 48 hours of receipt) for public inspection and copying during regular business hours, and permit copying of any such report or statement by hand or by duplicating machine at the request of any person, except that such copying shall be at the expense of the person making the request; and

(4) compile and maintain a current list of all reports and statements pertaining to each candidate.

**§ 439a. Use of contributed amounts for certain purposes**

Amounts received by a candidate as contributions that are in excess of any amount necessary to defray his expenditures, and any other amounts contributed to an individual for the purpose of supporting his or her activities as a holder of Federal office, may be used by such candidate or individual, as the case may be, to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office, may be contributed to any organization described in section 170(c) of title 26, or may be used for any other lawful purpose, including transfers without limitation to any national, State, or local committee of any political party; except that, with respect to any individual who is not a Senator or Representative in, or Delegate or Resident Commissioner to, the Congress on January 8, 1980, no such amounts may be converted by any person to any personal use, other than to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office.

**§ 439c. Authorization of appropriations**

There are authorized to be appropriated to the Commission for the purpose of carrying out its functions under this Act, and under chapters 95 and 96 of title 26, not to exceed \$5,000,000 for the fiscal year ending June 30, 1975. There are authorized to be appropriated to the Commission \$6,000,000 for the fiscal year ending June 30, 1976, \$1,500,000 for the period beginning July 1, 1976, and ending September 30, 1976, and \$6,000,000 for the fiscal year ending September 30, 1977, and \$7,811,500 for the fiscal year ending September 30, 1978.

**§ 441a. Limitations on contributions and expenditures****(a) Dollar limits on contributions.**

(1) No person shall make contributions—

(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$1,000.

(B) to the political committees established and maintained by a national political party, which are not the authorized political committees of any candidate, in any calendar year which, in the aggregate, exceed \$20,000; or

(C) to any other political committee in any calendar year, which in the aggregate, exceed \$5,000.

(2) No multicandidate political committee shall make contributions—

(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$5,000;

(B) to the political committees established and maintained by a national political party, which are not the authorized political committees of any candidate, in any calendar year, which, in the aggregate, exceed \$15,000; or

(C) to any other political committee in any calendar year which, in the aggregate, exceed \$5,000.

(3) No individual shall make contributions aggregating more than \$25,000 in any calendar year. For purposes of this paragraph, any contribution made to a candidate in a year other than the calendar year in which the election is held with respect to which such contribution is made, is considered to be made during the calendar year in which such election is held.

(4) The limitations on contributions contained in paragraphs (1) and (2) do not apply to transfers between and among political committees which are national, State, district, or local committees (including any subordinate committee thereof) of the same political party. For purposes of paragraph (2), the term “multicandidate political committee” means a political committee which has been registered under section 433 of this title for a period of not less than 6 months, which has received contributions from more than 50 persons, and except for any State political party organi-

zation, has made contributions to 5 or more candidates for Federal office.

(5) For purposes of the limitations provided by paragraph (1) and paragraph (2), all contributions made by political committees established or financed or maintained or controlled by any corporation, labor organization, or any other person, including any parent, subsidiary, branch, division, department, or local unit of such corporation, labor organization, or any other person, or by any group of such persons, shall be considered to have been made by a single political committee, except that—

(A) nothing in this sentence shall limit transfers between political committees of funds raised through joint fundraising efforts;

(B) for purposes of the limitations provided by paragraph (1) and paragraph (2) all contributions made by a single political committee established or financed or maintained or controlled by a national committee of a political party and by a single political committee established or financed or maintained or controlled by the State committee of a political party shall not be considered to have been made by a single political committee; and

(C) nothing in this section shall limit the transfer of funds between the principal campaign committee of a candidate seeking nomination or election to a Federal office and the principal campaign committee of that candidate for nomination or election to another Federal office if—

(i) such transfer is not made when the candidate is actively seeking nomination or election to both such offices;

(ii) the limitations contained in this Act on contributions by persons are not exceeded by such transfer; and

(iii) the candidate has not elected to receive any funds under chapter 95 or chapter 96 of title 26.

In any case in which a corporation and any of its subsidiaries, branches, divisions, departments or local units, or a labor organization and any of its subsidiaries, branches, divisions, departments, or local units establish or finance or maintain or control more than one separate segregated fund, all such separate segregated funds shall be treated as a single

separate segregated fund for purposes of the limitations provided by paragraph (1) and paragraph (2).

(6) The limitations on contributions to a candidate imposed by paragraphs (1) and (2) of this subsection shall apply separately with respect to each election, except that all elections held in any calendar year for the office of President of the United States (except a general election for such office) shall be considered to be one election.

(7) For purposes of this subsection—

(A) contributions to a named candidate made to any political committee authorized by such candidate to accept contributions on his behalf shall be considered to be contributions made to such candidate;

(B) (i) expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate;

(ii) the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or their authorized agents shall be considered to be an expenditure for purposes of this paragraph; and

(C) contributions made to or for the benefit of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be contributions made to or for the benefit of the candidate of such party for election to the office of President of the United States.

(8) For purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate. The intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.

(b) *Dollar limits on expenditures by candidates for office of President of the United States.*

(1) No candidate for the office of President of the United States who is eligible under section 9003 of title 26



(relating to condition for eligibility for payments) or under section 9033 of title 26 (relating to eligibility for payments) to receive payments from the Secretary of the Treasury may make expenditures in excess of—

(A) \$10,000,000 in the case of a campaign for nomination for election to such office, except the aggregate of expenditures under this subparagraph in any one State shall not exceed the greater of 16 cents multiplied by the voting age population of the State (as certified under subsection (e) of this section), or \$200,000; or

(B) \$20,000,000 in the case of a campaign for election to such office.

(2) For purposes of this subsection—

(A) expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States; and

(B) an expenditure is made on behalf of a candidate, including a vice presidential candidate, if it is made by—

(i) an authorized committee or any other agent of the candidate for purposes of making any expenditure; or

(ii) any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate, to make the expenditure.

(c) *Increases on limits based on increases in price index.*

(1) At the beginning of each calendar year (commencing in 1976), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Commission and publish in the Federal Register the percent difference between the price index for the 12 months preceding the beginning of such calendar year and the price index for the base period. Each limitation established by subsection (b) of this section and subsection (d) of this section shall be increased by such percent difference. Each amount so increased shall be the amount in effect for such calendar year.

(2) For purposes of paragraph (1)—

(A) the term “price index” means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

(B) the term “base period” means the calendar year of 1974.

(d) *Expenditures by national committee, State committee, or subordinate committee of State committee in connection with general election campaign of candidates for Federal office.*

(1) Notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office, subject to the limitations contained in paragraphs (2) and (3) of this subsection.

(2) The national committee of a political party may not make any expenditure in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party which exceeds an amount equal to 2 cents multiplied by the voting age population of the United States (as certified under subsection (e) of this section). Any expenditure under this paragraph shall be in addition to any expenditure by a national committee of a political party serving as the principal campaign committee of a candidate for the office of President of the United States.

(3) The national committee of a political party, or a State committee of a political party, including any subordinate committee of a State committee, may not make any expenditure in connection with the general election campaign of a candidate for Federal office in a State who is affiliated with such party which exceeds—

(A) in the case of a candidate for election to the office of Senator, or of Representative from a State which is entitled to only one Representative, the greater of—

(i) 2 cents multiplied by the voting age population of the State (as certified under subsection (e) of this section); or

(ii) \$20,000; and

(B) in the case of a candidate for election to the office of Representative, Delegate, or Resident Commissioner of any other State, \$10,000.

(e) *Certification and publication of estimated voting age population.* During the first week of January 1975, and every subsequent year, the Secretary of Commerce shall certify to the Commission and publish in the Federal Register an estimate of the voting age population of the United States, of each State, and of each congressional district as of the first day of July next preceding the date of certification. The term "voting age population" means resident population, 18 years of age or older.

(f) *Prohibited contributions and expenditures.* No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. No officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section.

(g) *Attribution of multi-state expenditures to candidate's expenditure limitation in each State.* The Commission shall prescribe rules under which any expenditure by a candidate for presidential nominations for use in 2 or more States shall be attributed to such candidate's expenditure limitation in each such State, based on the voting age population in such State which can reasonably be expected to be influenced by such expenditure.

(h) *Senatorial candidates.* Notwithstanding any other provision of this Act, amounts totaling not more than \$17,500 may be contributed to a candidate for nomination for election, or for election, to the United States Senate during the year in which an election is held in which he is such a candidate, by the Republican or Democratic Senatorial Campaign Committee, or the national committee of a political party, or any combination of such committees.

**§ 441b. Contributions or expenditures by national banks, corporations, or labor organizations**

(a) It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organi-

zation, to make a contribution or expenditure in connection with any election at which presidential and vice presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to, Congress are to be voted for, or in connection with any primary election or political convention or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person knowingly to accept or receive any contribution prohibited by this section, or any officer or any director of any corporation or any national bank or any officer of any labor organization to consent to any contribution or expenditure by the corporation, national bank, or labor organization, as the case may be, prohibited by this section.

(b) (1) For the purposes of this section the term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(2) For purposes of this section and section 79(h) of title 15, the term "contribution or expenditure" shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in this section, but shall not include—

(A) communications by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its members and their families on any subject;

(B) nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive or administrative personnel and their families, or by a labor organization aimed at its members and their families; and

(C) the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation, labor organization, membership organization, cooperative, or corporation without capital stock.

(3) It shall be unlawful—

(A) for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other moneys required as a condition of membership in a labor organization or as a condition of employment, or by moneys obtained in any commercial transaction;

(B) for any person soliciting an employee for a contribution to such a fund to fail to inform such employee of the political purposes of such fund at the time of such solicitation; and

(C) for any person soliciting an employee for a contribution to such a fund to fail to inform such employee, at the time of such solicitation, of his right to refuse to so contribute without any reprisal.

(4) (A) Except as provided in subparagraphs (B), (C), and (D), it shall be unlawful—

(i) for a corporation, or a separate segregated fund established by a corporation, to solicit contributions to such a fund from any person other than its stockholders and their families and its executive or administrative personnel and their families, and

(ii) for a labor organization, or a separate segregated fund established by a labor organization, to solicit contributions to such a fund from any person other than its members and their families.

(B) It shall not be unlawful under this section for a corporation, a labor organization, or a separate segregated fund established by such corporation or such labor organization, to make 2 written solicitations for contributions during the calendar year from any stockholder, executive or administrative personnel, or employee of a corporation or the families of such persons. A solicitation under this subparagraph may be made only by mail addressed to stockholders, executive or administrative personnel, or employees at their residence and shall be so designed that the corporation, labor organization, or separate segregated fund conducting such solicitation cannot determine who makes a contribution of \$50 or less as a result of such solicitation and who does not make such a contribution.

(C) This paragraph shall not prevent a membership organization, cooperative, or corporation without capital stock, or a separate segregated fund established by a membership organization, cooperative, or corporation without capital stock, from soliciting contributions to such a fund from members of such organization, cooperative, or corporation without capital stock.

(D) This paragraph shall not prevent a trade association or a separate segregated fund established by a trade association from soliciting contributions from the stockholders and executive or administrative personnel of the member corporations of such trade association and the families of such stockholders or personnel to the extent that such solicitation of such stockholders and personnel, and their families, has been separately and specifically approved by the member corporation involved, and such member corporation does not approve any such solicitation by more than one such trade association in any calendar year.

(5) Notwithstanding any other law, any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund established by a corporation, permitted by law to corporations with regard to stockholders and executive or administrative personnel, shall also be permitted to labor organizations with regard to their members.

(6) Any corporation, including its subsidiaries, branches, divisions, and affiliates, that utilizes a method of soliciting voluntary contributions or facilitating the making of voluntary contributions, shall make available such method, on written request and at a cost sufficient only to reimburse the corporation for the expenses incurred thereby, to a labor organization representing any members working for such corporation, its subsidiaries, branches, divisions, and affiliates.

(7) For purposes of this section, the term "executive or administrative personnel" means individuals employed by a corporation who are paid on a salary, rather than hourly, basis and who have policymaking, managerial, professional, or supervisory responsibilities.

**§ 441c. Contributions by government contractors**

(a) *Prohibitions.* It shall be unlawful for any person—

(1) who enters into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for and the later of—

(A) the completion of performance under; or

(B) the termination of negotiations for, such contract or furnishing of material, supplies, equipment, land, or buildings,

directly or indirectly to make any contribution of money or other things of value, or to promise expressly or impliedly to make any such contribution to any political party, committee, or candidate for public office or to any person for any political purpose or use; or

(2) knowingly to solicit any such contribution from any such person for any such purpose during any such period.

(b) *Separate segregated funds.* This section does not prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, any separate segregated fund by any corporation, labor organization, membership organization, cooperative, or corporation without capital stock for the purpose of influencing the nomination for election, or election, of any person to Federal office, unless the provisions of section 441b of this title prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, such fund. Each specific prohibition, allowance, and duty applicable to a corporation, labor organization, or separate segregated fund under section 441b of this title applies to a corporation, labor organization, or separate segregated fund to which this subsection applies.

(c) *“Labor organization” defined.* For purposes of this section, the term “labor organization” has the meaning given it by section 441b(b)(1) of this title.

**§ 441d. Publication and distribution of statements and solicitations; charge for newspaper or magazine space**

(a) Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, such communication—

(1) if paid for and authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication has been paid for by such authorized political committee, or

(2) if paid for by other persons but authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication is paid for by such other persons and authorized by such authorized political committee;

(3) if not authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee.

(b) No person who sells space in a newspaper or magazine to a candidate or to the agent of a candidate, for use in connection with such candidate's campaign, may charge any amount for such space which exceeds the amount charged for comparable use of such space for other purposes.

**§ 441e. Contributions by foreign nationals**

(a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national.

(b) As used in this section, the term "foreign national" means—

(1) a foreign principal, as such term is defined by section 611(b) of title 22, except that the term "foreign nation-



al” shall not include any individual who is a citizen of the United States; or

(2) an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined by section 1101(a)(20) of title 8.

**§ 441f. Contributions in name of another prohibited**

No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

**§ 441g. Limitation on contribution of currency**

No person shall make contributions of currency of the United States or currency of any foreign country to or for the benefit of any candidate which, in the aggregate, exceed \$100, with respect to any campaign of such candidate for nomination for election, or for election, to Federal office.

**§ 441h. Fraudulent misrepresentation of campaign authority**

No person who is a candidate for Federal office or an employee or agent of such a candidate shall—

(1) fraudulently misrepresent himself or any committee or organization under his control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof; or

(2) willfully and knowingly participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1).

**§ 441i. Acceptance of excessive honorariums**

(a) No person while an elected or appointed officer or employee of any branch of the Federal Government shall accept any honorarium of more than \$2,000 (excluding amounts accepted for actual travel and subsistence expenses for such person and his spouse or an aide to such person, and excluding amounts paid or incurred for any agents’ fees or commissions) for any appearance, speech, or article.

(b) Any honorarium, or any part thereof, paid by or on behalf of an elected or appointed officer or employee of any

branch of the Federal Government to a charitable organization shall be deemed not to be accepted for the purposes of this section.

(c) For purposes of determining the aggregate amount of honorariums received by a person during any calendar year, amounts returned to the person paying an honorarium before the close of the calendar year in which it was received shall be disregarded.

(d) For purposes of paragraph (2) of subsection (a) of this section, an honorarium shall be treated as accepted only in the year in which that honorarium is received.

**§ 442. Authority to procure technical support and other services and incur travel expenses; payment of such expenses**

For the purpose of carrying out his duties under the Federal Election Campaign Act of 1971, the Secretary of the Senate is authorized, from and after July 1, 1972—

- (1) to procure technical support services,
- (2) to procure the temporary or intermittent services of individual technicians, experts, or consultants, or organizations thereof, in the same manner and under the same conditions, to the extent applicable, as a standing committee of the Senate may procure such services under section 72a(i) of this title,
- (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency, and
- (4) to incur official travel expenses.

Payments to carry out the provisions of this paragraph shall be made from funds included in the appropriation "Miscellaneous Items" under the heading "Contingent Expenses of the Senate" upon vouchers approved by the Secretary of the Senate. All sums received by the Secretary under authority of the Federal Election Campaign Act of 1971 [as amended] shall be covered into the Treasury as miscellaneous receipts.

**Subchapter II—General Provisions**

**§ 451. Extension of credit by regulated industries; regulations**

The Civil Aeronautics Board, the Federal Communications Commission, and the Interstate Commerce Commission shall each promulgate, within ninety days after February 7, 1972, its

own regulations with respect to the extension of credit, without security, by any person regulated by such Board or Commission to any candidate for Federal office, or to any person on behalf of such a candidate, for goods furnished or services rendered in connection with the campaign of such candidate for nomination for election, or election, to such office.

NOTE: *Section 1553(a)(7), (b) of Title 49, Transportation, provides that all functions, powers, and duties of the Civil Aeronautics Board under this section are transferred to and vested in the Secretary of Transportation, effective Jan. 1, 1985. Pub. L. No. 98-443.*

**§ 452. Prohibition against use of certain Federal funds for election activities**

No part of any funds appropriated to carry out the Economic Opportunity Act of 1964 [42 U.S.C. 2701 et seq.] shall be used to finance, directly or indirectly, any activity designed to influence the outcome of any election to Federal office, or any voter registration activity, or to pay the salary of any officer or employee of the Community Services Administration who, in his official capacity as such an officer or employee, engages in any such activity.

**§ 453. State laws affected**

The provisions of this Act, and of rules prescribed under this Act, supersede and preempt any provision of State law with respect to election to Federal office.

**§ 454. Partial invalidity**

If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the Act and the application of such provision to other persons and circumstances shall not be affected thereby.

**§ 455. Period of limitations**

(a) No person shall be prosecuted, tried, or punished for any violation of subchapter I of this chapter, unless the indictment is found or the information is instituted within 3 years after the date of the violation.

(b) Notwithstanding any other provision of law—

(1) the period of limitations referred to in subsection (a) of this section shall apply with respect to violations re-

ferred to in such subsection committed before, on, or after the effective date of this section; and

(2) no criminal proceeding shall be instituted against any person for any act or omission which was a violation of any provision of subchapter I of this chapter, as in effect on December 31, 1974, if such act or omission does not constitute a violation of any such provision, as amended by the Federal Election Campaign Act Amendments of 1974.

Nothing in this subsection shall affect any proceeding pending in any court of the United States on January 1, 1975.

NOTE: *Effective date of 1979 Amendment.* Section 301 of Pub. L. No. 96-187 provided that:

(a) *Except as provided in subsection (b), the amendments made by this Act [see Short Title of 1979 Amendment note set out below] are effective upon enactment [January 8, 1980].*

(b) *For authorized committees of candidates for President and Vice President, section 304(b) of the Federal Election Campaign Act of 1971 [section 434(b) of this title] shall be effective for elections occurring after January 1, 1981.*

NOTE: *Short Title of 1979 Amendment.* Section I of Pub. L. No. 96-187 provided: *That this Act [amending sections 431, 437, 437c, 437d, 437f to 439a, 439c, 441a to 441i of this title, section 3132 of Title 5, Government Organization and Employees, sections 602, 603, and 607 of Title 18, Crimes and Criminal Procedure, section 901a of Title 22, Foreign Relations and Intercourse, section 9008 of Title 26, Internal Revenue Code, and section 5043 of Title 42, The Public Health and Welfare; repealing sections 435, 436, 437b, 437e, 439b, and 441j of this title and section 591 of title 18; and enacting provisions set out as notes under this section] may be cited as the "Federal Election Campaign Act Amendments of 1979".*

## TITLE 26. INTERNAL REVENUE CODE

### Chapter 95—Presidential Election Campaign Fund

#### § 9001. Short title

This chapter may be cited as the “Presidential Election Campaign Fund Act.”

#### § 9002. Definitions

For purposes of this chapter—

(1) The term “authorized committee” means, with respect to the candidates of a political party for President and Vice President of the United States, any political committee which is authorized in writing by such candidates to incur expenses to further the election of such candidates. Such authorization shall be addressed to the chairman of such political committee, and a copy of such authorization shall be filed by such candidates with the Commission. Any withdrawal of any authorization shall also be in writing and shall be addressed and filed in the same manner as the authorization.

(2) The term “candidate” means with respect to any presidential election, an individual who—

(A) has been nominated for election to the office of President of the United States or the office of Vice President of the United States by a major party, or

(B) has qualified to have his name on the election ballot (or to have the names of electors pledged to him on the election ballot) as the candidate of a political party for election to either such office in 10 or more States.

For purposes of paragraphs (6) and (7) of this section and purposes of section 9004(a)(2), the term “candidate” means, with respect to any preceding presidential election, an individual who received popular votes for the office of President in such election. The term “candidate” shall not include any individual who has ceased actively to seek election to the office of President of the United States or to the

office of Vice President of the United States, in more than one State.

(3) The term "Commission" means the Federal Election Commission established by section 309(a)(1) of the Federal Election Campaign Act of 1971 [section 437c(a)(1) of title 2].

(4) The term "eligible candidates" means the candidates of a political party for President and Vice President of the United States who have met all applicable conditions for eligibility to receive payments under this chapter set forth in section 9003.

(5) The term "fund" means the Presidential Election Campaign Fund established by section 9006(a).

(6) The term "major party" means, with respect to any presidential election, a political party whose candidate for the office of President in the preceding presidential election received, as the candidate of such party, 25 percent or more of the total number of popular votes received by all candidates for such office.

(7) The term "minor party" means, with respect to any presidential election, a political party whose candidate for the office of President in the preceding presidential election received, as the candidate of such party, 5 percent or more but less than 25 percent of the total number of popular votes received by all candidates for such office.

(8) The term "new party" means with respect to any presidential election, a political party which is neither a major party nor a minor party.

(9) The term "political committee" means any committee, association, or organization (whether or not incorporated) which accepts contributions or makes expenditures for the purpose of influencing, or attempting to influence, the nomination or election of one or more individuals to Federal, State, or local elective public office.

(10) The term "presidential election" means the election of presidential and vice-presidential electors.

(11) The term "qualified campaign expense" means an expense—

(A) incurred—

(i) by the candidate of a political party for the office of President to further his election to such office or to further the election of the candidate of such political party for the office of Vice President, or both,

(ii) by the candidate of a political party for the office of Vice President to further his election to such office or to further the election of the candidate of such political party for the office of President, or both, or

(iii) by an authorized committee of the candidates of a political party for the offices of President and Vice President to further the election of either or both of such candidates to such offices,

(B) incurred within the expenditure report period (as defined in paragraph (12)), or incurred before the beginning of such period to the extent such expense is for property, services, or facilities used during such period, and

(C) neither the incurring nor payment of which constitutes a violation of any law of the United States or of the State in which such expense is incurred or paid.

An expense shall be considered as incurred by a candidate or an authorized committee if it is incurred by a person authorized by such candidate or such committee, as the case may be, to incur such expense on behalf of such candidate or such committee. If an authorized committee of the candidates of a political party for President and Vice President of the United States also incurs expenses to further the election of one or more other individuals to Federal, State, or local elective public office, expenses incurred by such committee which are not specifically to further the election of such other individual or individuals shall be considered as incurred to further the election of such candidates for President and Vice President in such proportion as the Commission prescribes by rules or regulations.

(12) The term "expenditure report period" with respect to any presidential election means—

(A) in the case of a major party, the period beginning with the first day of September before the election, or, if earlier, with the date on which such major party at its national convention nominated its candidate for election to the office of President of the United States, and ending 30 days after the date of the presidential election; and

(B) in the case of a party which is not a major party, the same period as the expenditure report period of the major party which has the shortest expenditure

report period for such presidential election under subparagraph (A).

**§ 9003. Condition for eligibility for payments**

(a) *In general.* In order to be eligible to receive any payments under section 9006, the candidates of a political party in a presidential election shall, in writing—

(1) agree to obtain and furnish to the Commission such evidence as it may request of the qualified campaign expenses of such candidates,

(2) agree to keep and furnish to the Commission such records, books, and other information as it may request, and

(3) agree to an audit and examination by the Commission under section 9007 and to pay any amounts required to be paid under such section.

(b) *Major parties.* In order to be eligible to receive any payments under section 9006, the candidates of a major party in a presidential election shall certify to the Commission, under penalty of perjury, that—

(1) such candidates and their authorized committees will not incur qualified campaign expenses in excess of the aggregate payments to which they will be entitled under section 9004, and

(2) no contributions to defray qualified campaign expenses have been or will be accepted by such candidates or any of their authorized committees except to the extent necessary to make up any deficiency in payments received out of the fund on account of the application of section 9006(c), and no contributions to defray expenses which would be qualified campaign expenses but for subparagraph (C) of section 9002(11) have been or will be accepted by such candidates or any of their authorized committees.

Such certification shall be made within such time prior to the day of the presidential election as the Commission shall prescribe by rules or regulations.

(c) *Minor and new parties.* In order to be eligible to receive any payments under section 9006, the candidates of a minor or new party in a presidential election shall certify to the Commission under penalty of perjury, that—

(1) such candidates and their authorized committees will not incur qualified campaign expenses in excess of the aggregate payments to which the eligible candidates of a major party are entitled under section 9004, and



(2) such candidates and their authorized committees will accept and expend or retain contributions to defray qualified campaign expenses only to the extent that the qualified campaign expenses incurred by such candidates and their authorized committees certified to under paragraph (1) exceed the aggregate payments received by such candidates out of the fund pursuant to section 9006.

Such certification shall be made within such time prior to the day of the presidential election as the Commission shall prescribe by rules or regulations.

(d) *Withdrawal by candidate.* In any case in which an individual ceases to be a candidate as a result of the operation of the last sentence of section 9002(2), such individual—

(1) shall no longer be eligible to receive any payments under section 9006, except that such individual shall be eligible to receive payments under such section to defray qualified campaign expenses incurred while actively seeking election to the office of President of the United States or to the office of Vice President of the United States in more than one State; and

(2) shall pay to the Secretary, as soon as practicable after the date upon which such individual ceases to be a candidate, an amount equal to the amount of payments received by such individual under section 9006 which are not used to defray qualified campaign expenses.

#### § 9004. Entitlement of eligible candidates to payments

(a) *In general.* Subject to the provisions of this chapter—

(1) The eligible candidates of each major party in a presidential election shall be entitled to equal payments under section 9006 in an amount which, in the aggregate, shall not exceed the expenditure limitations applicable to such candidates under section 441a(b)(1)(B) of title 2.

(2) (A) The eligible candidates of a minor party in a presidential election shall be entitled to payments under section 9006 equal in the aggregate to an amount which bears the same ratio to the amount allowed under paragraph (1) for a major party as the number of popular votes received by the candidate for President of the minor party, as such candidate, in the preceding presidential election bears to the average number of popular votes received by the candidates for President

of the major parties in the preceding presidential election.

(B) If the candidate of one or more political parties (not including a major party) for the office of President was a candidate for such office in the preceding presidential election and received 5 percent or more but less than 25 percent of the total number of popular votes received by all candidates for such office, such candidate and his running mate for the office of Vice President, upon compliance with the provisions of section 9003(a) and (c), shall be treated as eligible candidates entitled to payments under section 9006 in an amount computed as provided in subparagraph (A) by taking into account all the popular votes received by such candidate for the office of President in the preceding presidential election. If eligible candidates of a minor party are entitled to payments under this subparagraph, such entitlement shall be reduced by the amount of the entitlement allowed under subparagraph (A).

(3) The eligible candidates of a minor party or a new party in a presidential election whose candidate for President in such election receives, as such candidate, 5 percent or more of the total number of popular votes cast for the office of President in such election shall be entitled to payments under section 9006 equal in the aggregate to an amount which bears the same ratio to the amount allowed under paragraph (1) for a major party as the number of popular votes received by such candidate in such election bears to the average number of popular votes received in such election by the candidates for President of the major parties. In the case of eligible candidates entitled to payments under paragraph (2), the amount allowable under this paragraph shall be limited to the amount, if any, by which the entitlement under the preceding sentence exceeds the amount of the entitlement under paragraph (2).

(b) *Limitations.* The aggregate payments to which the eligible candidates of a political party shall be entitled under subsections (a)(2) and (3) with respect to a presidential election shall not exceed an amount equal to the lower of—

(1) the amount of qualified campaign expenses incurred by such eligible candidates and their authorized committees, reduced by the amount of contributions to defray

qualified campaign expenses received and expended or retained by such eligible candidates and such committees, or

(2) the aggregate payments to which the eligible candidates of a major party are entitled under subsection (a)(1), reduced by the amount of contributions described in paragraph (1) of this subsection.

(c) *Restrictions.* The eligible candidates of a political party shall be entitled to payments under subsection (a) only—

(1) to defray qualified campaign expenses incurred by such eligible candidates or their authorized committees, or

(2) to repay loans the proceeds of which were used to defray such qualified campaign expenses, or otherwise to restore funds (other than contributions to defray qualified campaign expenses received and expended by such candidates or such committees) used to defray such qualified campaign expenses.

(d) *Expenditures from personal funds.* In order to be eligible to receive any payment under section 9006, the candidate of a major, minor, or new party in an election for the office of President shall certify to the Commission, under penalty of perjury, that such candidate will not knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for election to the office of President in excess of, in the aggregate, \$50,000. For purposes of this subsection, expenditures from personal funds made by a candidate of a major, minor, or new party for the office of Vice President shall be considered to be expenditures by the candidate of such party for the office of President.

(e) *Definition of immediate family.* For purposes of subsection (d), the term “immediate family” means a candidate’s spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.

#### § 9005. Certification by Commission

(a) *Initial certifications.* Not later than 10 days after the candidates of a political party for President and Vice President of the United States have met all applicable conditions for eligibility to receive payments under this chapter set forth in section 9003, the Commission shall certify to the Secretary of the Treasury for payment to such eligible candidates under section 9006 payment in full of amounts to which such candidates are entitled under section 9004.

(b) *Finality of certifications and determinations.* Initial certifications by the Commission under subsection (a), and all determinations made by it under this chapter, shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 9007 and judicial review under section 9011.

**§ 9006. Payments to eligible candidates**

(a) *Establishment of campaign fund.* There is hereby established on the books of the Treasury of the United States a special fund to be known as the "Presidential Election Campaign Fund." The Secretary of the Treasury shall, from time to time, transfer to the fund an amount not in excess of the sum of the amounts designated (subsequent to the previous Presidential election) to the fund by individuals under section 6096. There is appropriated to the fund for each fiscal year, out of amounts in the general fund of the Treasury not otherwise appropriated, an amount equal to the amounts so designated during each fiscal year, which shall remain available to the fund without fiscal year limitation.

(b) *Payments from the fund.* Upon receipt of a certification from the Commission under section 9005 for payment to the eligible candidates of a political party, the Secretary of the Treasury shall pay to such candidates out of the fund the amount certified by the Commission. Amounts paid to any such candidates shall be under the control of such candidates.

(c) *Insufficient amounts in fund.* If at the time of a certification by the Commission under section 9005 for payment to the eligible candidates of a political party, the Secretary determines that the moneys in the fund are not, or may not be, sufficient to satisfy the full entitlements of the eligible candidates of all political parties, he shall withhold from such payment such amount as he determines to be necessary to assure that the eligible candidates of each political party will receive their pro rata share of their full entitlement. Amounts withheld by reason of the preceding sentence shall be paid when the Secretary determines that there are sufficient moneys in the fund to pay such amounts, or portions thereof, to all eligible candidates from whom amounts have been withheld, but, if there are not sufficient moneys in the fund to satisfy the full entitlement of the eligible candidates of all political parties, the amounts so withheld shall be paid in such manner that the eligible candidates of each political party receive their pro rata share of their full entitlement. In any case in which

the Secretary determines that there are insufficient moneys in the fund to make payments under subsection (b), section 9008(b)(3), and section 9037(b), moneys shall not be made available from any other source for the purpose of making such payments.

**§ 9007. Examinations and audits; repayments**

(a) *Examinations and audits.* After each presidential election, the Commission shall conduct a thorough examination and audit of the qualified campaign expenses of the candidates of each political party for President and Vice President.

(b) *Repayments.*

(1) If the Commission determines that any portion of the payments made to the eligible candidates of a political party under section 9006 was in excess of the aggregate payments to which candidates were entitled under section 9004, it shall so notify such candidates, and such candidates shall pay to the Secretary of the Treasury an amount equal to such portion.

(2) If the Commission determines that the eligible candidates of a political party and their authorized committees incurred qualified campaign expenses in excess of the aggregate payments to which the eligible candidates of a major party were entitled under section 9004, it shall notify such candidates of the amount of such excess and such candidates shall pay to the Secretary of the Treasury an amount equal to such amount.

(3) If the Commission determines that the eligible candidates of a major party or any authorized committee of such candidates accepted contributions (other than contributions to make up deficiencies in payments out of the fund on account of the application of section 9006(c)) to defray qualified campaign expenses (other than qualified campaign expenses with respect to which payment is required under paragraph (2)), it shall notify such candidates of the amount of the contributions so accepted, and such candidates shall pay to the Secretary of the Treasury an amount equal to such amount.

(4) If the Commission determines that any amount of any payment made to the eligible candidates of a political party under section 9006 was used for any purpose other than—

(A) to defray the qualified campaign expenses with respect to which such payment was made, or

(B) to repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions to defray qualified campaign expenses which were received and expended) which were used to defray such qualified campaign expenses, it shall notify such candidates of the amount so used, and such candidates shall pay to the Secretary of the Treasury an amount equal to such amount.

(5) No payment shall be required from the eligible candidates of a political party under this subsection to the extent that such payment, when added to other payments required from such candidates under this subsection, exceeds the amount of payments received by such candidates under section 9006.

(c) *Notification.* No notification shall be made by the Commission under subsection (b) with respect to a presidential election more than 3 years after the day of such election.

(d) *Deposit of repayments.* All payments received by the Secretary of the Treasury under subsection (b) shall be deposited by him in the general fund of the Treasury.

#### § 9008. Payments for presidential nominating conventions

(a) *Establishment of accounts.* The Secretary shall maintain in the fund, in addition to any account which he maintains under section 9006(a), a separate account for the national committee of each major party and minor party. The Secretary shall deposit in each such account an amount equal to the amount which each such committee may receive under subsection (b). Such deposits shall be drawn from amounts designated by individuals under section 6096 and shall be made before any transfer is made to any account for any eligible candidate under section 9006(a).

(b) *Entitlement to payments from the fund.*

(1) *Major parties.* Subject to the provisions of this section, the national committee of a major party shall be entitled to payments under paragraph (3), with respect to any presidential nominating convention, in amounts which, in the aggregate, shall not exceed \$4,000,000.

(2) *Minor parties.* Subject to the provisions of this section, the national committee of a minor party shall be entitled to payments under paragraph (3), with respect to any presidential nominating convention, in amounts which, in the aggregate, shall not exceed an amount which bears the same ratio to the amount the national committee of a major

party is entitled to receive under paragraph (1) as the number of popular votes received by the candidate for president of the minor party, as such candidate, in the preceding Presidential election bears to the average number of popular votes received by the candidates for President of the United States of the major parties in the preceding Presidential election.

(3) *Payments.* Upon receipt of certification from the Commission under subsection (g), the Secretary shall make payments from the appropriate account maintained under subsection (a) to the national committee of a major party or minor party which elects to receive its entitlement under this subsection. Such payments shall be available for use by such committee in accordance with the provisions of subsection (c).

(4) *Limitation.* Payments to the national committee of a major party or minor party under this subsection, from the account designated for such committee shall be limited to the amounts in such account at the time of payment.

(5) *Adjustment of entitlements.* The entitlements established by this subsection shall be adjusted in the same manner as expenditure limitations established by section 441a(b) and section 441a(d) of title 2, United States Code, are adjusted pursuant to the provisions of section 441a(c) of such title.

(c) *Use of funds.* No part of any payment made under subsection (b) shall be used to defray the expenses of any candidate or delegate who is participating in any presidential nominating convention. Such payments shall be used only—

(1) to defray expenses incurred with respect to a presidential nominating convention (including the payment of deposits) by or on behalf of the national committee receiving such payments; or

(2) to repay loans the proceeds of which were used to defray such expenses, or otherwise to restore funds (other than contributions to defray such expenses received by such committee) used to defray such expenses.

(d) *Limitation of expenditures.*

(1) *Major parties.* Except as provided by paragraph (3), the national committee of a major party may not make expenditures with respect to a presidential nominating convention which, in the aggregate, exceed the amount of payments to which such committee is entitled under subsection (b)(1).

(2) *Minor parties.* Except as provided by paragraph (3), the national committee of a minor party may not make expenditures with respect to a presidential nominating convention which, in the aggregate, exceed the amount of the entitlement of the national committee of a major party under subsection (b)(1).

(3) *Exception.* The Commission may authorize the national committee of a major party or minor party to make expenditures which, in the aggregate, exceed the limitation established by paragraph (1) or paragraph (2) of this subsection. Such authorization shall be based upon a determination by the Commission that, due to extraordinary and unforeseen circumstances, such expenditures are necessary to assure the effective operation of the presidential nominating convention by such committee.

(4) *Provision of legal or accounting services.* For purposes of this section, the payment, by any person other than the national committee of a political party (unless the person paying for such services is a person other than the regular employer of the individual rendering such services) of compensation to any individual for legal or accounting services rendered to or on behalf of the national committee of a political party shall not be treated as an expenditure made by or on behalf of such committee with respect to its limitations on presidential nominating convention expenses.

(e) *Availability of payments.* The national committee of a major party or minor party may receive payments under subsection (b)(3) beginning on July 1 of the calendar year immediately preceding the calendar year in which a presidential nominating convention of the political party involved is held.

(f) *Transfer to the fund.* If, after the close of a presidential nominating convention and after the national committee of the political party involved has been paid the amount which it is entitled to receive under this section, there are moneys remaining in the account of such national committee, the Secretary shall transfer the moneys so remaining to the fund.

(g) *Certification by Commission.* Any major party or minor party may file a statement with the Commission in such form and manner and at such times as it may require, designating the national committee of such party. Such statement shall include the information required by section 433(b) of title 2, together with such additional information as the Commission may require. Upon receipt of a statement filed under the preceding sentences, the Commission promptly shall verify such statement according



to such procedures and criteria as it may establish and shall certify to the Secretary for payment in full to any such committee of amounts to which such committee may be entitled under subsection (b). Such certifications shall be subject to an examination and audit which the Commission shall conduct no later than December 31 of the calendar year in which the presidential nominating convention involved is held.

(h) *Repayments.* The Commission shall have the same authority to require repayments from the national committee of a major party or a minor party as it has with respect to repayments from any eligible candidate under section 9007(b). The provisions of section 9007(c) and section 9007(d) shall apply with respect to any repayment required by the Commission under this subsection.

#### § 9009. Reports to Congress; regulations

(a) *Reports.* The Commission shall, as soon as practicable after each presidential election, submit a full report to the Senate and House of Representatives setting forth—

(1) the qualified campaign expenses (shown in such detail as the Commission determines necessary) incurred by the candidates of each political party and their authorized committees;

(2) the amounts certified by it under section 9005 for payment to the eligible candidates of each political party;

(3) the amount of payments, if any, required from such candidates under section 9007, and the reasons for each payment required;

(4) the expenses incurred by the national committee of a major party or minor party with respect to a presidential nominating convention;

(5) the amounts certified by it under section 9008(g) for payment to each such committee; and

(6) the amount of payments, if any, required from such committees under section 9008(h), and the reasons for each such payment.

Each report submitted pursuant to this section shall be printed as a Senate document.

(b) *Regulations, etc.* The Commission is authorized to prescribe such rules and regulations in accordance with the provisions of subsection (c), to conduct such examinations and audits (in addition to the examinations and audits required by section 9007(a)), to conduct such investigations, and to require the keep-

ing and submission of such books, records, and information, as it deems necessary to carry out the functions and duties imposed on it by this chapter.

(c) *Review of regulations.*

(1) The Commission, before prescribing any rule or regulation under subsection (b), shall transmit a statement with respect to such rule or regulation to the Senate and to the House of Representatives, in accordance with the provisions of this subsection. Such statement shall set forth the proposed rule or regulation and shall contain a detailed explanation and justification of such rule or regulation.

(2) If either such House does not, through appropriate action, disapprove the proposed rule or regulation set forth in such statement no later than 30 legislative days after receipt of such statement, then the Commission may prescribe such rule or regulation. Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to. The Commission may not prescribe any rule or regulation which is disapproved by either such House under this paragraph.

(3) For purposes of this subsection, the term "legislative days" does not include any calendar day on which both Houses of the Congress are not in session.

(4) For purposes of this subsection, the term "rule or regulation" means a provision or series of interrelated provisions stating a single separable rule of law.

**§ 9010. Participation by Commission in judicial proceedings**

(a) *Appearance by counsel.* The Commission is authorized to appear in and defend against any action filed under section 9011, either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

(b) *Recovery of certain payments.* The Commission is authorized through attorneys and counsel described in subsection (a) to appear in the district courts of the United States to seek recovery of any amounts determined to be payable to the Secretary of the Treasury as a result of examination and audit made pursuant to section 9007.

(c) *Declaratory and injunctive relief.* The Commission is authorized through attorneys and counsel described in subsection (a) to petition the courts of the United States for declaratory or injunctive relief concerning any civil matter covered by the provisions of this subtitle or section 6096. Upon application of the Commission an action brought pursuant to this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28, United States Code, and any appeal shall lie to the Supreme Court.

(d) *Appeal.* The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

#### § 9011. Judicial review

(a) *Review of certification, determination, or other action by the Commission.* Any certification, determination, or other action by the Commission made or taken pursuant to the provisions of this chapter shall be subject to review by the United States Court of Appeals for the District of Columbia upon petition filed in such Court by any interested person. Any petition filed pursuant to this section shall be filed within thirty days after the certification, determination, or other action by the Commission for which review is sought.

(b) *Suits to implement chapter.*

(1) The Commission, the national committee of any political party, and individuals eligible to vote for President are authorized to institute such actions, including actions for declaratory judgment or injunctive relief, as may be appropriate to implement or construe any provisions of this chapter.

(2) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this subsection and shall exercise the same without regard to whether a person asserting rights under provisions of this subsection shall have exhausted any administrative or other remedies

that may be provided at law. Such proceedings shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28, United States Code, and any appeal shall lie to the Supreme Court.

**§ 9012. Criminal penalties**

(a) *Excess expenses.*

(1) It shall be unlawful for an eligible candidate of a political party for President and Vice President in a presidential election or any of his authorized committees knowingly and willfully to incur qualified campaign expenses in excess of the aggregate payments to which the eligible candidates of a major party are entitled under section 9004 with respect to such election. It shall be unlawful for the national committee of a major party or minor party knowingly and willfully to incur expenses with respect to a presidential nominating convention in excess of the expenditure limitation applicable with respect to such committee under section 9008(d), unless the incurring of such expenses is authorized by the Commission under section 9008(d)(3).

(2) Any person who violates paragraph (1) shall be fined not more than \$5,000, or imprisoned not more than one year, or both. In the case of a violation by an authorized committee, any officer or member of such committee who knowingly and willfully consents to such violation shall be fined not more than \$5,000, or imprisoned not more than one year, or both.

(b) *Contributions.*

(1) It shall be unlawful for an eligible candidate of a major party in a presidential election or any of his authorized committees knowingly and willfully to accept any contribution to defray qualified campaign expenses, except to the extent necessary to make up any deficiency in payments received out of the fund on account of the application of section 9006(c), or to defray expenses which would be qualified campaign expenses but for subparagraph (C) of section 9002(11).

(2) It shall be unlawful for an eligible candidate of a political party (other than a major party) in a presidential election or any of his authorized committees knowingly and willfully to accept and expend or retain contributions to defray qualified campaign expenses in an amount which exceeds the qualified campaign expenses incurred with respect

to such election by such eligible candidate and his authorized committees.

(3) Any person who violates paragraph (1) or (2) shall be fined not more than \$5,000, or imprisoned not more than one year, or both. In the case of a violation by an authorized committee, any officer or member of such committee who knowingly and willfully consents to such violation shall be fined not more than \$5,000, or imprisoned not more than one year, or both.

(c) *Unlawful use of payments.*

(1) It shall be unlawful for any person who receives any payment under section 9006, or to whom any portion of any payment received under such section is transferred, knowingly and willfully to use, or authorize the use of, such payment or such portion for any purpose other than—

(A) to defray the qualified campaign expenses with respect to which such payment was made, or

(B) to repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions to defray qualified campaign expenses which were received and expended) which were used, to defray such qualified campaign expenses.

(2) It shall be unlawful for the national committee of a major party or minor party which receives any payment under section 9008(b)(3) to use, or authorize the use of, such payment for any purpose other than a purpose authorized by section 9008(c).

(3) Any person who violates paragraph (1) shall be fined not more than \$10,000, or imprisoned not more than five years, or both.

(d) *False statements, etc.*

(1) It shall be unlawful for any person knowingly and willfully—

(A) to furnish any false, fictitious, or fraudulent evidence, books, or information to the Commission under this subtitle, or to include in any evidence, books, or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Commission or an examination and audit by the Commission under this chapter; or

(B) to fail to furnish to the Commission any records, books, or information requested by it for purposes of this chapter.

(2) Any person who violates paragraph (1) shall be fined not more than \$10,000, or imprisoned not more than five years, or both.

(e) *Kickbacks and illegal payments.*

(1) It shall be unlawful for any person knowingly and willfully to give or accept any kickback or any illegal payment in connection with any qualified campaign expense of eligible candidates or their authorized committees. It shall be unlawful for the national committee of a major party or minor party knowingly and willfully to give or accept any kickback or any illegal payment in connection with any expense incurred by such committee with respect to a presidential nominating convention.

(2) Any person who violates paragraph (1) shall be fined not more than \$10,000, or imprisoned not more than five years, or both.

(3) In addition to the penalty provided by paragraph (2), any person who accepts any kickback or illegal payment in connection with any qualified campaign expense of eligible candidates or their authorized committees, or in connection with any expense incurred by the national committee of a major party or minor party with respect to a presidential nominating convention shall pay to the Secretary of the Treasury, for deposit in the general fund of the Treasury, an amount equal to 125 percent of the kickback or payment received.

(f) *Unauthorized expenditures and contributions.*<sup>1</sup>

(1) Except as provided in paragraph (2), it shall be unlawful for any political committee which is not an authorized committee with respect to the eligible candidates of a political party for President and Vice President in a presidential election knowingly and willfully to incur expenditures to further the election of such candidates, which would constitute qualified campaign expenses if incurred by an authorized committee of such candidates, in an aggregate amount exceeding \$1,000.

(2) This subsection shall not apply to—

(A) expenditures by a broadcaster regulated by the Federal Communications Commission, or by a peri-

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<sup>1</sup> The Supreme Court has held that Section 9012(f) is unconstitutional on its face because it violates First Amendment freedoms of speech and association. *Federal Election Commission v. National Conservative Political Action Committee, et al.*, 470 U.S. 480 (1985).

odical publication, in reporting the news or in taking editorial positions, or

(B) expenditures by any organization described in section 501(c) of this title which is exempt from tax under section 501(a) of this title in communicating to its members the views of that organization.

(3) Any political committee which violates paragraph (1) shall be fined not more than \$5,000, and any officer or member of such committee who knowingly and willfully consents to such violation and any other individual who knowingly and willfully violates paragraph (1) shall be fined not more than \$5,000, or imprisoned not more than one year, or both.

(g) *Unauthorized disclosure of information.*

(1) It shall be unlawful for any individual to disclose any information obtained under the provisions of this chapter except as may be required by law.

(2) Any person who violates paragraph (1) shall be fined not more than \$5,000, or imprisoned not more than one year, or both.

### § 9013. Effective date of chapter

The provisions of this chapter shall take effect on January 1, 1973.

## Chapter 96—Presidential Primary Matching Payment Account

### § 9031. Short title

This chapter may be cited as the “Presidential Primary Matching Payment Account Act.”

### § 9032. Definitions

For the purposes of this chapter—

(1) The term “authorized committee” means, with respect to the candidates of a political party for President and Vice President of the United States, any political committee which is authorized in writing by such candidates to incur expenses to further the election of such candidates. Such authorization shall be addressed to the chairman of such political committee, and a copy of such authorization shall be filed by such candidates with the Commission. Any withdrawal of any authorization shall also be in writing and

shall be addressed and filed in the same manner as the authorization.

(2) The term “candidate” means an individual who seeks nomination for election to be President of the United States. For purposes of this paragraph, an individual shall be considered to seek nomination for election if he—

(A) takes the action necessary under the law of a State to qualify himself for nomination for election,

(B) receives contributions or incurs qualified campaign expenses, or

(C) gives his consent for any other person to receive contributions or to incur qualified campaign expenses on his behalf.

The term “candidate” shall not include any individual who is not actively conducting campaigns in more than one State in connection with seeking nomination for election to be President of the United States.

(3) The term “Commission” means the Federal Election Commission established by section 437c(a)(1) of title 2.

(4) Except as provided by section 9034(a), the term “contribution”—

(A) means a gift, subscription, loan, advance, or deposit of money, or anything of value, the payment of which was made on or after the beginning of the calendar year immediately preceding the calendar year of the presidential election with respect to which such gift, subscription, loan, advance, or deposit of money, or anything of value, is made, for the purpose of influencing the result of a primary election,

(B) means a contract, promise, or agreement, whether or not legally enforceable, to make a contribution for any such purpose,

(C) means funds received by a political committee which are transferred to that committee from another committee, and

(D) means the payment by any person other than a candidate, or his authorized committee, of compensation for the personal services of another person which are rendered to the candidate or committee without charge, but

(E) does not include—

(i) except as provided in subparagraph (D), the value of personal services rendered to or for the benefit of a candidate by an individual who re-



ceives no compensation for rendering such service to or for the benefit of the candidate, or

(ii) payments under section 9037.

(5) The term “matching payment account” means the Presidential Primary Matching Payment Account established under section 9037(a).

(6) The term “matching payment period” means the period beginning with the beginning of the calendar year in which a general election for the office of President of the United States will be held and ending on the date on which the national convention of the party whose nomination a candidate seeks nominates its candidate for the office of President of the United States, or, in the case of a party which does not make such nomination by national convention, ending on the earlier of—

(A) the date such party nominates its candidate for the office of President of the United States, or

(B) the last day of the last national convention held by a major party during such calendar year.

(7) The term “primary election” means an election, including a runoff election or a nominating convention or caucus held by a political party, for the selection of delegates to a national nominating convention of a political party, or for the expression of a preference for the nomination of persons for election to the office of President of the United States.

(8) The term “political committee” means any individual, committee, association, or organization (whether or not incorporated) which accepts contributions or incurs qualified campaign expenses for the purpose of influencing, or attempting to influence, the nomination of any person for election to the office of President of the United States.

(9) The term “qualified campaign expense” means a purchase, payment, distribution, loan, advance, deposit, or gift of money or of anything of value—

(A) incurred by a candidate, or by his authorized committee, in connection with his campaign for nomination for election, and

(B) neither the incurring nor payment of which constitutes a violation of any law of the United States or of the State in which the expense is incurred or paid.

For purposes of this paragraph, an expense is incurred by a candidate or by an authorized committee if it is incurred by

a person specifically authorized in writing by the candidate or committee, as the case may be, to incur such expense on behalf of the candidate or the committee.

(10) The term "State" means each State of the United States and the District of Columbia.

### § 9033. Eligibility for payments

(a) *Conditions.* To be eligible to receive payments under section 9037, a candidate shall, in writing—

(1) agree to obtain and furnish to the Commission any evidence it may request of qualified campaign expenses,

(2) agree to keep and furnish to the Commission any records, books, and other information it may request, and

(3) agree to an audit and examination by the Commission under section 9038 and to pay any amounts required to be paid under such section.

(b) *Expense limitation; declaration of intent; minimum contributions.* To be eligible to receive payments under section 9037, a candidate shall certify to the Commission that—

(1) the candidate and his authorized committees will not incur qualified campaign expenses in excess of the limitations on such expenses under section 9035,

(2) the candidate is seeking nomination by a political party for election to the office of President of the United States,

(3) the candidate has received matching contributions which in the aggregate, exceed \$5,000 in contributions from residents of each of at least 20 States, and

(4) the aggregate of contributions certified with respect to any person under paragraph (3) does not exceed \$250.

(c) *Termination of payments.*

(1) *General rule.* Except as provided by paragraph (2), no payment shall be made to any individual under section 9037—

(A) if such individual ceases to be a candidate as a result of the operation of the last sentence of section 9032(2); or

(B) more than 30 days after the date of the second consecutive primary election in which such individual receives less than 10 percent of the number of votes cast for all candidates of the same party for the same office in such primary election, if such individual

permitted or authorized the appearance of his name on the ballot, unless such individual certifies to the Commission that he will not be an active candidate in the primary involved.

(2) *Qualified campaign expenses; payments to Secretary.*

Any candidate who is ineligible under paragraph (1) to receive any payments under section 9037 shall be eligible to continue to receive payments under section 9037 to defray qualified campaign expenses incurred before the date upon which such candidate becomes ineligible under paragraph (1).

(3) *Calculation of voting percentage.* For purposes of paragraph (1)(B), if the primary elections involved are held in more than one State on the same date, a candidate shall be treated as receiving that percentage of the votes on such date which he received in the primary election conducted on such date in which he received the greatest percentage vote.

(4) *Reestablishment of eligibility.*

(A) In any case in which an individual is ineligible to receive payments under section 9037 as a result of the operation of paragraph (1)(A), the Commission may subsequently determine that such individual is a candidate upon a finding that such individual is actively seeking election to the office of President of the United States in more than one State. The Commission shall make such determination without requiring such individual to reestablish his eligibility to receive payments under subsection (a).

(B) Notwithstanding the provisions of paragraph (1)(B), a candidate whose payments have been terminated under paragraph (1)(B) may again receive payments (including amounts he would have received but for paragraph (1)(B)) if he receives 20 percent or more of the total number of votes cast for candidates of the same party in a primary election held after the date on which the election was held which was the basis for terminating payments to him.

#### **§ 9034. Entitlement of eligible candidates to payments**

(a) *In general.* Every candidate who is eligible to receive payments under section 9033 is entitled to payments under section 9037 in an amount equal to the amount of each contribution

received by such candidate on or after the beginning of the calendar year immediately preceding the calendar year of the presidential election with respect to which such candidate is seeking nomination, or by his authorized committees, disregarding any amount of contributions from any person to the extent that the total of the amounts contributed by such person on or after the beginning of such preceding calendar year exceeds \$250. For purposes of this subsection and section 9033(b), the term "contribution" means a gift of money made by a written instrument which identifies the person making the contribution by full name and mailing address, but does not include a subscription, loan, advance, or deposit of money, or anything of value or anything described in subparagraph (B), (C), or (D) of section 9032(4).

(b) *Limitations.* The total amount of payments to which a candidate is entitled under subsection (a) shall not exceed 50 percent of the expenditure limitation applicable under section 441a(b)(1)(A) of title 2.

#### § 9035. Qualified campaign expense limitations

(a) *Expenditure limitations.* No candidate shall knowingly incur qualified campaign expenses in excess of the expenditure limitation applicable under section 441a(b)(1)(A) of title 2, and no candidate shall knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for nomination for election to the office of President in excess of, in the aggregate, \$50,000.

(b) *Definition of immediate family.* For purposes of this section, the term "immediate family" means a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.

#### § 9036. Certification by Commission

(a) *Initial certifications.* Not later than 10 days after a candidate establishes his eligibility under section 9033 to receive payments under section 9037, the Commission shall certify to the Secretary for payment to such candidate under section 9037 payment in full of amounts to which such candidate is entitled under section 9034. The Commission shall make such additional certifications as may be necessary to permit candidates to receive payments for contributions under section 9037.

(b) *Finality of determinations.* Initial certifications by the Commission under subsection (a), and all determinations made by it under this chapter, are final and conclusive, except to the

extent that they are subject to examination and audit by the Commission under section 9038 and judicial review under section 9041.

**§ 9037. Payments to eligible candidates**

(a) *Establishment of account.* The Secretary shall maintain in the Presidential Election Campaign Fund established by section 9006(a), in addition to any account which he maintains under such section, a separate account to be known as the Presidential Primary Matching Payment Account. The Secretary shall deposit into the matching payment account, for use by the candidate of any political party who is eligible to receive payments under section 9033, the amount available after the Secretary determines that amounts for payments under section 9006(c) and for payments under section 9008(b)(3) are available for such payments.

(b) *Payments from the matching payment account.* Upon receipt of a certification from the Commission under section 9036, but not before the beginning of the matching payment period, the Secretary shall promptly transfer the amount certified by the Commission from the matching payment account to the candidate. In making such transfers to candidates of the same political party, the Secretary shall seek to achieve an equitable distribution of funds available under subsection (a), and the Secretary shall take into account, in seeking to achieve an equitable distribution, the sequence in which such certifications are received.

**§ 9038. Examinations and audits; repayments**

(a) *Examinations and audits.* After each matching payment period, the Commission shall conduct a thorough examination and audit of the qualified campaign expenses of every candidate and his authorized committees who received payments under section 9037.

(b) *Repayments.*

(1) If the Commission determines that any portion of the payments made to a candidate from the matching payment account was in excess of the aggregate amount of payments to which such candidate was entitled under section 9034, it shall notify the candidate, and the candidate shall pay to the Secretary an amount equal to the amount of excess payments.

(2) If the Commission determines that any amount of any payment made to a candidate from the matching payment account was used for any purpose other than—

(A) to defray the qualified campaign expenses with respect to which such payment was made, or

(B) to repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions to defray qualified campaign expenses which were received and expended) which were used, to defray qualified campaign expenses,

it shall notify such candidate of the amount so used, and the candidate shall pay to the Secretary an amount equal to such amount.

(3) Amounts received by a candidate from the matching payment account may be retained for the liquidation of all obligations to pay qualified campaign expenses incurred for a period not exceeding 6 months after the end of the matching payment period. After all obligations have been liquidated, that portion of any unexpended balance remaining in the candidate's accounts which bears the same ratio to the total unexpended balance as the total amount received from the matching payment account bears to the total of all deposits made into the candidate's accounts shall be promptly repaid to the matching payment account.

(c) *Notification.* No notification shall be made by the Commission under subsection (b) with respect to a matching payment period more than 3 years after the end of such period.

(d) *Deposit of repayments.* All payments received by the Secretary under subsection (b) shall be deposited by him in the matching payment account.

#### § 9039. Reports to Congress; regulations

(a) *Reports.* The Commission shall, as soon as practicable after each matching payment period, submit a full report to the Senate and House of Representatives setting forth—

(1) the qualified campaign expenses (shown in such detail as the Commission determines necessary) incurred by the candidates of each political party and their authorized committees,

(2) the amounts certified by it under section 9036 for payment to each eligible candidate, and

(3) the amount of payments, if any, required from candidates under section 9038, and the reasons for each payment required.

Each report submitted pursuant to this section shall be printed as a Senate document.

(b) *Regulations, etc.* The Commission is authorized to prescribe rules and regulations in accordance with the provisions of subsection (c), to conduct examinations and audits (in addition to the examinations and audits required by section 9038(a)), to conduct investigations, and to require the keeping and submission of any books, records, and information, which it determines to be necessary to carry out its responsibilities under this chapter.

(c) *Review of regulations.*

(1) The Commission, before prescribing any rule or regulation under subsection (b), shall transmit a statement with respect to such rule or regulation to the Senate and to the House of Representatives, in accordance with the provisions of this subsection. Such statement shall set forth the proposed rule or regulation and shall contain a detailed explanation and justification of such rule or regulation.

(2) If either such House does not, through appropriate action, disapprove the proposed rule or regulation set forth in such statement no later than 30 legislative days after receipt of such statement, then the Commission may prescribe such rule or regulation. Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to. The Commission may not prescribe any rule or regulation which is disapproved by either such House under this paragraph.

(3) For purposes of this subsection, the term "legislative days" does not include any calendar day on which both Houses of the Congress are not in session.

(4) For purposes of this subsection, the term "rule or regulation" means a provision or series of interrelated provisions stating a single separable rule of law.

**§ 9040. Participation by Commission in judicial proceedings**

(a) *Appearance by counsel.* The Commission is authorized to appear in and defend against any action instituted under this section, either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

(b) *Recovery of certain payments.* The Commission is authorized, through attorneys and counsel described in subsection (a), to institute actions in the district courts of the United States to seek recovery of any amounts determined to be payable to the Secretary as a result of an examination and audit made pursuant to section 9038.

(c) *Injunctive relief.* The Commission is authorized, through attorneys and counsel described in subsection (a), to petition the courts of the United States for such injunctive relief as is appropriate to implement any provision of this chapter.

(d) *Appeal.* The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

**§ 9041. Judicial review**

(a) *Review of agency action by the Commission.* Any agency action by the Commission made under the provisions of this chapter shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court within 30 days after the agency action by the Commission for which review is sought.

(b) *Review procedures.* The provisions of chapter 7 of title 5, United States Code, apply to judicial review of any agency action, as defined in section 551(13) of title 5, United States Code, by the Commission.

**§ 9042. Criminal penalties**

(a) *Excess campaign expenses.* Any person who violates the provisions of section 9035 shall be fined not more than \$25,000, or imprisoned not more than 5 years, or both. Any officer or member of any political committee who knowingly consents to



any expenditure in violation of the provisions of section 9035 shall be fined not more than \$25,000, or imprisoned not more than 5 years, or both.

(b) *Unlawful use of payments.*

(1) It is unlawful for any person who receives any payment under section 9037, or to whom any portion of any such payment is transferred, knowingly and willfully to use, or authorize the use of, such payment or such portion for any purpose other than—

(A) to defray qualified campaign expenses, or

(B) to repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions to defray qualified campaign expenses which were received and expended) which were used, to defray qualified campaign expenses.

(2) Any person who violates the provisions of paragraph (1) shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both.

(c) *False statements, etc.*

(1) It is unlawful for any person knowingly and willfully—

(A) to furnish any false, fictitious, or fraudulent evidence, books, or information to the Commission under this chapter, or to include in any evidence, books, or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Commission or an examination and audit by the Commission under this chapter, or

(B) to fail to furnish to the Commission any records, books, or information requested by it for purposes of this chapter.

(2) Any person who violates the provisions of paragraph (1) shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both.

(d) *Kickbacks and illegal payments.*

(1) It is unlawful for any person knowingly and willfully to give or accept any kickback or any illegal payment in connection with any qualified campaign expense of a candidate, or his authorized committees, who receives payments under section 9037.

(2) Any person who violates the provisions of paragraph (1) shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both.

(3) In addition to the penalty provided by paragraph (2), any person who accepts any kickback or illegal payment in connection with any qualified campaign expense of a candidate or his authorized committees shall pay to the Secretary for deposit in the matching payment account, an amount equal to 125 percent of the kickback or payment received.

## APPENDIX

This appendix includes excerpts from Federal election statutes in titles 18, 26, 39 and 47, United States Code, over which the Commission has no jurisdiction. Also included is the Voting Accessibility for the Elderly and Handicapped Act, contained in title 42, which requires State election officials to file reports with the Federal Election Commission. The appendix does not include the extensive provisions of the Ethics in Government Act, 2 U.S.C. §§ 701-708 and 5 U.S.C. Appx. §§ 201-212, which require candidates for Federal office to file personal financial disclosure statements.<sup>1</sup>

### TITLE 18. CRIMES AND CRIMINAL PROCEDURE

#### Chapter 29—Elections and Political Activities

##### § 594. Intimidation of voters

Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, at any election held solely or in part for the purpose of electing such candidate, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

##### § 595. Interference by administrative employees of Federal, State, or Territorial Governments

Whoever, being a person employed in any administrative position by the United States, or by any department or agency

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<sup>1</sup> Except for an incumbent President and Vice President, who file with the Director of the Office of Government Ethics, candidates for President and Vice President file with the Federal Election Commission. House candidates file with the Clerk of the U.S. House of Representatives and Senate candidates file with the Secretary of the U.S. Senate.

thereof, or by the District of Columbia, or any agency or instrumentality thereof, or by any State, Territory, or Possession of the United States, or any political subdivision, municipality, or agency thereof, or agency of such political subdivision or municipality (including any corporation owned or controlled by any State, Territory, or Possession of the United States or by any such political subdivision, municipality, or agency), in connection with any activity which is financed in whole or in part by loans or grants made by the United States, or any department or agency thereof, uses his official authority for the purpose of interfering with, or affecting, the nomination or the election of any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

This section shall not prohibit or make unlawful any act by any officer or employee of any educational or research institution, establishment, agency, or system which is supported in whole or in part by any state or political subdivision thereof, or by the District of Columbia or by any Territory or Possession of the United States; or by any recognized religious, philanthropic or cultural organization.

**§ 597. Expenditures to influence voting**

Whoever makes or offers to make an expenditure to any person, either to vote or withhold his vote, or to vote for or against any candidate; and

Whoever solicits, accepts, or receives any such expenditure in consideration of his vote or the withholding of his vote—

Shall be fined not more than \$1,000 or imprisoned not more than one year, or both; and if the violation was willful, shall be fined not more than \$10,000 or imprisoned not more than two years, or both.

**§ 598. Coercion by means of relief appropriations**

Whoever uses any part of any appropriation made by Congress for work relief, relief, or for increasing employment by providing loans and grants for public-works projects, or exercises or administers any authority conferred by any Appropriation Act for the purpose of interfering with, restraining, or coercing any individual in the exercise of his right to vote at any election,

shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

**§ 599. Promise of appointment by candidate**

Whoever, being a candidate, directly or indirectly promises or pledges the appointment, or the use of his influence or support for the appointment of any person to any public or private position or employment, for the purpose of procuring support in his candidacy shall be fined not more than \$1,000 or imprisoned not more than one year, or both; and if the violation was willful, shall be fined not more than \$10,000 or imprisoned not more than two years, or both.

**§ 600. Promise of employment or other benefit for political activity**

Whoever, directly or indirectly, promises any employment, position, compensation, contract, appointment, or other benefit, provided for or made possible in whole or in part by any Act of Congress, or any special consideration in obtaining any such benefit, to any person as consideration, favor, or reward for any political activity or for the support of or opposition to any candidate or any political party in connection with any general or special election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, shall be fined not more than \$10,000 or imprisoned not more than one year, or both.

**§ 601. Deprivation of employment or other benefit for political contribution**

(a) Whoever, directly or indirectly, knowingly causes or attempts to cause any person to make a contribution of a thing of value (including services) for the benefit of any candidate or any political party, by means of the denial or deprivation, or the threat of the denial or deprivation, of—

(1) any employment, position, or work in or for any agency or other entity of the Government of the United States, a State, or a political subdivision of a State, or any compensation or benefit of such employment, position, or work; or

(2) any payment or benefit of a program of the United States, a State, or a political subdivision of a State;

if such employment, position, work, compensation, payment, or benefit is provided for or made possible in whole or in part by an Act of Congress, shall be fined not more than \$10,000, or imprisoned not more than one year, or both.

(b) As used in this section—

(1) the term “candidate” means an individual who seeks nomination for election, or election, to Federal, State, or local office, whether or not such individual is elected, and, for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, to Federal, State, or local office, if he has—

(A) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, or

(B) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office;

(2) the term “election” means—

(A) a general, special primary, or runoff election,

(B) a convention or caucus of a political party held to nominate a candidate,

(C) a primary election held for the selection of delegates to a nominating convention of a political party,

(D) a primary election held for the expression of a preference for the nomination of persons for election to the office of President, and

(E) the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States or of any State; and

(3) the term “State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

#### § 602. Solicitation of political contributions

It shall be unlawful for—

(1) a candidate for the Congress;

(2) an individual elected to or serving in the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;

(3) an officer or employee of the United States or any department or agency thereof; or

(4) a person receiving any salary or compensation for services from money derived from the Treasury of the United States to knowingly solicit, any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 [2 U.S.C. § 431(8)] from any other such officer, employee, or person. Any person who violates this section shall be fined not more than \$5,000 or imprisoned not more than three years, or both.

### § 603. Making political contributions

(a) It shall be unlawful for an officer or employee of the United States or any department or agency thereof, or a person receiving any salary or compensation for services from money derived from the Treasury of the United States, to make any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 [2 U.S.C. § 431(8)] to any other such officer, employee or person or to any Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, if the person receiving such contribution is the employer or employing authority of the person making the contribution. Any person who violates this section shall be fined not more than \$5,000 or imprisoned not more than three years, or both.

(b) For purposes of this section, a contribution to an authorized committee as defined in section 302(e)(1) of the Federal Election Campaign Act of 1971 [2 U.S.C. § 432(e)(1)] shall be considered a contribution to the individual who has authorized such committee.

### § 604. Solicitation from persons on relief

Whoever solicits or receives or is in any manner concerned in soliciting or receiving any assessment, subscription, or contribution for any political purpose from any person known by him to be entitled to, or receiving compensation, employment, or other benefit provided for or made possible by any Act of Congress appropriating funds for work relief or relief purposes, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

**§ 605. Disclosure of names of persons on relief**

Whoever, for political purposes, furnishes or discloses any list or names of persons receiving compensation, employment or benefits provided for or made possible by any Act of Congress appropriating, or authorizing the appropriation of funds for work relief or relief purposes, to a political candidate, committee, campaign manager, or to any person for delivery to a political candidate, committee, or campaign manager; and

Whoever receives any such list or names for political purposes—

Shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

**§ 606. Intimidation to secure political contributions**

Whoever, being one of the officers or employees of the United States mentioned in section 602 of this title, discharges, or promotes, or degrades, or in any manner changes the official rank or compensation of any other officer or employee, or promises or threatens so to do, for giving or withholding or neglecting to make any contribution of money or other valuable thing for any political purpose, shall be fined not more than \$5,000 or imprisoned not more than three years, or both.

**§ 607. Place of solicitation**

(a) It shall be unlawful for any person to solicit or receive any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 [2 U.S.C. § 431(8)] in any room or building occupied in the discharge of official duties by any person mentioned in section 603, or in any navy yard, fort, or arsenal. Any person who violates this section shall be fined not more than \$5,000 or imprisoned not more than three years, or both.

(b) The prohibition in subsection (a) shall not apply to the receipt of contributions by persons on the staff of a Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, provided, that such contributions have not been solicited in any manner which directs the contributor to mail or deliver a contribution to any room, building, or other facility referred to in subsection (a), and provided that such contributions are transferred within seven days of receipt to a political committee within the meaning of section 302(e) of the Federal Election Campaign Act of 1971 [2 U.S.C. § 432(e)].



## TITLE 26. INTERNAL REVENUE CODE

### (Selected Excerpts)

#### § 24. Contributions to candidates for public office

NOTE: This section was repealed by Pub. L. No. 99-514.

#### § 84. Transfer of appreciated property to political organizations

(a) *General rule.* If—

(1) any person transfers property to a political organization, and

(2) the fair market value of such property exceeds its adjusted basis,

then for purposes of this chapter the transferor shall be treated as having sold such property to the political organization on the date of the transfer, and the transferor shall be treated as having realized an amount equal to the fair market value of such property on such date.

(b) *Basis of property.* In the case of a transfer of property to a political organization to which subsection (a) applies, the basis of such property in the hands of the political organization shall be the same as it would be in the hands of the transferor, increased by the amount of gain recognized to the transferor by reason of such transfer.

(c) *Political organization defined.* For purposes of this section, the term “political organization” has the meaning given to such term by section 527(e)(1).

\* \* \* \* \*

#### § 271. Debts owed by political parties, etc.

(a) *General rule.* In the case of a taxpayer (other than a bank as defined in section 581) no deduction shall be allowed under section 166 (relating to bad debts) or under section 165(g) (relating to worthlessness of securities) by reason of the worthlessness of any debt owed by a political party.

(b) *Definitions.*

(1) *Political party.* For purposes of subsection (a), the term “political party” means—

- (A) a political party;
- (B) a national, State, or local committee of a political party; or
- (C) a committee, association, or organization which accepts contributions or makes expenditures for the purpose of influencing or attempting to influence the election of presidential or vice presidential electors or any individual whose name is presented for election to any Federal, State, or local elective public office, whether or not such individual is elected.

(2) *Contributions.* For purposes of paragraph (1)(C), the term “contributions” includes a gift, subscription, loan, advance, or deposit, of money, or anything of value, and includes a contract, promise, or agreement to make a contribution, whether or not legally enforceable.

(3) *Expenditures.* For purposes of paragraph (1)(C), the term “expenditures” includes a payment, distribution, loan, advance, deposit, or gift of money, or anything of value, and includes a contract, promise, or agreement to make an expenditure, whether or not legally enforceable.

(c) *Exception.* In the case of a taxpayer who uses an accrual method of accounting, subsection (a) shall not apply to a debt which accrued as a receivable on a bona fide sale of goods or services in the ordinary course of the taxpayer’s trade or business if—

- (1) for the taxable year in which such receivable accrued, more than 30 percent of all receivables which accrued in the ordinary course of the trades and businesses of the taxpayer were due from political parties, and
- (2) the taxpayer made substantial continuing efforts to collect on the debt.

#### § 276. Certain indirect contributions to political parties

(a) *Disallowance of deduction.* No deduction otherwise allowable under this chapter shall be allowed for any amount paid or incurred for—

- (1) advertising in a convention program of a political party, or in any other publication if any part of the proceeds of such publication directly or indirectly inures (or is intended to inure) to or for the use of a political party or a political candidate;
- (2) admission to any dinner or program, if any part of the proceeds of such dinner or program directly or indirect-

ly inures (or is intended to inure) to or for the use of a political party or a political candidate; or

(3) admission to an inaugural ball, inaugural gala, inaugural parade, or inaugural concert, or to any similar event which is identified with a political party or a political candidate.

(b) *Definitions.* For purposes of this section—

(1) *Political party.* The term “political party” means—

(A) a political party;

(B) a National, State, or local committee of a political party; or

(C) a committee, association, or organization, whether incorporated or not, which directly or indirectly accepts contributions (as defined in section 271(b)(2)) or makes expenditures (as defined in section 271(b)(3)) for the purpose of influencing or attempting to influence the selection, nomination, or election of any individual to any Federal, State, or local elective public office, or the election of presidential and vice presidential electors, whether or not such individual or electors are selected, nominated, or elected.

(2) *Proceeds inuring to or for the use of political candidates.* Proceeds shall be treated as inuring to or for the use of a political candidate only if—

(A) such proceeds may be used directly or indirectly for the purpose of furthering his candidacy for selection, nomination, or election to any elective public office; and

(B) such proceeds are not received by such candidate in the ordinary course of a trade or business (other than the trade or business of holding elective public office).

(c) *Cross reference.* For disallowance of certain entertainment, etc., expenses, see section 274.

\* \* \* \* \*

### § 527. Political organizations

(a) *General rule.* A political organization shall be subject to taxation under this subtitle only to the extent provided in this section. A political organization shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes.

(b) *Tax imposed.*

(1) *In general.* A tax is hereby imposed for each taxable year on the political organization taxable income of every political organization. Such tax shall be computed by multiplying the political organization taxable income by the highest rate of tax specified in section 11(b).

(2) *Alternative tax in case of capital gains.* If for any taxable year any political organization has a net capital gain, then, in lieu of the tax imposed by paragraph (1), there is hereby imposed a tax (if such a tax is less than the tax imposed by paragraph (1)) which shall consist of the sum of—

(A) a partial tax, computed as provided by paragraph (1), on the political organization taxable income determined by reducing such income by the amount of such gain, and

(B) an amount determined as provided in section 1201(a) on such gain.

(c) *Political organization taxable income defined.*

(1) *Taxable income defined.* For purposes of this section, the political organization taxable income of any organization for any taxable year is an amount equal to the excess (if any) of—

(A) the gross income for the taxable year (excluding any exempt function income), over

(B) the deductions allowed by this chapter which are directly connected with the production of the gross income (excluding exempt function income), computed with the modifications provided in paragraph (2).

(2) *Modifications.* For purposes of this subsection—

(A) there shall be allowed a specific deduction of \$100.

(B) no net operating loss deductions shall be allowed under section 172, and

(C) no deduction shall be allowed under part VIII of subchapter B (relating to special deductions for corporations).

(3) *Exempt function income.* For purposes of this subsection, the term “exempt function income” means any amount received as—

(A) a contribution of money or other property,

(B) membership dues, a membership fee or assessment from a member of the political organization,

(C) proceeds from a political fundraising or entertainment event, or proceeds from the sale of political

campaign materials, which are not received in the ordinary course of any trade or business, or

(D) proceeds from the conducting of any bingo game (as defined in section 513(f)(2)),

to the extent such amount is segregated for use only for the exempt function of the political organization.

(d) *Certain uses not treated as income to candidate.* For purposes of this title, if any political organization—

(1) contributes any amount to or for the use of any political organization which is treated as exempt from tax under subsection (a) of this section,

(2) contributes any amount to or for the use of any organization described in paragraph (1) or (2) of section 509(a) which is exempt from tax under section 501(a), or

(3) deposits any amount in the general fund of the Treasury or in the general fund of any State or local government,

such amount shall be treated as an amount not diverted for the personal use of the candidate or any other person. No deduction shall be allowed under this title for the contribution or deposit of any amount described in the preceding sentence.

(e) *Other definitions.* For purposes of this section—

(1) *Political organization.* The term “political organization” means a party, committee, association, fund, or other organization (whether or not incorporated) organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures, or both, for an exempt function.

(2) *Exempt function.* The term “exempt function” means the function of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or office in a political organization, or the election of Presidential or Vice Presidential electors, whether or not such individual or electors are selected, nominated, elected, or appointed.

(3) *Contributions.* The term “contributions” has the meaning given to such term by section 271(b)(2).

(4) *Expenditures.* The term “expenditures” has the meaning given to such term by section 271(b)(3).

(f) *Exempt organization which is not political organization must include certain amounts in gross income.*

(1) *In general.* If an organization described in section 501(c) which is exempt from tax under section 501(a) ex-

pend any amount during the taxable year directly (or through another organization) for an exempt function (within the meaning of subsection (e)(2)), then, notwithstanding any other provision of law, there shall be included in the gross income of such organization for the taxable year, and shall be subject to tax under subsection (b) as if it constituted political organization taxable income, an amount equal to the lesser of—

(A) the net investment income of such organization for the taxable year, or

(B) the aggregate amount so expended during the taxable year for such an exempt function.

(2) *Net investment income.* For purposes of this subsection, the term “net investment income” means the excess of—

(A) the gross amount of income from interest, dividends, rents, and royalties, plus the excess (if any) of gains from the sale or exchange of assets over the losses from the sale or exchanges of assets, over

(B) the deductions allowed by this chapter which are directly connected with the production of the income referred to in subparagraph (A).

For purposes of the preceding sentence, there shall not be taken into account items taken into account for purposes of the tax imposed by section 511 (relating to tax on unrelated business income).

(3) *Certain separate segregated funds.* For purposes of this subsection and subsection (e)(1), a separate segregated fund (within the meaning of section 610 of Title 18 or of any similar State statute, or within the meaning of any State statute which permits the segregation of dues moneys for exempt functions (within the meaning of subsection (e)(2)) which is maintained by an organization described in section 501(c) which is exempt from tax under section 501(a) shall be treated as a separate organization.

(g) *Treatment of newsletter funds.*

(1) *In general.* For purposes of this section, a fund established and maintained by an individual who holds, has been elected to, or is a candidate (within the meaning of paragraph (3)) for nomination or election to, any Federal, State, or local elective public office for use by such individual exclusively for the preparation and circulation of such individual’s newsletter shall, except as provided in para-

graph (2), be treated as if such fund constituted a political organization.

(2) *Additional modifications.* In the case of any fund described in paragraph (1)—

(A) the exempt function shall be only the preparation and circulation of the newsletter, and

(B) the specific deduction provided by subsection (c)(2)(A) shall be allowed.

(3) *Candidate.* For purposes of paragraph (1), the term “candidate” means, with respect to any Federal, State, or local elective public office, an individual who—

(A) publicly announces that he is a candidate for nomination or election to such office, and

(B) meets the qualifications prescribed by law to hold such office.

(h) *Special rule for principal campaign committees.*

(1) *In general.* In the case of a political organization which is a principal campaign committee, paragraph (1) of subsection (b) shall be applied by substituting “the appropriate rates” for “the highest rate”.

(2) *Principal campaign committee defined.*

(A) *In general.* For purposes of this subsection, the term “principal campaign committee” means the political committee designated by a candidate for Congress as his principal campaign committee for purposes of—

(i) 2 U.S.C. 432(e), and

(ii) this subsection.

(B) *Designation.* A candidate may have only 1 designation in effect under subparagraph (A)(ii) at any time and such designation—

(i) shall be made at such time and in such manner as the Secretary may prescribe by regulations, and

(ii) once made, may be revoked only with the consent of the Secretary.

Nothing in this subsection shall be construed to require any designation where there is only one political committee with respect to a candidate.

\* \* \* \* \*

## § 2501. Imposition of [gift] tax

(a) *Taxable transfers.*

(1) *General rule.* A tax, computed as provided in section 2502, is hereby imposed for each calendar year on the transfer of property by gift during such calendar year by any individual, resident or nonresident.

\* \* \* \* \*

(5) *Transfers to political organizations.* Paragraph (1) shall not apply to the transfer of money or other property to a political organization (within the meaning of section 527(e)(1)) for the use of such organization.

\* \* \* \* \*

**§ 6012. Persons required to make returns of income**

(a) *General rule.* Returns with respect to income taxes under subtitle A shall be made by the following:

\* \* \* \* \*

(6) Every political organization (within the meaning of section 527(e)(1)), and every fund treated under section 527(g) as if it constituted a political organization, which has political organization taxable income (within the meaning of section 527(c)(1)) for the taxable year;

\* \* \* \* \*

**§ 6096. Designation by individuals [to Presidential Election Campaign Fund]**

(a) *In general.* Every individual (other than a nonresident alien) whose income tax liability for the taxable year is \$1 or more may designate that \$1 shall be paid over to the Presidential Election Campaign Fund in accordance with the provisions of section 9006(a). In the case of a joint return of husband and wife having an income tax liability of \$2 or more, each spouse may designate that \$1 shall be paid to the fund.

(b) *Income tax liability.* For purposes of subsection (a), the income tax liability of an individual for any taxable year is the amount of the tax imposed by chapter 1 on such individual for such taxable year (as shown on his return), reduced by the sum of the credits (as shown in his return) allowable under part IV of subchapter A of chapter 1 (other than subpart C thereof).

(c) *Manner and time of designation.* A designation under subsection (a) may be made with respect to any taxable year—

(1) at the time of filing the return of the tax imposed by chapter 1 for such taxable year, or



(2) at any other time (after the time of filing the return of the tax imposed by chapter 1 for such taxable year) specified in regulations prescribed by the Secretary.

Such designation shall be made in such manner as the Secretary prescribes by regulations except that, if such designation is made at the time of filing the return of the tax imposed by chapter 1 for such taxable year, such designation shall be made either on the first page of the return or on the page bearing the taxpayer's signature.

**§ 6113. Disclosure of nondeductibility of contributions**

(a) *General rule.* Each fundraising solicitation by (or on behalf of) an organization to which this section applies shall contain an express statement (in a conspicuous and easily recognizable format) that contributions or gifts to such organization are not deductible as charitable contributions for Federal income tax purposes.

(b) *Organizations to which section applies.*

(1) *In general.* Except as otherwise provided in this subsection, this section shall apply to any organization which is not described in section 170(c) and which—

(A) is described in subsection (c) (other than paragraph (1) thereof) or (d) of section 501 and exempt from taxation under section 501(a),

(B) is a political organization (as defined in section 527(e)), or

(C) was an organization described in subparagraph (A) or (B) at any time during the 5-year period ending on the date of the fundraising solicitation or is a successor to an organization so described at any time during such 5-year period.

(2) *Exception for small organizations.*

(A) Annual gross receipts do not exceed \$100,000. This section shall not apply to any organization the gross receipts of which in each taxable year are normally not more than \$100,000.

(B) Multiple organization rule. The Secretary may treat any group of 2 or more organizations as 1 organization for purposes of subparagraph (A) where necessary or appropriate to prevent the avoidance of this section through the use of multiple organizations.

(3) *Special rule for certain fraternal organizations.* For purposes of paragraph (1), an organization described in sec-

tion 170(c)(4) shall be treated as described in section 170(c) only with respect to solicitations for contributions or gifts which are to be used exclusively for purposes referred to in section 170(c)(4).

(c) *Fundraising solicitation.* For purposes of this section—

(1) *In general.* Except as provided in paragraph (2), the term “fundraising solicitation” means any solicitation of contributions or gifts which is made—

(A) in written or printed form,

(B) by television or radio, or

(C) by telephone.

(2) *Exception for certain letters or calls.* The term “fundraising solicitation” shall not include any letter or telephone call if such letter or call is not part of a coordinated fundraising campaign soliciting more than 10 persons during the calendar year.

\* \* \* \* \*

#### § 6710. Failure to disclose that contributions are nondeductible

(a) *Imposition of penalty.* If there is a failure to meet the requirement of section 6113 with respect to a fundraising solicitation by (or on behalf of) an organization to which section 6113 applies, such organization shall pay a penalty of \$1,000 for each day on which such a failure occurred. The maximum penalty imposed under this subsection on failures by any organization during any calendar year shall not exceed \$10,000.

(b) *Reasonable cause exception.* No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.

(c) *\$10,000 Limitation not to apply where intentional disregard.* If any failure to which subsection (a) applies is due to intentional disregard of the requirement of section 6113—

(1) the penalty under subsection (a) for the day on which such failure occurred shall be the greater of—

(A) \$1,000, or

(B) 50 percent of the aggregate cost of the solicitations which occurred on such day and with respect to which there was such a failure,

(2) the \$10,000 limitation of subsection (a) shall not apply to any penalty under subsection (a) for the day on which such failure occurred, and

(3) such penalty shall not be taken into account in applying such limitation to other penalties under subsection (a).

(d) *Day on which failure occurs.* For purposes of this section, any failure to meet the requirement of section 6113 with respect to a solicitation—

(1) by television or radio, shall be treated as occurring when the solicitation was telecast or broadcast,

(2) by mail, shall be treated as occurring when the solicitation was mailed,

(3) not by mail but in written or printed form, shall be treated as occurring when the solicitation was distributed, or

(4) by telephone, shall be treated as occurring when the solicitation was made.

## TITLE 39. PENALTY AND FRANKED MAIL

### Chapter 36—Postal Rates, Classes, and Services

#### § 3626. Reduced rates

\* \* \* \* \*

(e) (1) In the administration of this section, the rates for third-class mail matter mailed by a qualified political committee shall be the rates currently in effect under former section 4452 of this title for third-class mail matter mailed by a qualified nonprofit organizations.

(2) For purposes of this subsection—

(A) the term “qualified political committee” means a national or State committee of a political party, the Republican and Democratic Senatorial Campaign Committees, the Democratic National Congressional Committee, and the National Republican Congressional Committee;

(B) the term “national committee” means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level; and

(C) the term “State committee” means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level.

## TITLE 42. PUBLIC HEALTH AND WELFARE

### Chapter 20—Elective Franchise

#### Chapter 20, Subchapter 1-F—Voting Accessibility for the Elderly and Handicapped

##### § 1973ee. Congressional declaration of purpose

It is the intention of Congress in enacting this subchapter to promote the fundamental right to vote by improving access for handicapped and elderly individuals to registration facilities and polling places for Federal elections.

##### § 1973ee-1. Selection of polling facilities

(a) *Accessibility to all polling places as responsibility of each political subdivision.* Within each State, except as provided in subsection (b), each political subdivision responsible for conducting elections shall assure that all polling places for Federal elections are accessible to handicapped and elderly voters.

(b) *Exception.* Subsection (a) shall not apply to a polling place—

(1) in the case of an emergency, as determined by the chief election officer of the State; or

(2) if the chief election officer of the State—

(A) determines that all potential polling places have been surveyed and no such accessible place is available, nor is the political subdivision able to make one temporarily accessible, in the area involved; and

(B) assures that any handicapped or elderly voter assigned to an inaccessible polling place, upon advance request of such voter (pursuant to procedures established by the chief election officer of the State)—

(i) will be assigned to an accessible polling place, or

(ii) will be provided with an alternative means for casting a ballot on the day of the election.

(c) *Report to Federal Election Commission.*

(1) Not later than December 31 of each even-numbered year, the chief election officer of each State shall report to the Federal Election Commission, in a manner to be determined by the Commission, the number of accessible and inaccessible polling places in such State on the date of the preceding general Federal election, and the reasons for any instance of inaccessibility.

(2) Not later than April 30 of each odd-numbered year, the Federal Election Commission shall compile the information reported under paragraph (1) and shall transmit that information to the Congress.

(3) The provisions of this subsection shall only be effective for a period of ten years beginning on September 28, 1984.

#### § 1973ee-2. Selection of registration facilities

(a) Each State or political subdivision responsible for registration for Federal elections shall provide a reasonable number of accessible permanent registration facilities.

(b) Subsection (a) does not apply to any State that has in effect a system that provides an opportunity for each potential voter to register by mail or at the residence of such voter.

#### § 1973ee-3. Registration and voting aids

(a) *Printed instructions; telecommunications devices for the deaf.* Each State shall make available registration and voting aids for Federal elections for handicapped and elderly individuals, including—

(1) instructions, printed in large type, conspicuously displayed at each permanent registration facility and each polling place; and

(2) information by telecommunications devices for the deaf.

(b) *Medical certification.* No notarization or medical certification shall be required of a handicapped voter with respect to an absentee ballot or an application for such ballot, except that medical certification may be required when the certification establishes eligibility, under State law—

(1) to automatically receive an application or a ballot on a continuing basis; or

(2) to apply for an absentee ballot after the deadline has passed.

(c) *Notice of availability of aids.* The chief election officer of each State shall provide public notice, calculated to reach elderly and handicapped voters, of the availability of aids under this section, assistance under section 1973aa-6 of this title, and the procedures for voting by absentee ballot, not later than general public notice of registration and voting is provided.

#### § 1973ee-4. Enforcement

(a) *Action for declaratory or injunctive relief.* If a State or political subdivision does not comply with this Act, the United States Attorney General or a person who is personally aggrieved by the noncompliance may bring an action for declaratory or injunctive relief in the appropriate district court.

(b) *Prerequisite notice of noncompliance.* An action may be brought under this section only if the plaintiff notifies the chief election officer of the State of the noncompliance and a period of 45 days has elapsed since the date of notification.

(c) *Attorney fees.* Notwithstanding any other provision of law, no award of attorney fees may be made with respect to an action under this section, except in any action brought to enforce the original judgment of the court.

#### § 1973ee-5. Relationship to Voting Rights Act of 1965

This subchapter shall not be construed to impair any right guaranteed by the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.).

#### § 1973ee-6. Definitions

As used in this subchapter, the term—

(1) “accessible” means accessible to handicapped and elderly individuals for the purpose of voting or registration, as determined under guidelines established by the chief election officer of the State involved;

(2) “elderly” means 65 years of age or older;

(3) “Federal election” means a general, special, primary, or runoff election for the office of President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;

(4) “handicapped” means having a temporary or permanent physical disability; and

(5) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

*NOTE: This subchapter shall apply with respect to elections taking place after December 31, 1985.*



**TITLE 47. TELEGRAPHS, TELEPHONES, AND  
RADIOTELEGRAPHS**

\* \* \* \* \*

**Chapter 5—Wire or Radio Communication**

**§ 312. Administrative sanctions**

(a) *Revocation of station license or construction permit.* The [Federal Communications] Commission may revoke any station license or construction permit—

\* \* \* \* \*

(7) for willful or repeated failure to allow reasonable access to or to permit purchase of reasonable amounts of time for the use of a broadcasting station by a legally qualified candidate for Federal elective office on behalf of his candidacy.

\* \* \* \* \*

**§ 315. Candidates for public office**

(a) *Equal opportunities requirement; censorship prohibition; allowance of station use; news appearances exception; public interest; public issues discussion opportunities.* If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station: *Provided*, That such licensee shall have no power of censorship over the material broadcast under the provisions of this section. No obligation is imposed under this subsection upon any licensee to allow the use of its station by any such candidate. Appearance by a legally qualified candidate on any—

- (1) bona fide newscast;
- (2) bona fide news interview;
- (3) bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary); or

(4) on-the-spot coverage of bona fide events (including but not limited to political conventions and activities incidental thereto);

shall not be deemed to be use of a broadcasting station within the meaning of this subsection. Nothing in the foregoing sentence shall be construed as relieving broadcasters, in connection with the presentation of newscasts, news interviews, news documentaries, and on-the-spot coverage of news events, from the obligation imposed upon them under this chapter to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

(b) *Broadcast media rates.* The charges made for the use of any broadcasting station by any person who is a legally qualified candidate for any public office in connection with his campaign for nomination for election, or election, to such office shall not exceed—

(1) during the 45 days preceding the date of a primary or primary runoff election and during the 60 days preceding the date of a general or special election in which such person is a candidate, the lowest unit charge of the station for the same class and amount of time for the same period; and

(2) at any other time, the charges made for comparable use of such station by other users thereof.

(c) *Definitions.* For purposes of this section—

(1) the term “broadcasting station” includes a community antenna television system; and

(2) the terms “licensee” and “station licensee” when used with respect to a community antenna television system mean the operator of such system.

(d) *Rules and regulations.* The Commission shall prescribe appropriate rules and regulations to carry out the provisions of this section.

# Statement of Position

82-1

## Accounting and Financial Reporting for Personal Financial Statements

October 1, 1982

Amendment to  
AICPA Industry Audit Guide  
*Audits of Personal Financial Statements*

Issued by  
Accounting Standards Division  
American Institute of  
Certified Public Accountants

**AICPA**

## NOTE

This statement of position significantly amends the recommendations on accounting principles in the AICPA Industry Audit Guide, *Audits of Personal Financial Statements* (1968), for personal financial statements dated June 30, 1983, or after.

Statements of position of the accounting standards division present the conclusions of at least a majority of the accounting standards executive committee, which is the senior technical body of the Institute authorized to speak for the Institute in the areas of financial accounting and reporting. Statements of position do not establish standards enforceable under rule 203 of the Institute's Code of Professional Ethics. However, Statement on Auditing Standards 5, *The Meaning of "Present Fairly in Conformity With Generally Accepted Accounting Principles" in the Independent Auditor's Report*, as amended by Statement on Auditing Standards 43, *Omnibus Statement on Auditing Standards*, identifies AICPA statements of position as another source of established accounting principles the auditor should consider. Accordingly, members should be aware that they may be called upon to justify departures from the recommendations in this statement of position if their work is challenged.

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# Accounting and Financial Reporting for Personal Financial Statements

## Introduction

1. This statement of position deals with the preparation and presentation of personal financial statements, that is, financial statements of individuals or groups of related individuals (families). Personal financial statements are prepared for individuals either to formally organize and plan their financial affairs in general or for specific purposes, such as obtaining of credit, income tax planning, retirement planning, gift and estate planning, or public disclosure of their financial affairs. Users of personal financial statements rely on them in determining whether to grant credit, in assessing the financial activities of individuals, in assessing the financial affairs of public officials and candidates for public office, and for similar purposes.

2. The 1968 AICPA Industry Audit Guide, *Audits of Personal Financial Statements*, supported historical cost as the primary basis of measurement for personal financial statements and recommended the presentation of estimated current values as additional information. The preface to that guide stated that “generally accepted accounting principles and auditing standards developed for commercial enterprises are applicable in general to personal financial statements.” However, the increasing use of personal financial statements and experience with the use of the guide suggested the need to reassess those conclusions in light of the purposes for which personal financial statements are prepared, the users to whom they are directed, and the ways in which they are used. This statement of position is the result of that reassessment; it supersedes the accounting provisions of the 1968 AICPA Industry Audit Guide, *Audits of Personal Financial Statements*, in accordance with the transition and effective date set forth in paragraph 33 of this statement of position.

## **Basis of Presentation of Personal Financial Statements**

3. The primary focus of personal financial statements is a person's assets and liabilities, and the primary users of personal financial statements normally consider estimated current value information to be more relevant for their decisions than historical cost information. Lenders require estimated current value information to assess collateral, and most personal loan applications require estimated current value information. Estimated current values are required for estate, gift, and income tax planning, and estimated current value information about assets is often required in federal and state filings of candidates for public office.

4. The accounting standards division therefore believes personal financial statements should present assets at their estimated current values and liabilities at their estimated current amounts at the date of the financial statements. Paragraph 12 of this statement of position defines estimated current values of assets. Paragraph 27 defines estimated current amounts of liabilities. This statement of position explains how the estimated current values of assets and the estimated current amounts of liabilities should be determined and applied in the preparation and presentation of personal financial statements.<sup>1</sup>

## **Presentation of Personal Financial Statements**

### ***The Reporting Entity***

5. Personal financial statements may be prepared for an individual, a husband and wife, or a family.

### ***The Form of the Statements***

6. Personal financial statements consist of—
- a. *A statement of financial condition.* This is the basic personal financial statement. It presents the estimated current values

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<sup>1</sup>The division recognizes that users of personal financial statements may sometimes request certain historical cost information. This statement of position does not prohibit supplemental presentation of such information.



of assets, the estimated current amounts of liabilities, estimated income taxes on the differences between the estimated current values of assets and the estimated current amounts of liabilities and their tax bases, and net worth at a specified date. The term *net worth* should be used in the statement to designate the difference between total assets and total liabilities, after deducting estimated income taxes on the differences between the estimated current values of assets and the estimated current amounts of liabilities and their tax bases.

- b. *A statement of changes in net worth.* This statement presents the major sources of increases and decreases in net worth. It should present the major sources of increases in net worth: income, increases in the estimated current values of assets, decreases in the estimated current amounts of liabilities, and decreases in estimated income taxes on the differences between the estimated current values of assets and the estimated current amounts of liabilities and their tax bases. It should present the major sources of decreases in net worth: expenses, decreases in the estimated current values of assets, increases in the estimated current amounts of liabilities, and increases in estimated income taxes on the differences between the estimated current values of assets and the estimated current amounts of liabilities and their tax bases. One statement combining income and other changes is desirable because of the mix of business and personal items in personal financial statements. The presentation of a statement of changes in net worth is optional.
- c. *Comparative financial statements.* The presentation of comparative financial statements of the current period and one or more prior periods may sometimes be desirable. Such a presentation is more informative than the presentation of financial statements for only one period. The presentation of comparative financial statements is optional.

Illustrative financial statements are presented in Appendix A to this statement of position.

### ***The Methods of Presentation***

- 7. Assets and liabilities and changes in them should be recognized on the accrual basis, not on the cash basis.

8. The most useful and readily understood presentation of assets and liabilities in personal financial statements is by order of liquidity and maturity, without classification as current and non-current, since the concept of working capital applied to business enterprises is inappropriate for personal financial statements.

9. If personal financial statements are prepared for one of a group of joint owners of assets, the statements should include only the person's interest as a beneficial owner, as determined under the property laws of the state having jurisdiction. If property is held in joint tenancy, as community property, or through a similar joint ownership arrangement, the legal status of the separate equities of the parties may not be evident. In that case, the person may require legal advice to determine whether an interest in the property should be included among the person's assets and, if so, the proper allocation of the equity in the property under the applicable state laws.

10. Business interests that constitute a large part of a person's total assets should be shown separately from other investments. The estimated current value of an investment in a separate entity, such as a closely held corporation, a partnership, or a sole proprietorship, should be shown in one amount as an investment if the entity is marketable as a going concern. Assets and liabilities of the separate entity should not be combined with similar personal items.

11. The estimated current values of assets and the estimated current amounts of liabilities of limited business activities not conducted in a separate business entity, such as an investment in real estate and a related mortgage, should be presented as separate amounts, particularly if a large portion of the liabilities may be satisfied with funds from sources unrelated to the investment.

### **Guidelines for Determining the Estimated Current Values of Assets and the Estimated Current Amounts of Liabilities**

#### ***General***

12. Personal financial statements should present assets at their estimated current values and liabilities at their estimated current

amounts. The estimated current value of an asset in personal financial statements is the amount at which the item could be exchanged between a buyer and seller, each of whom is well informed and willing, and neither of whom is compelled to buy or sell. Costs of disposal, such as commissions, if material, should be considered in determining estimated current values.<sup>2</sup> The division recognizes that the estimated current values of some assets may be difficult to determine and the cost of obtaining estimated current values of some assets directly may exceed the benefits of doing so; therefore, the division recommends that judgment be exercised in determining estimated current values.

13. Recent transactions involving similar assets and liabilities in similar circumstances ordinarily provide a satisfactory basis for determining the estimated current value of an asset and the estimated current amount of a liability. If recent sales information is unavailable, other methods that may be used include the capitalization of past or prospective earnings, the use of liquidation values, the adjustment of historical cost based on changes in a specific price index, the use of appraisals, or the use of the discounted amounts of projected cash receipts and payments.

14. In determining the estimated current values of some assets (for example, works of art, jewelry, restricted securities, investments in closely held businesses, and real estate), the person may need to consult a specialist.

15. The methods used to determine the estimated current values of assets and the estimated current amounts of liabilities should be followed consistently from period to period unless the facts and circumstances dictate a change to different methods.

### **Receivables**

16. Personal financial statements should present receivables at the discounted amounts of cash the person estimates will be collected, using appropriate interest rates at the date of the financial statements.

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<sup>2</sup>Paragraph 27 defines the estimated current amount of a liability.

### **Marketable Securities**

17. Marketable securities include both debt and equity securities for which market quotations are available. The estimated current values of such securities are their quoted market prices. The estimated current values of securities traded on securities exchanges are the closing prices of the securities on the date of the financial statements (valuation date) if the securities were traded on that date. If the securities were not traded on that date but published bid and asked prices are available, the estimated current values of the securities should be within the range of those prices.

18. For securities traded in the over-the-counter market, quotations of bid and asked prices are available from several sources, including the financial press, various quotation publications and financial reporting services, and individual broker-dealers. For those securities, the mean of the bid prices, of the bid and asked prices, or of the prices of a representative selection of broker-dealers quoting the securities may be used as the estimated current values.

19. An investor may hold a large block of the equity securities of a company. A large block of stock might not be salable at the price at which a small number of shares were recently sold or quoted. Further, a large minority interest may be difficult to sell despite isolated sales of a small number of shares. However, a controlling interest may be proportionately more valuable than minority interests that were sold. Consideration of those factors may require adjustments to the price at which the security recently sold. Moreover, restrictions on the transfer of a security may also suggest the need to adjust the recent market price in determining the estimated current value.<sup>3</sup>

### **Options**

20. If published prices of options are unavailable, their estimated current values should be determined on the basis of the values of the assets subject to option, considering such factors as the exercise prices and length of the option periods.

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<sup>3</sup>For further discussion on valuing marketable securities, see the AICPA Industry Audit Guide, *Audits of Investment Companies* (New York: AICPA, 1973), pp. 15-17.

### ***Investment in Life Insurance***

21. The estimated current value of an investment in life insurance is the cash value of the policy less the amount of any loans against it. The face amount of life insurance the individuals own should be disclosed.

### ***Investments in Closely Held Businesses***

22. The division recognizes that the estimated current values of investments in closely held businesses usually are difficult to determine. The problems relate to investments in closely held businesses in any form, including sole proprietorships, general and limited partnerships, and corporations. As previously stated, only the net investment in a business enterprise (not its assets and liabilities) should be presented in the statement of financial condition. The net investment should be presented at its estimated current value at the date of the financial statement. Since there is usually no established ready market for such an investment, judgment should be exercised in determining the estimated current value of the investment.

23. There is no one generally accepted procedure for determining the estimated current value of an investment in a closely held business. Several procedures or combinations of procedures may be used to determine the estimated current value of a closely held business, including a multiple of earnings, liquidation value, reproduction value, appraisals, discounted amounts of projected cash receipts and payments, or adjustments of book value or cost of the person's share of the equity of the business.<sup>4</sup> The owner of an interest in a closely held business may have entered into a buy-sell agreement that specifies the amount (or the basis of determining the amount) to be received in the event of withdrawal, retirement, or sale. If such an agreement exists, it should be considered, but it does not necessarily determine estimated current value. Whatever procedure is used, the objective should be to approximate the amount at which the investment could be exchanged between a buyer and a seller, each of whom is well informed and willing, and neither of whom is compelled to buy or sell.

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<sup>4</sup>The book value or cost of a person's share of the equity of a business adjusted for appraisals of specific assets, such as real estate or equipment, is sometimes used as the estimated current value.

### ***Real Estate (Including Leaseholds)***

24. Investments in real estate (including leaseholds) should be presented in personal financial statements at their estimated current values. Information that may be used in determining their estimated current values includes—

- a. Sales of similar property in similar circumstances.
- b. The discounted amounts of projected cash receipts and payments relating to the property or the net realizable value of the property, based on planned courses of action, including leaseholds whose current rental value exceeds the rent in the lease.
- c. Appraisals based on estimates of selling prices and selling costs obtained from independent real estate agents or brokers familiar with similar properties in similar locations.
- d. Appraisals used to obtain financing.
- e. Assessed value for property taxes, including consideration of the basis for such assessments and their relationship to market values in the area.

### ***Intangible Assets***

25. Intangible assets should be presented at the discounted amounts of projected cash receipts and payments arising from the planned use or sale of the assets if both the amounts and timing can be reasonably estimated. For example, a record of receipts under a royalty agreement may provide sufficient information to determine its estimated current value. The cost of a purchased intangible should be used if no other information is available.

### ***Future Interests and Similar Assets***

26. Nonforfeitable rights to receive future sums that have all the following characteristics should be presented as assets at their discounted amounts:

- The rights are for fixed or determinable amounts.
- The rights are not contingent on the holder's life expectancy or the occurrence of a particular event, such as disability or death.
- The rights do not require future performance of service by the holder.

Nonforfeitable rights that may have those characteristics include—

- Guaranteed minimum portions of pensions.
- Vested interests in pension or profit sharing plans.
- Deferred compensation contracts.
- Beneficial interests in trusts.
- Remainder interests in property subject to life estates.
- Annuities.
- Fixed amounts of alimony for a definite future period.

### ***Payables and Other Liabilities***

27. Personal financial statements should present payables and other liabilities at the discounted amounts of cash to be paid. The discount rate should be the rate implicit in the transaction in which the debt was incurred. If, however, the debtor is able to discharge the debt currently at a lower amount, the debt should be presented at the lower amount.<sup>5</sup>

### ***Noncancellable Commitments***

28. Noncancellable commitments to pay future sums that have all the following characteristics should be presented as liabilities at their discounted amounts:

- The commitments are for fixed or determinable amounts.
- The commitments are not contingent on others' life expectancies or the occurrence of a particular event, such as disability or death.
- The commitments do not require future performance of service by others.

Noncancellable commitments that may have those characteristics include fixed amounts of alimony for a definite future period and charitable pledges.

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<sup>5</sup>For a further discussion of the setting of a discount rate for payables and other liabilities, see APB Opinion 21, *Interest on Receivables and Payables*, paragraph 13.

### ***Income Taxes Payable***

29. The liability for income taxes payable should include unpaid income taxes for completed tax years and an estimated amount for income taxes accrued for the elapsed portion of the current tax year to the date of the financial statements. That estimate should be based on the relationship of taxable income earned to date to total estimated taxable income for the year, net of taxes withheld or paid with estimated income tax returns.

### ***Estimated Income Taxes on the Differences Between the Estimated Current Values of Assets and the Estimated Current Amounts of Liabilities and Their Tax Bases***

30. A provision should be made for estimated income taxes on the differences between the estimated current values of assets and the estimated current amounts of liabilities and their tax bases, including consideration of negative tax bases of tax shelters, if any. The provision should be computed as if the estimated current values of all assets had been realized and the estimated current amounts of all liabilities had been liquidated on the statement date, using applicable income tax laws and regulations, considering recapture provisions and available carryovers. The estimated income taxes should be presented between liabilities and net worth in the statement of financial condition. The methods and assumptions used to compute the estimated income taxes should be fully disclosed. Appendix B to this statement of position illustrates how to compute the provision.

### **Financial Statement Disclosures**

31. Personal financial statements should include sufficient disclosures to make the statements adequately informative. The disclosures may be made in the body of the financial statements or in the notes. The following enumeration is intended not to be all-inclusive but simply indicative of the nature and type of information that ordinarily should be disclosed:

- a. A clear indication of the individuals covered by the financial statements
- b. That assets are presented at their estimated current values and liabilities are presented at their estimated current amounts



- c. The methods used in determining the estimated current values of major assets and the estimated current amounts of major liabilities or major categories of assets and liabilities, since several methods are available, and changes in methods from one period to the next
- d. If assets held jointly by the person and by others are included in the statements, the nature of the joint ownership
- e. If the person's investment portfolio is material in relation to his or her other assets and is concentrated in one or a few companies or industries, the names of the companies or industries and the estimated current values of the securities
- f. If the person has a material investment in a closely held business, at least the following:
  - The name of the company and the person's percentage of ownership
  - The nature of the business
  - Summarized financial information about assets, liabilities, and results of operations for the most recent year based on the financial statements of the business, including information about the basis of presentation (for example, generally accepted accounting principles, income tax basis, or cash basis) and any significant loss contingencies
- g. Descriptions of intangible assets and their estimated useful lives
- h. The face amount of life insurance the individuals own
- i. Nonforfeitable rights that do not have the characteristics discussed in paragraph 26, for example, pensions based on life expectancy
- j. The following tax information:
  - The methods and assumptions used to compute the estimated income taxes on the differences between the estimated current values of assets and the estimated current amounts of liabilities and their tax bases and a statement that the provision will probably differ from the amounts of income taxes that might eventually be paid because those amounts are determined by the timing and the method of disposal, realization, or liquidation and the tax laws and regulations in effect at the time of disposal, realization, or liquidation

- Unused operating loss and capital loss carryforwards
  - Other unused deductions and credits, with their expiration periods, if applicable
  - The differences between the estimated current values of major assets and the estimated current amounts of major liabilities or categories of assets and liabilities and their tax bases
- k. Maturities, interest rates, collateral, and other pertinent details relating to receivables and debt
- l. Noncancellable commitments that do not have the characteristics discussed in paragraph 28, for example, operating leases

32. Generally accepted accounting principles other than those discussed in this statement of position may apply to personal financial statements. For example, FASB Statement 5, *Accounting for Contingencies*, and related amendments and interpretations, provide guidance on accounting for contingencies, and FASB Statement 57, *Related Party Disclosures*, provides guidance on related-party disclosures.

### **Transition and Effective Date**

33. The accounting standards division recommends that the provisions of this statement of position should apply to personal financial statements dated June 30, 1983, or after. Comparative statements of prior periods should be restated to comply with the provisions of this statement of position.

# Appendixes

APPENDIX A

**Illustrative Financial Statements**

James and Jane Person  
 Statements of Financial Condition  
 December 31, 19X3 and 19X2

	<i>December 31,</i>	
	<u>19X3</u>	<u>19X2</u>
<b>Assets</b>		
Cash	\$ 3,700	\$ 15,600
Bonus receivable	20,000	10,000
<b>Investments</b>		
Marketable securities (Note 2)	160,500	140,700
Stock options (Note 3)	28,000	24,000
Kenbruce Associates (Note 4)	48,000	42,000
Davekar Company, Inc. (Note 5)	550,000	475,000
Vested interest in deferred profit sharing plan	111,400	98,900
Remainder interest in testamentary trust (Note 6)	171,900	128,800
Cash value of life insurance (\$43,600 and \$42,900), less loans payable to insurance companies (\$38,100 and \$37,700) (Note 7)	5,500	5,200
Residence (Note 8)	190,000	180,000
Personal effects (excluding jewelry) (Note 9)	55,000	50,000
Jewelry (Note 9)	40,000	36,500
	<u>\$ 1,384,000</u>	<u>\$ 1,206,700</u>

	<i>December 31,</i>	
	<u>19X3</u>	<u>19X2</u>
<b>Liabilities</b>		
Income taxes—current year balance	\$ 8,800	\$ 400
Demand 10.5% note payable to bank	25,000	26,000
Mortgage payable (Note 10)	98,200	99,000
Contingent liabilities (Note 11)		
	<u>132,000</u>	<u>125,400</u>
Estimated income taxes on the differences between the estimated current values of assets and the estimated current amounts of liabilities and their tax bases (Note 12)	239,000	160,000
Net worth	<u>1,013,000</u>	<u>921,300</u>
	<u>\$ 1,384,000</u>	<u>\$ 1,206,700</u>

The notes to financial statements are an integral part of these statements.

James and Jane Person  
 Statements of Changes in Net Worth  
 For the Years Ended December 31, 19X3 and 19X2

	<i>Year ended December 31,</i>	
	<u>19X3</u>	<u>19X2</u>
Realized increases in net worth		
Salary and bonus	\$ 95,000	\$ 85,000
Dividends and interest income	2,300	1,800
Distribution from limited partnership	5,000	4,000
Gains on sales of marketable securities	1,000	500
	<u>103,300</u>	<u>91,300</u>
Realized decreases in net worth		
Income taxes	26,000	22,000
Interest expense	13,000	14,000
Real estate taxes	4,000	3,000
Personal expenditures	36,700	32,500
	<u>79,700</u>	<u>71,500</u>
Net realized increase in net worth	<u>23,600</u>	<u>19,800</u>

	<i>Year ended December 31,</i>	
	<u>19X3</u>	<u>19X2</u>
Unrealized increases in net worth		
Marketable securities (net of realized gains on securities sold)	3,000	500
Stock options	4,000	500
Davekar Company, Inc.	75,000	25,000
Kenbruce Associates	6,000	
Deferred profit sharing plan	12,500	9,500
Remainder interest in testamentary trust	43,100	25,000
Jewelry	3,500	
	<u>147,100</u>	<u>60,500</u>
Unrealized decrease in net worth		
Estimated income taxes on the differences between the estimated current values of assets and the estimated current amounts of liabilities and their tax bases	<u>79,000</u>	<u>22,000</u>
Net unrealized increase in net worth	<u>68,100</u>	<u>38,500</u>
Net increase in net worth	91,700	58,300
Net worth at the beginning of year	<u>921,300</u>	<u>863,000</u>
Net worth at the end of year	<u>\$ 1,013,000</u>	<u>\$ 921,300</u>

The notes to financial statements are an integral part of these statements.

James and Jane Person  
Notes to Financial Statements

**Note 1.** The accompanying financial statements include the assets and liabilities of James and Jane Person. Assets are stated at their estimated current values, and liabilities at their estimated current amounts.

**Note 2.** The estimated current values of marketable securities are either (a) their quoted closing prices or (b) for securities not traded on the financial statement date, amounts that fall within the range of quoted bid and asked prices.

Marketable securities consist of the following:

	<i>December 31, 19X3</i>		<i>December 31, 19X2</i>	
	<i>Number of shares or bonds</i>	<i>Estimated current values</i>	<i>Number of shares or bonds</i>	<i>Estimated current values</i>
<b><u>Stocks</u></b>				
Jaiven Jewels, Inc.	1,500	\$ 98,813		
McRae Motors, Ltd.	800	11,000	600	\$ 4,750
Parker Sisters, Inc.	400	13,875	200	5,200
Rosenfield Rug Co.			1,200	96,000
Rubin Paint Com- pany	300	9,750	100	2,875
Weiss Potato Chips, Inc.	200	20,337	300	25,075
		153,775		133,900
<b><u>Bonds</u></b>				
Jackson Van Lines, Ltd. (12% due 7/1/X9)	5	5,225	5	5,100
United Garvey, Inc. (7% due 11/15/X6)	2	1,500	2	1,700
		6,725		6,800
		\$160,500		\$140,700

**Note 3.** Jane Person owns options to acquire 4,000 shares of stock of Winner Corp. at an option price of \$5 per share. The option expires on June 30, 19X5. The estimated current value is its published selling price.

**Note 4.** The investment in Kenbruce Associates is an 8% interest in a real estate limited partnership. The estimated current value is determined by the projected annual cash receipts and payments capitalized at a 12% rate.



**Note 5.** James Person owns 50% of the common stock of Davekar Company, Inc., a retail mail order business. The estimated current value of the investment is determined by the provisions of a shareholders' agreement, which restricts the sale of the stock and, under certain conditions, requires the company to repurchase the stock based on a price equal to the book value of the net assets plus an agreed amount for goodwill. At December 31, 19X3, the agreed amount for goodwill was \$112,500, and at December 31, 19X2, it was \$100,000.

A condensed balance sheet of Davekar Company, Inc., prepared in conformity with generally accepted accounting principles, is summarized below:

	<i>December 31,</i>	
	<u>19X3</u>	<u>19X2</u>
Current assets	\$3,147,000	\$2,975,000
Plant, property, and equipment—net	165,000	145,000
Other assets	120,000	110,000
Total assets	<u>3,432,000</u>	<u>3,230,000</u>
Current liabilities	2,157,000	2,030,000
Long-term liabilities	400,000	450,000
Total liabilities	<u>2,557,000</u>	<u>2,480,000</u>
Equity	<u>\$ 875,000</u>	<u>\$ 750,000</u>

The sales and net income for 19X3 were \$10,500,000 and \$125,000 and for 19X2 were \$9,700,000 and \$80,000.

**Note 6.** Jane Person is the beneficiary of a remainder interest in a testamentary trust under the will of the late Joseph Jones. The amount included in the accompanying statements is her remainder interest in the estimated current value of the trust assets, discounted at 10%.

**Note 7.** At December 31, 19X3 and 19X2, James Person owned a \$300,000 whole life insurance policy.

**Note 8.** The estimated current value of the residence is its purchase price plus the cost of improvements. The residence was purchased in December 19X1, and improvements were made in 19X2 and 19X3.

**Note 9.** The estimated current values of personal effects and jewelry are the appraised values of those assets, determined by an independent appraiser for insurance purposes.

**Note 10.** The mortgage (collateralized by the residence) is payable in monthly installments of \$815 a month, including interest at 10% a year through 20Y8.

**Note 11.** James Person has guaranteed the payment of loans of Davekar Company, Inc., under a \$500,000 line of credit. The loan balance was \$300,000 at December 31, 19X3, and \$400,000 at December 31, 19X2.

**Note 12.** The estimated current amounts of liabilities at December 31, 19X3, and December 31, 19X2, equaled their tax bases. Estimated income taxes have been provided on the excess of the estimated current values of assets over their tax bases as if the estimated current values of the assets had been realized on the statement date, using applicable tax laws and regulations. The provision will probably differ from the amounts of income taxes that eventually might be paid because those amounts are determined by the timing and the method of disposal or realization and the tax laws and regulations in effect at the time of disposal or realization.

The estimated current values of assets exceeded their tax bases by \$850,000 at December 31, 19X3, and by \$770,300 at December 31, 19X2. The excess of estimated current values of major assets over their tax bases are—

	<i>December 31,</i>	
	<u>19X3</u>	<u>19X2</u>
Investment in Davekar Company, Inc.	\$430,500	\$355,500
Vested interest in deferred profit sharing plan	111,400	98,900
Investment in marketable securities	104,100	100,000
Remainder interest in testamentary trust	97,000	53,900

## APPENDIX B

### **Computing the Excess of the Estimated Current Values of Assets Over Their Tax Bases and the Estimated Income Taxes on the Excess**

This appendix relates to the preceding illustrative financial statements of James and Jane Person (Appendix A) and illustrates how to compute the excess of the estimated current values of assets over their tax bases and the provision for estimated income taxes on the excess.<sup>1</sup>

The excess or deficit of the estimated current values of major assets or categories of assets over their tax bases should be disclosed.<sup>2</sup> The provision for estimated income taxes should be presented in the statement of financial condition between liabilities and net worth.

The assumptions and the tax basis information used in computing the excess of the estimated current values of assets over their tax bases and the estimated income taxes on the excess depend on the facts, circumstances, tax laws and regulations, and assumptions that apply to the individual or individuals for whom the financial statements are prepared. The facts, circumstances, tax laws and regulations, and assumptions used in the following are illustrative only.

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<sup>1</sup>The provision for estimated income taxes should also reflect tax consequences that result from differences between the estimated current amounts of liabilities and their tax bases.

<sup>2</sup>Differences between the estimated current amounts of major liabilities or categories of liabilities and their tax bases should also be disclosed.

<i>Description</i>	<i>(A)</i> <i>Estimated</i> <i>current</i> <i>values</i>	<i>(B)</i> <i>Tax</i> <i>bases</i>	<i>Excess of</i> <i>(A) over (B)</i>	<i>Effective</i> <i>income</i> <i>tax rates</i>	<i>Amount of</i> <i>estimated</i> <i>income taxes</i>	<i>Assumptions used</i>
Cash	\$ 3,700	\$ 3,700	—	—	—	No tax effect.
Bonus receivable	20,000	—	\$ 20,000	50%	\$ 10,000	Maximum tax rate.
Investments						
Marketable securities	160,500	56,400	104,100	36%	37,500	Weighted average of short-term and long-term capital gain rates based on composition of portfolio.
Stock options	28,000	20,000	8,000	50%	4,000	Short-term capital gain rate.
Kenbruce Associates	48,000	24,000	24,000	38%	9,100	Weighted average of short-term and long-term capital gain rates.
Davekar Company, Inc.	550,000	119,500	430,500	20%	86,100	Long-term capital gain rate.

	111,400	—	111,400	50%	55,700	Maximum tax rate.
Vested interest in deferred profit sharing plan	111,400	—	111,400	50%	55,700	
Remainder interest in testamentary trust	171,900	74,900	97,000	26%	25,600	Weighted average of short-term and long-term capital gain rates.
Cash value of life insurance	5,500	5,500	—	—	—	No tax effect.
Residence	190,000	190,000	—	—	—	No tax effect.
Personal effects	55,000	30,000	25,000	20%	5,000	Long-term capital gain rate.
Jewelry	40,000	10,000	30,000	20%	6,000	Long-term capital gain rate.
	<u>\$ 1,384,000</u>	<u>\$534,000</u>	<u>\$850,000<sup>1</sup></u>		<u>\$239,000<sup>2</sup></u>	

<sup>1</sup>The excess or deficit of the estimated current values of major assets or categories of assets over their tax bases should be disclosed.

<sup>2</sup>This amount should be presented in the statement of financial condition between liabilities and net worth.

## **Accounting Standards Division**

### **Accounting Standards Executive Committee (1981–1982)**

<b>DENNIS R. BERESFORD, <i>Chairman</i></b>	<b>VAUGHN L. HERSEY</b>
<b>HAROLD E. ARNETT</b>	<b>MITCHELL M. KRASNOFF</b>
<b>GILBERT BERGSMAN</b>	<b>JOSEPH D. LHOTKA</b>
<b>JOHN R. DEMING</b>	<b>WALTER P. SCHUETZE</b>
<b>MARVIN A. GOLDMAN</b>	<b>MICHAEL H. SUTTON</b>
<b>ROBERT HAMPTON III</b>	<b>CHARLES A. WERNER</b>
<b>WILLIAM P. HAUWORTH II</b>	<b>RONALD L. WOLF</b>

### **Personal Financial Statements Special Committee**

<b>MARLIN P. ALT, <i>Chairman</i></b>	<b>RUSSELL A. MCALPINE, JR.</b>
<b>CARROLL L. BACCUS</b>	<b>RICHARD H. MURVIN</b>
<b>DAVID BLITZ</b>	<b>E. CHRISTOPHER PALMER</b>
<b>ANTHONY P. DOLANSKI</b>	<b>JOHN M. SCHULZETENBERG</b>
<b>RAYMOND W. KLEIN</b>	<b>GENE A. TRENARY</b>
<b>BURTON T. LEFKOWITZ</b>	<b>LEONARD WEINSTOCK</b>

### **AICPA Staff**

<b>PAUL ROSENFELD, <i>Director</i></b> <b><i>Accounting Standards</i></b>	<b>STEVEN RUBIN, <i>Manager</i></b> <b><i>Accounting Standards</i></b>
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FEDERAL ELECTION COMMISSION FORMS

STATEMENT OF ORGANIZATION

(See reverse side for instructions)

1. (a) NAME OF COMMITTEE IN FULL <input type="checkbox"/> (Check if name is changed)	2. DATE
(b) Number and Street Address <input type="checkbox"/> (Check if address is changed)	3. FEC IDENTIFICATION NUMBER
(c) City, State and ZIP Code	4. IS THIS STATEMENT AN AMENDMENT? <input type="checkbox"/> YES <input type="checkbox"/> NO

5. TYPE OF COMMITTEE (Check one)

- (a) This committee is a principal campaign committee. (Complete the candidate information below.)
  - (b) This committee is an authorized committee, and is NOT a principal campaign committee. (Complete the candidate information below.)
- |                   |                             |               |                |
|-------------------|-----------------------------|---------------|----------------|
| Name of Candidate | Candidate Party Affiliation | Office Sought | State/District |
|-------------------|-----------------------------|---------------|----------------|
- (c) This committee supports/opposes only one candidate \_\_\_\_\_ and is NOT an authorized committee.  
(name of candidate)
  - (d) This committee is a \_\_\_\_\_ committee of the \_\_\_\_\_ Party.  
(National, State or subordinate) (Democratic, Republican, etc.)
  - (e) This committee is a separate segregated fund.
  - (f) This committee supports/opposes more than one Federal candidate and is NOT a separate segregated fund or a party committee.

6. Name of Any Connected Organization or Affiliated Committee	Mailing Address and ZIP Code	Relationship

Type of Connected Organization

- Corporation  Corporation w/o Capital Stock  Labor Organization  Membership Organization  Trade Association  Cooperative

7. Custodian of Records: Identify by name, address (phone number -- optional) and position of the person in possession of committee books and records.

Full Name	Mailing Address	Title or Position
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8. Treasurer: List the name and address (phone number -- optional) of the treasurer of the committee; and the name and address of any designated agent (e.g., assistant treasurer).

Full Name	Mailing Address	Title or Position
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9. Banks or Other Depositories: List all banks or other depositories in which the committee deposits funds, holds accounts, rents safety deposit boxes or maintains funds.

Name of Bank, Depository, etc.	Mailing Address and ZIP Code
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I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

TYPE OR PRINT NAME OF TREASURER	SIGNATURE OF TREASURER	DATE
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NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g. ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS.

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For further information contact:  
Federal Election Commission  
Toll-free 800-424-9530  
Local 202-376-3120

**FEC FORM 1**  
(revised 4/87)

(continued)

## INSTRUCTIONS FOR PREPARING FEC FORM 1

**LINE 1** Print or type full name and mailing address of the committee. The name of a principal campaign committee or other authorized committee must include the name of the candidate who authorized the committee. A political committee which is not an authorized committee can not include the name of any candidate in its name, except that a delegate committee must include the word "delegate(s)" in its name and may also include the name of the presidential candidate which it supports. A political committee established solely to draft an individual or to encourage an individual to become a candidate may include the name of the individual in the name of the committee, provided the committee's name clearly indicates that it is a draft committee. The name of a separate segregated fund must include the full name of its connected organization. Any abbreviation or acronym used by the fund must also be reported.

**LINE 2** State the date the group or organization became a political committee. If this filing is an amendment, note the date of the change in information.

**LINE 3** Only committees which have previously filed a Statement of Organization should fill in this block with the number which was originally assigned to the committee. All new committees will be assigned identification numbers when the completed statement has been received.

**LINE 4** All political committees registering for the first time check "NO". Committees which have previously filed FEC FORM 1 and are now submitting changes or corrections check "YES". If "YES" is checked, complete Lines 1 through 4. With respect to Lines 5-9 include only the change(s) in information previously submitted. Committees are reminded that any change or correction in the information previously filed in the Statement of Organization shall be reported no later than 10 days following the date of the change or correction.

**LINE 5** Check and fill out ONE of the six sections as follows:

(a) All principal campaign committees check (a) and fill in the corresponding information for the candidate under (b).

(b) All other authorized committees check (b) and fill in the corresponding information for the candidate.

(c) A committee supporting/opposing a single Federal candidate which is not authorized by a candidate checks (c), and includes the candidate's name on the line provided. Delegate and draft committees must check (c), and provide the name of the candidate supported.

(d) All national, State and subordinate committees of a political party check (d) and fill in the corresponding information.

(e) All separate segregated funds check (e). A separate segregated fund is a political committee established, financed, maintained, or controlled by a corporation, labor organization, membership organization, cooperative or trade association.

(f) A committee supporting/opposing more than one Federal candidate and which is not a separate segregated fund or a political party committee checks box (f).

All joint fundraising representatives check (f). A committee established to act as a joint fundraising representative is a political committee selected or established by joint fundraising participants as the committee responsible for keeping joint fundraising records, allocating proceeds and expenses among participants and reporting the overall financial activity of the fundraiser.

**LINE 6** Political committees must list all affiliated committees and connected organizations (defined below) as follows:

--- Principal campaign committees list all other committees authorized by the same candidate. Under "Relationship," write "affiliated."

--- Political committees authorized by the same candidate (other than the principal campaign committee) list the principal campaign committee authorized by the same candidate. Under "Relationship," write "affiliated."

--- Political committees which have been established, financed, maintained, or controlled by the highest level parent organization (i.e., the corporation, labor organization, membership organization, cooperative or trade association) list:

(a) The name of the parent organization. Under "Relationship," write "connected," AND

(b) The name of any other political committee(s) established, financed, maintained, or controlled by the same parent organization or by a subsidiary, branch, or State, local, or other subordinate unit of the same parent organization. Under "Relationship," write "affiliated."

--- Political committees which have been established, financed, maintained, or controlled by a subsidiary, branch, or State, local, or other subordinate unit of an organization list:

(a) The name of the subsidiary, branch, or State, local or other subordinate unit and the name of the parent organization of which it is a part. Under "Relationship," write "connected," AND

(b) The name of the highest level political committee sponsored by the parent organization. Under "Relationship," write "affiliated."

--- State party committees list any subordinate committees (i.e., any county, district or local committee) under the control or direction of the

State committee. Under "Relationship," write "affiliated." (See 11 C.F.R. 110.3(b).)

--- Subordinate State party committees list the State party committee. Under "Relationship," write "affiliated." (See 11 C.F.R. 110.3(b).)

--- Joint fundraising representatives list all the political committees participating in the joint fundraising effort. Under "Relationship" write "joint fundraising participant."

--- Joint fundraising participants list the committee established to act as the joint fundraising representative. Under "Relationship" write "joint fundraising representative."

Separate segregated funds must check the most appropriate box for the type of "connected organization."

**NOTE:** The term "connected organization" means any organization which is not a political committee but which directly or indirectly establishes, administers, or financially supports a political committee. A connected organization may be a corporation (including a corporation without capital stock), a labor organization, a membership organization, a cooperative, or a trade association. The definition of "affiliated committee" is contained at 11 C.F.R. 100.5(g).

**LINE 7** The name, address, and committee position or the title of custodian of the committee's books and records must be entered on Line 7. The telephone number is optional, but is helpful in expeditiously resolving potential filing problems. If the treasurer is the custodian of records, the term "treasurer" is sufficient for Line 7.

**LINE 8** The name and address of the committee's treasurer must be entered on Line 8. The name and address of any designated agent (e.g., assistant treasurer) must also be included on Line 8. Every political committee must have a treasurer and may designate an assistant treasurer who shall assume the duties and responsibilities of the treasurer, in the event the treasurer is unavailable. The Commission recommends that each political committee designate an assistant treasurer because no contribution or expenditure may be accepted or made by or on behalf of a political committee at a time when there is a vacancy in the office of the treasurer. No expenditure may be made for or on behalf of a political committee without the authorization of its treasurer or another agent authorized orally or in writing by the treasurer.

**LINE 9** The committee must provide the name and mailing address of any bank, repository, or depository where the committee holds funds. Each political committee must have a checking account or transaction account at one of its depositories. All receipts of a political committee must be deposited into a designated campaign depository. All disbursements must be made by check or similar drafts drawn on an account at a designated campaign depository, except for expenditures of \$100 or less made from a petty cash fund.

### TREASURER'S RESPONSIBILITIES

The treasurer of the political committee must preserve a copy of the Statement of Organization and each amendment for a period of not less than 3 years after the date of filing. The treasurer of the political committee is personally responsible for the timely and complete filing of this Statement and for the accuracy of any information contained in it.

Submit additional information on separate continuation sheets appropriately labeled and attached to the Statement of Organization. Indicate in the appropriate section when information is continued on separate page(s).

### WHERE TO FILE

The original Statement of Organization (FEC FORM 1) and all amendments must be filed with the appropriate office as follows:

--- The principal campaign committee of a candidate for the House of Representatives and political committees which support or oppose only candidates for the House file with the Clerk of the House of Representatives, Office of Records and Registration, 1036 Longworth Office Building, Washington, DC 20515-6612.

--- The principal campaign committee of a candidate for the Senate and political committees which support or oppose only candidates for the Senate file with Secretary of the Senate, Office of Public Records, 232 Hart Senate Office Building, Washington, DC 20510-7116.

--- An authorized committee which is not the principal campaign committee of a candidate files with the principal campaign committee which must forward a copy to the appropriate office listed herein.

--- All other committees, including the principal campaign committee of a candidate for the office of President or Vice President, file with the Federal Election Commission, 999 E Street, N.W., Washington, DC 20463.

Authorized committees of candidates for the House of Representatives and for the Senate must also file a copy of this Statement with the Secretary of State (or the appropriate State officer) of the State in which nomination or election is sought. Authorized committees of candidates for the office of President or Vice President must also file a copy of this statement in each State in which the committee makes expenditures. Political committees other than authorized committees must also file a copy of the Statement in the State in which the committee has its headquarters.

**The Treasurer must sign the Statement of Organization.**



# STATEMENT OF CANDIDACY

(see reverse side for instructions)

1. (a) Name of Candidate (in full)		
(b) Address (number and street)		<input type="checkbox"/> Check if address changed
(c) City, State, and ZIP Code		2. Identification Number
3. Party Affiliation	4. Office Sought	5. State & District of Candidate

## DESIGNATION OF PRINCIPAL CAMPAIGN COMMITTEE

6. I hereby designate the following named political committee as my Principal Campaign Committee for the \_\_\_\_\_ election(s).  
(year of election)

**NOTE:** This designation should be filed with the appropriate office listed below.

(a) Name of Committee (in full)

(b) Address (number and street)

(c) City, State and ZIP Code

## DESIGNATION OF OTHER AUTHORIZED COMMITTEES

(Including Joint Fundraising Representatives)

7. I hereby authorize the following named committee, which is NOT my principal campaign committee, to receive and expend funds on behalf of my candidacy.

**NOTE:** This designation should be filed with the principal campaign committee.

(a) Name of Committee (in full)

(b) Address (number and street)

(c) City, State and ZIP Code

*I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.*

Signature of Candidate	Date
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**NOTE:** Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g.

### CANDIDATES FOR THE OFFICE OF:

<b>President mail to:</b>  Federal Election Commission 999 E Street, N.W. Washington, DC 20463	<b>U.S. Senate mail to:</b>  Secretary of the Senate Office of Public Records 232 Hart Senate Office Bldg. Washington, DC 20510-7116	<b>U.S. House of Representatives mail to:</b>  Clerk of the House of Representatives Office of Records and Registration 1036 Longworth Office Bldg. Washington, DC 20515-6612	<b>For further information contact:</b>  Federal Election Commission Toll-free 800/424-9530 Local 202/376-3120
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FEC FORM 2

(revised 4/87)

(continued)

## INSTRUCTIONS FOR PREPARING FEC FORM 2

### GENERAL

#### WHO MUST FILE FEC FORM 2

Each individual who is a candidate for Federal office must file FEC FORM 2 or a letter containing the same information within 15 days of becoming a candidate. An individual becomes a candidate for Federal office whenever any of the following events occur:

- 1) The individual has received contributions aggregating in excess of \$5,000 or made expenditures aggregating in excess of \$5,000;
- 2) The individual has given his or her consent to another person to receive contributions or make expenditures on behalf of that individual and such person has received contributions aggregating in excess of \$5,000 or made expenditures aggregating in excess of \$5,000;
- 3) The aggregate of contributions received in 1 and 2 above combined exceeds \$5,000 or the aggregate of expenditures made in 1 and 2 above combined exceeds \$5,000.

Funds received and payments made for the purpose of determining whether an individual should become a candidate are not considered "contributions" or "expenditures" which may trigger candidacy. Only funds permissible under the Act may be used for such activities. See 11 C.F.R. 100.7(b)(1) and 11 C.F.R. 100.8(b)(1) for further information.

#### WHEN TO FILE

FEC FORM 2 must be filed within 15 days after an individual becomes a candidate (i.e., exceeds the \$5,000 threshold as stated in 1, 2, and 3, above).

#### WHERE TO FILE (See also instructions for Line 7, below)

Candidates seeking nomination or election as a Representative in or Delegate or Resident Commissioner to the Congress of the United

States file with the Clerk of the House of Representatives, Office of Records and Registration, 1036 Longworth House Office Building, Washington, D.C. 20515-6612;

- Candidates seeking nomination or election to the United States Senate file with the Secretary of the Senate, Office of Public Records, 232 Hart Senate Office Building, Washington, D.C. 20510-7116;
- Candidates seeking nomination or election to the offices of the President or Vice President file with the Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463;
- **All candidates** must also file a copy of this statement with the Secretary of State (or appropriate State officer) in any State where the candidate seeks election or, in the case of Presidential candidates, where the candidate's committee makes expenditures.

#### CANDIDATE DUTIES AND RESPONSIBILITIES

The candidate is personally responsible for the timely and complete filing of this Statement and for the accuracy of any information contained in it.

Any candidate who receives a contribution, obtains a loan or makes a disbursement in connection with his or her campaign is considered to have received the contribution, obtained the loan or made the disbursement as an agent of his or her authorized committee(s).

When an individual becomes a candidate, all funds received, loans obtained or disbursements made prior to becoming a candidate in connection with his or her campaign are considered to have been received, obtained, or made as an agent of his or her authorized committee(s) and must be reported in the first report filed by the candidate's principal campaign committee.

### LINE BY LINE INSTRUCTIONS

- LINE 1 Print or type complete name and street address of the candidate.
- LINE 2 Candidates who have never run before, who are running in a different district, or who are seeking a different Federal office should leave this blank. When their Statement has been received, they will be assigned an identification number. Candidates who are seeking reelection, and candidates who have terminated a previous candidacy but are now running again for the same seat, should use their original identification number.
- LINES 3-5 Provide the requested information.
- LINE 6 Each candidate for Federal office (other than a nominee for the office of Vice President) must designate in writing a political committee to serve as his or her principal campaign committee. The name of the principal campaign committee must include the name of the candidate. The principal campaign committee must file a Statement of Organization (FEC FORM 1) within 10 days of designation by the candidate and must file reports of receipts and disbursements. See instructions for FEC FORM 1 for further details. On Line 6, the candidate must indicate the year of the election and the full name and street address of the candidate's principal campaign committee. If the candidate is running in a Special Election, the candidate must note that the designation is for a Special Election under the "Year of Election." If the candidate also runs in the "Regular" November General Election or in the primary for the November General Election, the candidate must file an additional FEC FORM 2 and indicate the year of the election on the appropriate line. Any such candidate may designate the same principal campaign committee for the Special Election and Regular Primary and General Elections.
- LINE 7 A candidate may designate additional political committees to accept contributions or make expenditures on behalf of the candidate, this includes joint fundraising representatives. The name of any committee authorized by a candidate must include the name of the candidate. For Line 7, the candidate must fill in the name and street address of any authorized committee(s). If necessary, additional sheets or FEC FORM 2's may be attached. The FEC FORM 2 for the authorized committee must be filed with the principal campaign committee. All authorized committees must file a Statement of Organization (FEC FORM 1) within 10 days of designation by the candidate. This Statement must be filed with the candidate's principal campaign committee. See instructions for FEC FORM 1 for further details. The principal campaign committee must file a copy of the Statement of Organization for the authorized committee with the appropriate office listed above, under "Where to File."

**The Candidate must sign the Statement of Candidacy.**

# REPORT OF RECEIPTS AND DISBURSEMENTS

For An Authorized Committee  
(Summary Page)

USE FEC MAILING LABEL OR TYPE OR PRINT

1. NAME OF COMMITTEE (in full)		2. FEC IDENTIFICATION NUMBER
ADDRESS (number and street) <input type="checkbox"/> Check if different than previously reported.		3. IS THIS REPORT AN AMENDMENT?
CITY, STATE and ZIP CODE	STATE/DISTRICT	<input type="checkbox"/> YES <input type="checkbox"/> NO

### 4. TYPE OF REPORT

<input type="checkbox"/> April 15 Quarterly Report	<input type="checkbox"/> Twelfth day report preceding _____ <small>(Type of Election)</small>
<input type="checkbox"/> July 15 Quarterly Report	election on _____ in the State of _____
<input type="checkbox"/> October 15 Quarterly Report	<input type="checkbox"/> Thirtieth day report following the General Election on _____
<input type="checkbox"/> January 31 Year End Report	_____ in the State of _____
<input type="checkbox"/> July 31 Mid-Year Report (Non-election Year Only)	<input type="checkbox"/> Termination Report

This report contains activity for  Primary Election     General Election     Special Election     Runoff Election

### SUMMARY

	COLUMN A This Period	COLUMN B Calendar Year-to-Date
5. Covering Period _____ through _____		
6. Net Contributions (other than loans)		
(a) Total Contributions (other than loans) (from Line 11(e)) . . . . .		
(b) Total Contribution Refunds (from Line 20(d)) . . . . .		
(c) Net Contributions (other than loans) (subtract Line 6(b) from 6(a)) . . . . .		
7. Net Operating Expenditures		
(a) Total Operating Expenditures (from Line 17) . . . . .		
(b) Total Offsets to Operating Expenditures (from Line 14) . . . . .		
(c) Net Operating Expenditures (subtract Line 7(b) from 7(a)) . . . . .		
8. Cash on Hand at Close of Reporting Period (from Line 27) . . . . .		
9. Debts and Obligations Owed TO the Committee (Itemize all on Schedule C and/or Schedule D) . . . . .		For further information contact: Federal Election Commission 999 E Street, NW Washington, DC 20463 Toll Free 800-424-9530 Local 202-376-3120
10. Debts and Obligations Owed BY the Committee (Itemize all on Schedule C and/or Schedule D) . . . . .		

*I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.*

Type or Print Name of Treasurer	
Signature of Treasurer	Date

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g.

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FEC FORM 3

(revised 4/87)

## INSTRUCTIONS FOR PREPARING FEC FORM 3

### WHO MUST FILE

A political committee designated in writing by a candidate for the House of Representatives or Senate to receive contributions or make expenditures on the candidate's behalf is required to file periodic Reports of Receipts and Disbursements on FEC FORM 3.

Any other political committee authorized in writing by a candidate for the House of Representatives or Senate to receive contributions or make expenditures on the candidate's behalf is required to file FEC FORM 3 with the principal campaign committee. The principal campaign committee must compile and consolidate the reports required to be filed with it. These consolidated reports must include: the candidate's activity, reports submitted to the principal campaign committee by any other authorized committees, and the principal campaign committee's own activity. This consolidation must be made on FEC FORM 3Z.

**ALL POLITICAL COMMITTEES AUTHORIZED IN WRITING BY A CANDIDATE FOR THE OFFICE OF PRESIDENT OR VICE PRESIDENT MUST FILE ON FEC FORM 3P.**

**ALL POLITICAL COMMITTEES OTHER THAN THOSE AUTHORIZED BY A CANDIDATE MUST FILE ON FEC FORM 3X.**

### WHEN TO FILE

In any calendar year in which there is a "Regular" November General Election for which the candidate is seeking nomination for election or election, the candidate's principal campaign committee must file the following reports on FEC FORM 3:

-- Quarterly reports must be filed no later than April 15, July 15, October 15 and January 31 of the following calendar year. Each such report must disclose all transactions from the last report filed through the last day of the calendar quarter. A quarterly report is not required to be filed if a Pre-election Report is required to be filed during the period beginning on the 5th day and ending on the 15th day after the close of the calendar quarter.

-- A 12 Day Pre-election Report must be filed no later than the 12th day before any primary or general election in which the candidate seeks election and must include all transactions from the closing date of the last report filed through the 20th day before the election. A 12 Day Pre-election Report sent by certified or registered mail must be mailed no later than the 15th day before the election.

-- A 30 Day Post-general Election Report must be filed no later than 30 days after the general election and include transactions from the closing date of the last report filed through the 20th day after the general election.

In any other calendar year, the following reports are required:

-- A Mid Year Report must be filed no later than July 31 and include transactions beginning January 1 and ending June 30.

-- A Year End Report must be filed no later than January 31 of the following calendar year and include transactions beginning July 1 and ending December 31.

### LINE BY LINE INSTRUCTIONS

It is recommended that committees complete the Detailed Summary Page before completing the Summary Page.

**LINE 1** Please use the mailing label we sent you. If your address has changed or you do not have a label, print or type the complete name and mailing address of your committee. (Note: If your mailing label has a mistake on it simply mark through and correct any errors on it.)

**LINE 2** Enter the FEC Identification Number assigned to the committee.

**LINE 3** If this is an original report, check the "NO" box. If this is an amendment to a previous report, check the "YES" box.

**LINE 4** Check the appropriate boxes. If the report is a 12 Day Pre-election or 30 Day Post-general Election Report, supply the type of election (primary, general, convention, special or run-off), the date of the election, and the State in which the election is held. In addition, check the appropriate box(es) which indicate which election this report contains activity for. For example, if a political committee is raising funds to pay off primary debts and simultaneously raising funds for the general election, check both the "Primary Election" box and the "General Election" box. If a political committee is raising funds for a primary election which is part of a special election, check the "Primary Election" box and the "Special Election" box.

**LINE 5** Enter the coverage dates (day/month/year) for this report. All activity from the ending coverage date of the last report filed must be included.

A document is timely filed upon delivery to the appropriate office (see "Where to File") by the close of the prescribed filing date or upon deposit as registered or certified mail in an established U.S. Post Office and postmarked no later than midnight of the day the report is due, except that a Pre-election Report so mailed must be postmarked no later than midnight of the 15th day before the date of the election. Reports and statements sent by first class mail must be received by the appropriate office by the close of business of the prescribed filing date to be timely filed.

### WHERE TO FILE

An original report and any amendments to an original report must be filed as follows:

The principal campaign committee of a candidate for the House of Representatives must file with the Clerk of the House of Representatives, Office of Records and Registration, 1036 Longworth House Office Building, Washington, DC 20515-6612. Other authorized committees of the candidate must file with the principal campaign committee.

-- The principal campaign committee of a candidate for the Senate must file with Secretary of the Senate, Office of Public Records, 232 Hart Senate Office Building, Washington, DC 20510-7116. Other authorized committees of the candidate must file with the principal campaign committee.

A copy of each report filed by the principal campaign committee must be filed with the Secretary of State (or appropriate State officer) of the State in which nomination or election is sought.

### OVERVIEW OF THE RECORDKEEPING AND REPORTING REQUIREMENTS

A political committee may use any recordkeeping or accounting system which will enable it to comply with the Act. The Commission recommends that the recordkeeping or accounting system of a political committee keep a separate accounting for each of the various categories of receipts and disbursements on the Detailed Summary Page. This separate accounting will assist the political committee in filling out the reporting forms, since separate reporting schedules are required for each category. The reporting schedules should be filled out first so that the totals can be derived for each category. The total figures should be carried forward to the Detailed Summary Page and then (where appropriate) from the Detailed Summary Page to the Summary Page.

### TREASURER'S RESPONSIBILITIES

A copy of this Report must be preserved by the treasurer of the political committee for a period of not less than three years from the date of filing. The treasurer of the political committee is personally responsible for the timely and complete filing of the report and for the accuracy of any information contained in it.

**LINE 6(a)** Transfer the amounts from Column A and Column B of Line 11(e) of the Detailed Summary Page to the corresponding columns on Line 6(a).

**LINE 6(b)** Transfer the amounts from Column A and Column B of Line 12(d) of the Detailed Summary Page to the corresponding columns on Line 6(b).

**LINE 6(c)** For both Column A and Column B subtract Line 6(b) from 6(a) to derive the figures for 6(c).

**LINE 7(a)** Transfer the amounts from Column A and Column B of Line 13 of the Detailed Summary Page to the corresponding columns on Line 7(a).

**LINE 7(b)** Transfer the amounts from Column A and Column B of Line 14 of the Detailed Summary Page to the corresponding columns on Line 7(b).

**LINE 7(c)** For both Column A and Column B subtract Line 7(b) from 7(a) to derive the figures for Line 7(c).

**LINE 8** Transfer the total amount of cash on hand at the close of the reporting period from Line 27 of the Detailed Summary Page to Line 8.

**LINE 9** Transfer the total amount of debts and obligations owed TO the committee from Schedule C or D.

**LINE 10** Transfer the total amount of debts and obligations owed BY the committee from Schedule C or D.

## DETAILED SUMMARY PAGE

of Receipts and Disbursements  
(Page 2, FEC FORM 3)

Name of Committee (in full)	Report Covering the Period:	
	From:	To:
I. RECEIPTS	COLUMN A Total This Period	COLUMN B Calendar Year-To-Date
<b>11. CONTRIBUTIONS (other than loans) FROM:</b>		
(a) Individuals/Persons Other Than Political Committees		
(i) Itemized (use Schedule A)		11(a)(i)
(ii) Unitemized		11(a)(ii)
(iii) Total of contributions from individuals		11(a)(iii)
(b) Political Party Committees		11(b)
(c) Other Political Committees (such as PACs)		11(c)
(d) The Candidate		11(d)
(e) TOTAL CONTRIBUTIONS (other than loans )(add 11(a)(iii), (b), (c) and (d))		11(e)
<b>12. TRANSFERS FROM OTHER AUTHORIZED COMMITTEES.</b>		12
<b>13. LOANS:</b>		
(a) Made or Guaranteed by the Candidate		13(a)
(b) All Other Loans		13(b)
(c) TOTAL LOANS (add 13(a) and (b))		13(c)
<b>14. OFFSETS TO OPERATING EXPENDITURES (Refunds, Rebates, etc.)</b>		14
<b>15. OTHER RECEIPTS (Dividends, Interest, etc.)</b>		15
<b>16. TOTAL RECEIPTS (add 11(e), 12, 13(c), 14 and 15)</b>		16
II. DISBURSEMENTS		
<b>17. OPERATING EXPENDITURES</b>		17
<b>18. TRANSFERS TO OTHER AUTHORIZED COMMITTEES.</b>		18
<b>19. LOAN REPAYMENTS:</b>		
(a) Of Loans Made or Guaranteed by the Candidate		19(a)
(b) Of All Other Loans		19(b)
(c) TOTAL LOAN REPAYMENTS (add 19(a) and (b))		19(c)
<b>20. REFUNDS OF CONTRIBUTIONS TO:</b>		
(a) Individuals/Persons Other Than Political Committees		20(a)
(b) Political Party Committees		20(b)
(c) Other Political Committees (such as PACs)		20(c)
(d) TOTAL CONTRIBUTION REFUNDS (add 20(a), (b) and (c))		20(d)
<b>21. OTHER DISBURSEMENTS</b>		21
<b>22. TOTAL DISBURSEMENTS (add 17, 18, 19(c), 20(d) and 21).</b>		22
III. CASH SUMMARY		
<b>23. CASH ON HAND AT BEGINNING OF REPORTING PERIOD</b>	\$	23
<b>24. TOTAL RECEIPTS THIS PERIOD (from Line 16)</b>	\$	24
<b>25. SUBTOTAL (add Line 23 and Line 24)</b>	\$	25
<b>26. TOTAL DISBURSEMENTS THIS PERIOD (from Line 22)</b>	\$	26
<b>27. CASH ON HAND AT CLOSE OF THE REPORTING PERIOD (subtract Line 26 from 25).</b>	\$	27

## INSTRUCTIONS FOR DETAILED SUMMARY PAGE -- FEC FORM 3

An authorized committee must report the total amount of receipts and disbursements during the reporting period and during the calendar year for each category of receipts and disbursements on FEC FORM 3. The committee's full name and the coverage dates for the report must be entered in the appropriate blocks. If there are no receipts or disbursements for a particular category for a reporting period or calendar year enter "0".

To derive the "Calendar Year-to-Date" figure for each category, the political committee should add the "Calendar Year-to-Date" total from the previous report to the "Total This Period" from Column A for the current report. For the first report filed for a calendar year, the "Calendar Year-to-Date" figure is equal to the "Total This Period" figure.

**LINE 11(a)(i)** Enter the total amount of **contributions (other than loans) from individuals, partnerships, and other persons** who are not political committees that are required to be itemized on Schedule A. For each such person who has made one or more contributions during the calendar year aggregating in excess of \$200, the committee must itemize on Schedule A and provide the identification (full name, mailing address, occupation and name of employer) of the person, date and amount of each contribution aggregating in excess of \$200, the aggregate year-to-date total and whether the contributions is for a primary, general, or other election.

**LINE 11(a)(ii)** Enter the total amount of all contributions from individual persons other than political committees not required to be itemized on Schedule A.

**LINE 11(a)(iii)** Add lines 11(a)(i) and 11(a)(ii) to derive the figure for Column A. For the Column B figure, see above instructions for how to calculate the Calendar Year-to-Date figure.

**LINE 11(b)** Enter the total amount of **contributions (other than loans) from political party committees** on Line 11(b). These contributions must be itemized on Schedule A, regardless of the amount. For each contribution, provide the identification (full name and address) of the committee, date and amount of the contribution, the aggregate year-to-date total and whether the contribution is for a primary, general or other election.

**LINE 11(c)** Enter the total amount of **contributions (other than loans) from other political committees** on Line 11(c). These contributions must be itemized on Schedule A, regardless of the amount. For each contribution, provide the identification (full name and address) of the committee, date and amount of the contribution, the aggregate year-to-date total, and whether the contribution is for a primary, general or other election. Do not abbreviate committee names.

**LINE 11(d)** Enter the total amount of **contributions (other than loans) from the candidate** on Line 11(d). If the candidate makes one or more contributions during the calendar year aggregating in excess of \$200, the committee must provide on Schedule A the identification (full name, mailing address, occupation and name of employer), date and amount of each contribution aggregating in excess of \$200, and the aggregate year-to-date totals.

**LINE 11(e)** For both Column A and Column B add Lines 11(a)(iii), 11(b), 11(c) and 11(d) to derive the figures for Line 11(e).

**LINE 12** Enter the total amount of **transfers from other authorized committees** of the same candidate on Line 12. Loans and loan repayments received from other authorized committees of the same candidate must be included on this line and not on Line 13(b). These transfers must be itemized on Schedule A, regardless of the amount. For each transfer, provide the identification (full name and mailing address) of the committee, date and amount of the transfer and the aggregate year-to-date total.

**LINE 13(a)** Enter the total amount of **loans made or guaranteed by the candidate** on Line 13(a). This category includes personal loans from the candidate and loans from lending institutions which are secured, endorsed or guaranteed by the candidate and used in connection with the candidate's campaign for Federal office. All loans made, guaranteed or endorsed by the candidate must be itemized on Schedule A, regardless of the amount. For each loan, provide the identification (full name, mailing address, occupation and name of employer), date and amount of the loan and the aggregate year-to-date total (see also instructions for Schedule C). NOTE: A loan guaranteed by the candidate and any other person(s) must be apportioned between the candidate on Line 13(a) and the other person(s) on Line 13(b).

**LINE 13(b)** Enter the total amount of **all other loans** received on Line 13(b). This category includes all other types of loans. These loans must be itemized on Schedule A, regardless of the amount. For each loan provide the identification (full name, mailing address and where applicable, occupation and name of employer) of the person making the loan, date and amount of the loan, the aggregate year-to-date total and whether the loan is for a primary, general or other election. The committee must also provide on Schedule C the identification of any endorser or guarantor and the amount of the endorsement or guarantee (see also instructions for Schedule C).

**LINE 14** Enter the total amount of **offsets to operating expenditures** (including refunds, rebates, and returns of deposits) on Line 14. For each person who provides rebates, refunds and other offset to operating expenditures aggregating in excess of \$200 for

the calendar year, the committee must provide on Schedule A the identification of the person, date and amount of each receipt aggregating in excess of \$200 and the aggregate year-to-date total.

**LINE 15** Enter the total amount of **other receipts** (including dividends and interest) on Line 15. For each person who provides any dividends, interest or other receipts aggregating in excess of \$200 for the calendar year, the committee must provide on Schedule A the identification of the person, the date and amount of each receipt aggregating in excess of \$200 and the aggregate year-to-date total.

**LINE 16** For both Column A and Column B add Lines 11(e), 12, 13(c), 14 and 15 to derive the figures for Line 16.

**LINE 17** Enter the total amount of **operating expenditures** on Line 17. Examples of operating expenditures are: media advertising, newspaper advertising, salaries, travel, rent and telephones. For each person who receives payments for operating expenditures aggregating in excess of \$200 for the calendar year, the committee must provide on Schedule B the full name and mailing address, date and amount of each operating expenditure aggregating in excess of \$200 and the purpose of the expenditure (see also instructions for Schedule B).

**LINE 18** Enter the total amount of **transfers to other authorized committees** of the same candidate on Line 18. These transfers must be itemized on Schedule B, regardless of the amount. For each transfer, provide the full name and mailing address of the recipient committee, date and amount and state that the purpose of the disbursement is a "transfer".

**LINE 19(a)** Enter the total amount of **loan repayments of loans made or guaranteed by the candidate** on Line 19(a). All loan repayments must be itemized on Schedule B, regardless of the amount. For each person who receives a loan repayment, provide the full name, mailing address, date, amount and state that the purpose of the disbursement is a "loan repayment" (see also instructions for Schedule C).

**LINE 19(b)** Enter the total amount of **loan repayments of all other loans** on Line 19(b) (see instructions for Line 19(a) for other reporting requirements).

**LINE 19(c)** For both Column A and Column B add Lines 19(a) and 19(b) to derive the figures for Line 19(c).

**LINE 20(a)** Enter the total amount of **contribution refunds to individuals/persons other than political committees** on Line 20(a). For each person who receives a refund of a contribution which was previously itemized on Schedule A, the committee must provide on Schedule B the full name, mailing address, date, amount and state that the purpose of the disbursement is a "contribution refund".

**LINE 20(b)** Enter the total amount of **contribution refunds to political party committees** on Line 20(b). All such refunds must be itemized on Schedule B, regardless of the amount. For each contribution refund, provide the full name, mailing address, date, amount, and state that the purpose of the disbursement is a "contribution refund".

**LINE 20(c)** Enter the total amount of **contribution refunds to other political committees** on Line 20(c) (see instructions for Line 20(b) for other reporting requirements).

**LINE 20(d)** For both Column A and Column B add Lines 20(a), 20(b) and 20(c) to derive the figures for Line 20(d).

**LINE 21** Enter the total amount of **other disbursements** on Line 21. For each such person who receives any disbursement(s) not otherwise disclosed where the aggregate amount or value is in excess of \$200, the committee must provide the full name and address of each such person, together with the date, amount and purpose of any such disbursement.

**LINE 22** For both Column A and Column B add the totals on Lines 17, 18, 19(c), 20(d) and 21 to derive the figures for Line 22.

**LINE 23** Enter the total amount of **cash on hand at the beginning of the reporting period**. This amount includes: currency; balance on deposit in banks, savings and loans institutions, and other depository institutions; traveler's checks owned by the committee; certificates of deposit, treasury bills and other committee investments valued at cost.

**LINE 24** Transfer the amount from Column A of Line 16 to Line 24.

**LINE 25** Add Lines 23 and 24 to derive the figure for Line 25.

**LINE 26** Transfer the amount from Column A of Line 22 to Line 26.

**LINE 27** Subtract Line 26 from Line 25 to derive cash on hand at the close of the reporting period for Line 27.

**SCHEDULE A**

**ITEMIZED RECEIPTS**

Use separate schedule(s) for each category of the Detailed Summary Page

PAGE	OF
FOR LINE NUMBER	

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (in Full)

<b>A. Full Name, Mailing Address and ZIP Code</b>  Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Name of Employer	Date (month, day, year)	Amount of Each Receipt this Period
	Occupation		
	Aggregate Year-to-Date > \$		
<b>B. Full Name, Mailing Address and ZIP Code</b>  Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Name of Employer	Date (month, day, year)	Amount of Each Receipt this Period
	Occupation		
	Aggregate Year-to-Date > \$		
<b>C. Full Name, Mailing Address and ZIP Code</b>  Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Name of Employer	Date (month, day, year)	Amount of Each Receipt this Period
	Occupation		
	Aggregate Year-to-Date > \$		
<b>D. Full Name, Mailing Address and ZIP Code</b>  Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Name of Employer	Date (month, day, year)	Amount of Each Receipt this Period
	Occupation		
	Aggregate Year-to-Date > \$		
<b>E. Full Name, Mailing Address and ZIP Code</b>  Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Name of Employer	Date (month, day, year)	Amount of Each Receipt this Period
	Occupation		
	Aggregate Year-to-Date > \$		
<b>F. Full Name, Mailing Address and ZIP Code</b>  Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Name of Employer	Date (month, day, year)	Amount of Each Receipt this Period
	Occupation		
	Aggregate Year-to-Date > \$		
<b>G. Full Name, Mailing Address and ZIP Code</b>  Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Name of Employer	Date (month, day, year)	Amount of Each Receipt this Period
	Occupation		
	Aggregate Year-to-Date > \$		

SUBTOTAL of Receipts This Page (optional) .....

TOTAL This Period (last page this line number only) .....

## INSTRUCTIONS FOR PREPARING SCHEDULE A

The Detailed Summary Page is broken down into various categories of receipts. Use Schedule A to list each receipt required to be itemized. DO NOT combine more than one category of receipts on the same Schedule A. Instead, use a separate Schedule A for each category of receipts. The line number of the Detailed Summary Page to which each Schedule A pertains should be identified in the upper right corner of each Schedule. In addition, the committee's full name must be entered in the appropriate block. For each receipt required to be itemized during the reporting period, the political committee must provide the identification, date and amount of the receipt, and the aggregate year-to-date total.

The term "identification" means, in the case of an individual, his or her full name, including: first name, middle name or initial, if available, and last name; mailing address; occupation; and the name of his or her employer; and, in the case of any other person, the person's full name and address. Do not abbreviate committee names.

The occupation and name of employer is only required to be provided for receipts from individuals. "Occupation" means the principal job title or position of an individual and whether or not self-employed. "Employer" means the organization or person by whom an individual is employed, and not the name of his or her supervisor.

Authorized committees must indicate the election for which the receipt was given. In the event the receipt was given for an election other than the current primary or general election, the "Other" block must be checked and the type of election specified (i.e., "General 1986," "Primary 1986"). The "receipt for" block does not apply to political committees which are not authorized committees. The "aggregate year-to-date" total must be given for each receipt and must equal the total amount that the person has given to the committee for that particular category of receipts for the calendar year. If a receipt is the only receipt from a person during the calendar year, the aggregate year-to-date total must still be entered.

The "Total This Period" amount (the last line on Schedule A) must be added to all other receipts for that category which are not itemized and carried forward to Column A of the corresponding line of the Detailed Summary Page.

If a contribution is received from a business entity or is drawn on what is or appears to be a business account, the political committee must determine that the contribution is not from a corporation, government contractor, or other prohibited source. If the contribution is from a prohibited source, it must be refunded within thirty days of its receipt.

A contribution which appears to be excessive, either on its face or when aggregated with other contributions from the same person, may be returned or deposited into a campaign depository but not used. If deposited, the contributor may be asked if a joint contribution was intended and, if so, to submit a written reattribution of the contribution signed by each contributor. The contributor may also be asked to redesignate the contribution for a different election if such a contribution would otherwise be permissible. If no redesignation or reattribution is received, the excessive contribution must be refunded within sixty days of its receipt. Both redesignations and reattributions are to be reported as memo entries on the report covering the period in which the committee receives the redesignations or reattributions. Indicate how the contribution(s) was reported initially, followed by the redesignated or reattributed entry(ies). See 11 CFR 104.8 for the reporting of these types of contributions.

Contributions to a candidate or authorized committee which are not designated by the contributor for a specific election must be counted toward the contributor's limitation for the next election after the contribution is made. Contributions may be made for a past election only to the extent that the recipient has net debts outstanding from that particular election.

**Contributions In-Kind.** Contributions in-kind (i.e., goods and services provided to a political committee) are treated as any other contribution and must be reported and itemized under the appropriate category of receipts. For example, a contribution in-kind from an individual must be itemized on Schedule A and reported under the category for "Contributions From Individuals/Persons Other Than Political Committees." The value of each contribution in-kind must be entered in the "Amount of Each Receipt This Period" column. The amount or value of the contribution in-kind is the difference between the usual and normal charge for the goods or services at the time of the contribution and the amount charged the political committee. The "aggregate year-to-date" total must include the total amount of all contributions which the person has contributed to the committee during the calendar year. The item must be labeled "contribution in-kind" and include the nature of the contribution (e.g., consulting, polling, etc.). Each contribution in-kind must also be reported in the same manner as an operating expense on Schedule B and included in the total for "Operating Expenditures" (NOTE: A political committee which makes a contribution in-kind only reports it as a disbursement and itemizes the transaction on Schedule B with a notation "contribution in-kind." The purpose of the expenditure (e.g., consulting, polling, etc.) and the aggregate year-to-date amount must also be provided. The committee receiving the contribution in-kind must report it as both a receipt and an expenditure.)

Contributions of stocks, bonds, art objects, and other similar items to be liquidated must be reported as follows:

(1) If the item has not been liquidated at the close of the reporting period, the committee must record as a memo entry (not as cash) on Schedule A the item's fair market value on the date received, including the name and mailing address (and when in excess of \$200, the occupation and name of the employer) of the

contributor. The total amount of items to be liquidated must be entered under "Total This Period" on the last line of Schedule A. This amount must NOT be carried forward to the Detailed Summary Page.

(2) When the item is sold, the committee must report the proceeds and include them in the appropriate categories on the Detailed Summary Page. It must also report the (i) name and mailing address (and, where in excess of \$200, the occupation and name of employer) of the purchaser on Schedule A, if purchased directly from the committee (the purchaser is considered to have made a contribution to the committee); and (ii) the identification of the original contributor on Schedule A.

**Exempt Legal or Accounting Services.** Legal or accounting services rendered to or on behalf of an authorized committee of a candidate or any other political committee are not contributions or expenditures and are not, therefore, subject to the contribution limitations and prohibitions, if the person paying for the services is the regular employer of the individual rendering the services and if the services are solely to ensure compliance with the Act.

The political committee must itemize as a memo entry on a separate Schedule A each person who provides legal or accounting services to the political committee in an aggregate value or amount in excess of \$200 within the calendar year, together with the date of receipt and amount or value of the exempt legal or accounting services, and state that the receipt is for "exempt legal or accounting service." The total amount of exempt legal or accounting services must be entered on the line for "Total This Period" on the bottom of Schedule A, but the total amount may not be carried forward to any category or line number on the Detailed Summary Page.

**Earmarked Contributions.** For each earmarked contribution received (regardless of the amount), the political committee must report on Schedule A the name and address of the original contributor, the date of receipt and the amount of the contribution and, if the original contributor makes contributions aggregating in excess of \$200 to the political committee during the calendar year, the occupation and name of employer. If the contribution passes through the political committee's account and is forwarded to another political committee or Federal candidate, the conduit committee must disclose each contribution, regardless of the amount, on both Schedule A and Schedule B and include the amount under the appropriate category of receipts and disbursements. If the contribution was passed on in the form of the contributor's check, the conduit must disclose each contribution on a separate Schedule A attached to the conduit's (intermediary) next report and the amounts of such contributions are not required to be included in the totals for the appropriate categories of receipts and disbursements. If a political committee is not a conduit, but is the intended recipient, the political committee must report each conduit through which the earmarked contribution passed, including the name and address of the conduit, and whether the contribution was passed on in cash, by the contributor's check, or by the conduit's check. If the conduit exercises direction and control over the contribution, the earmarked contribution must also be attributed to the contribution limitations of the conduit.

**Checks Returned Due to Insufficient Funds.** If a contributor's check is returned to the political committee due to insufficient funds and the receipt of the check was previously reported, the political committee must report the return under the appropriate category of receipts as a negative entry and net out the amount of the check from the total for that category. If the original receipt of the check was itemized on Schedule A, the return of the check must also be itemized as a negative entry on Schedule A. If the receipt of the check was never reported, the return of the check should not be reported.

**Check Refunded to the Committee.** A contribution may be refunded to the committee in one of two ways:

(1) The original check is returned uncashed. If the contribution was reported, the refund should be reported as a negative entry on Schedule B, and the amount of the contribution refund subtracted from the disbursement totals on the line of the Detailed Summary Page that it was reported on.

(2) The original check is not returned and the refund is made by a check from the recipient of the contribution. Such a transaction should be reported as a receipt on Schedule A for the appropriate line of the Detailed Summary Page. This procedure is applicable regardless of whether the amount refunded is the full or only a partial refund of the contribution or whether the contribution was previously reported.

**Best Efforts.** When the treasurer of a political committee shows that best efforts have been used to obtain, maintain and submit the information required, the committee shall be considered in compliance with the Act.

With regard to reporting the identification of each person whose contribution(s) to the committee and its affiliated committees aggregate in excess of \$200 in a calendar year, the treasurer will not be deemed to have exercised best efforts to obtain the required information unless he or she has made at least one effort per solicitation either by written request or by an oral request documented in writing to obtain the information from the contributor. The effort shall consist of a clear request for the information (i.e., name, mailing address, occupation, name of employer) which informs the contributor that the reporting of the information is required by law.



**SCHEDULE B ITEMIZED DISBURSEMENTS**

Use separate schedule(s) for each category of the Detailed Summary Page	PAGE	OF
	FOR LINE NUMBER	

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (in Full)			
A. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
	Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		
B. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
	Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		
C. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
	Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		
D. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
	Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		
E. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
	Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		
F. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
	Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		
G. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
	Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		
H. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
	Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		
I. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
	Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		
SUBTOTAL of Disbursements This Page (optional) .....			
TOTAL This Period (last page this line number only) .....			

## INSTRUCTIONS FOR PREPARING SCHEDULE B

The Detailed Summary Page is broken down into various categories of disbursements. Use Schedule B to list each disbursement required to be itemized. DO NOT combine more than one category of disbursements on the same Schedule B. Instead, use a separate Schedule B for each category of disbursements. The line number of the Detailed Summary Page to which each Schedule B pertains should be identified in the upper right corner of each Schedule. In addition, the committee's full name must be entered in the appropriate block.

For each disbursement required to be itemized during the reporting period, the political committee must provide the full name, mailing address, date, amount, and purpose of the disbursement.

The term "purpose" means a brief statement or description of why the disbursement was made. Examples of adequate descriptions include the following: dinner expenses, media, salary, polling, travel, party fees, phone banks, travel expenses, travel expense reimbursement, and catering costs. However, statements or descriptions such as "advance," "election day expenses," "other expenses," "expense reimbursement," "miscellaneous," "outside services," "get-out-the-vote," and "voter registration," would not meet the requirement for reporting the purpose of an expenditure. If the disbursement is a "loan repayment," "contribution refund," or other similar category of disbursement (other than an operating expenditure), the name of the category of disbursement (i.e., "loan repayment," etc.) is sufficient to meet the requirement for reporting the purpose of an expenditure.

For disbursements that are contributions to Federal candidates, or authorized committees, the committee must include under "Purpose of Disbursement" the name of the

candidate and office sought (including State and congressional district, where applicable) and the aggregate year-to-date total of contributions made to that candidate or committee in the purpose of disbursement box.

For each contribution to a Federal candidate or authorized committee indicate in the election check-off box the election for which the contribution was made. Contributions to a candidate or authorized committee which are not designated by the contributor for a specific election must be counted toward the contributor's limitation for the next election after the contribution is made. Contributions may be made for a past election only to the extent that the recipient has net debts outstanding from that particular election. In the event the contribution was made for an election prior to the current election cycle, the "Other" box must be checked and the type of election specified (e.g., "General 1986," "Primary 1986"). The election check-off boxes provided for each itemized entry on Schedule B should not be used when itemizing operating expenditures.

The "Total This Period" amount (the last line on Schedule B) must be added to all other disbursements for that category which are not itemized and carried forward to Column A of the corresponding line of the Detailed Summary Page.

### CONTRIBUTIONS IN-KIND RECEIVED

Contributions in-kind received by the committee which are itemized on Schedule A must also be itemized as an operating expenditure on Schedule B. In addition, in the "Purpose of Disbursement" box include the notation "Contribution In-Kind," and the nature of the expenditure (e.g., consulting, polling, etc.).

**SCHEDULE C**  
(Revised 3/80)

**LOANS**

Page \_\_\_\_ of \_\_\_\_ for  
LINE NUMBER \_\_\_\_  
(Use separate schedules  
for each numbered line)

Name of Committee (in Full)			
A. Full Name, Mailing Address and ZIP Code of Loan Source	Original Amount of Loan	Cumulative Payment To Date	Balance Outstanding at Close of This Period
Election: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):			
Terms: Date Incurred _____ Date Due _____ Interest Rate _____%(apr) <input type="checkbox"/> Secured			
List All Endorsers or Guarantors (if any) to Item A			
1. Full Name, Mailing Address and ZIP Code	Name of Employer		
	Occupation		
	Amount Guaranteed Outstanding: \$		
2. Full Name, Mailing Address and ZIP Code	Name of Employer		
	Occupation		
	Amount Guaranteed Outstanding: \$		
3. Full Name, Mailing Address and ZIP Code	Name of Employer		
	Occupation		
	Amount Guaranteed Outstanding: \$		
B. Full Name, Mailing Address and ZIP Code of Loan Source			
Election: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):			
Terms: Date Incurred _____ Date Due _____ Interest Rate _____%(apr) <input type="checkbox"/> Secured			
List All Endorsers or Guarantors (if any) to Item B			
1. Full Name, Mailing Address and ZIP Code	Name of Employer		
	Occupation		
	Amount Guaranteed Outstanding: \$		
2. Full Name, Mailing Address and ZIP Code	Name of Employer		
	Occupation		
	Amount Guaranteed Outstanding: \$		
3. Full Name, Mailing Address and ZIP Code	Name of Employer		
	Occupation		
	Amount Guaranteed Outstanding: \$		
SUBTOTALS This Period This Page (optional) . . . . .			
TOTALS This Period (last page in this line only) . . . . .			
Carry outstanding balance only to LINE 3, Schedule D, for this line. If no Schedule D, carry forward to appropriate line of Summary.			

## INSTRUCTIONS FOR PREPARING SCHEDULE C

A loan is a contribution at the time it is made and is a contribution to the extent it remains unpaid. A LOAN WHICH EXCEEDS THE CONTRIBUTION LIMITATIONS IS UNLAWFUL WHETHER OR NOT IT IS REPAYED. The aggregate amount loaned to a candidate or committee by another individual or political committee, when added to other contributions from that individual or political committee to that candidate or committee, shall not exceed the contribution limitations. A loan, to the extent it is repaid, is no longer a contribution. All loans to a political committee (regardless of amount) must be disclosed on the first report filed with the Commission after the date the loan is made.

When filling out Schedule C, the committee must enter its full name in the box at the top of the page.

DO NOT combine loans owed TO the committee with those owed BY the committee on the same Schedule C. Instead, use a separate Schedule C. Each loan should be reported separately until extinguished.

### LOANS OWED BY THE COMMITTEE

When a loan is received by the committee, it must be itemized on Schedule A and must also be disclosed on Schedule C (see also instructions for Schedule A for itemizing loans received by the committee). For each loan owed BY the reporting committee at the close of the reporting period, the committee must report certain basic information on Schedule C in the appropriate boxes: (1) full name, mailing address and zip code of the creditor; (2) if the committee is an authorized committee, the election to which the loan applies (i.e., primary, general or other); (3) the original amount of the loan; (4) the cumulative payment to date on the loan; and (5) the outstanding balance at the close of the reporting period (i.e., the remaining unpaid portion of the loan).

Certain additional information must be entered on Schedule C in the box entitled TERMS: (1) if an intermediary is reported as the source of the loan, the original source of the loan (which must be disclosed in the first box for endorser and guarantors with a notation that the person identified is the original source); (2) the date the obligation was incurred; (3) the date the loan is due or the amortization schedule (if there is no due date or amortization schedule, enter "None" on the appropriate line); (4) the actual rate of interest charged on each loan (if the loan does not bear an interest rate, enter "None" on the appropriate line); and (5) check the box if the loan has been secured.

In instances where the loan has endorser or guarantors, the following information must be supplied: (1) the identification of each endorser or guarantor, and (2) the amount of the endorsement or guarantee outstanding at the close of the reporting period. The term "identification" means (a) in the case of an individual, his or her full name, mailing address, occupation, and name of employer; and (b) in the case of any other person, the person's full name and address.

Loans owed BY the committee must continue to be reported on each subsequent report until repaid. When a payment is made to reduce or extinguish the amount of a loan owed BY the committee, the payment must be itemized on Schedule B, reported on the appropriate line of the Detailed Summary Page, and included in the "Cumulative Payment to Date" column on Schedule C. If any extension for repayment is granted, this should be reported on the first report after the extension is made.

If a loan is settled for less than the reported amount, the reporting committee must include a statement as to the circumstances and conditions under which the debt or obligation was extinguished and the amount paid. A loan owed BY a political committee which is forgiven or settled for less than the amount owed is a contribution. The total amount of loans owed BY the committee at the close of the reporting period must be entered on the line for "Total This Period" on the bottom of the last page and transferred to Line 3 of the last page of Schedule D. If no debts or obligations are reported on Schedule D, carry the outstanding balance forward to the Summary Page.

### LOANS OWED TO THE COMMITTEE

When a loan is made by the committee, it must be itemized on Schedule B and must also be disclosed on Schedule C (see also instructions for Schedule B for itemizing loans made by the committee). For each loan owed TO the committee at the close of the reporting period, the committee must report certain basic information on Schedule C in the appropriate boxes: (1) the full name, mailing address and zip code of each debtor; (2) if the loan was made by a political committee other than an authorized committee and was made to a Federal candidate or authorized committee, the election to which the loan applies (i.e., primary, general or other); (3) the original amount of the loan; (4) the cumulative payment to date on the loan; and (5) the outstanding balance at the close of the reporting period (i.e., the remaining unpaid portion of the loan).

Certain additional information must be entered on Schedule C in the box entitled TERMS: (1) the date the obligation was incurred; (2) the date the loan

is due or the amortization schedule (if there is no due date or amortization schedule, enter "None" on the appropriate line); (3) the actual rate of interest charged on the loan (if the loan does not bear an interest rate, enter "None" on the appropriate line); and (4) check the box if the loan has been secured. Loans owed TO the committee must continue to be reported on each subsequent report until repaid. When a payment is received to reduce or extinguish a loan owed TO the committee, the payment must be itemized on Schedule A, reported on the appropriate line of the Detailed Summary Page, and included in the "Cumulative Payment to Date" column on Schedule C. If any extension of repayment is granted or made, this should be reported on the first report after the extension is made.

The total amount of loans owed TO the committee at the close of the reporting period must be entered on the line for "Total This Period" on the bottom of the last page and transferred to Line 3 of the last page of Schedule D. If no debts or obligations are reported on Schedule D, carry the outstanding balance forward to the Summary Page.

### MISCELLANEOUS

**Loans by Financial Institutions.** A loan of money by a State bank, a federally chartered depository institution (including a national bank) or a depository institution whose deposits and accounts are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration is not a contribution by the lending institution if the loan is made in accordance with applicable banking laws and regulations and is made in the ordinary course of business. A loan will be deemed to be made in the ordinary course of business if it: bears the usual and customary interest rate of the lending institution for the category of loan involved; is made on a basis that assures repayment; is evidenced by a written instrument, and is subject to a due date or an amortization schedule.

**Candidate Loans.** If a candidate personally receives a loan from a financial institution or other person, which is loaned or given to the campaign or used in the campaign, the candidate's principal campaign committee must disclose all information with respect to that loan. The financial institution or other person must be listed as the original source of the loan and the candidate listed as an intermediary. Loans obtained by an individual prior to becoming a candidate for use in connection with that individual's campaign must be reported as an outstanding loan owed TO the lender by the candidate's principal campaign committee, if the loan is outstanding at the time the individual becomes a candidate.

**Loans by Political Committees.** If a political committee makes a loan TO any person, the loan shall be subject to the contribution limitations. Repayment to the political committee of the principal amount of the loan is not a contribution by the debtor to the lender committee. The repayment must be made with funds which are permissible under the Act. The payment of interest to the committee by the debtor is a contribution only to the extent that the interest paid exceeds a commercially reasonable rate prevailing at the time the loan is made. All payments of interest must be made from funds which are permissible under the Act.

**Endorsers and Guarantors.** A loan is a contribution by each endorser or guarantor. Each endorser or guarantor shall be deemed to have contributed that portion of the total amount of the loan for which he or she agreed to be liable in a written agreement. Any reduction in the unpaid balance of the loan shall reduce proportionately the amount endorsed or guaranteed by each endorser or guarantor in such written agreement. In the event that such agreement does not stipulate the portion of the loan for which each endorser or guarantor is liable, the loan shall be considered a loan by each endorser or guarantor in the same proportion to the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors.

**Loan Repayments.** Each committee must disclose all loan payments received or made by the committee. When a loan repayment is received by a committee, the repayment must be itemized on Schedule A and included in the "Cumulative Payment to Date" column on Schedule C. When a loan repayment is made by a committee, the repayment must be itemized on Schedule B and included in the "Cumulative Payment to Date" column on Schedule C. For a political committee other than an authorized committee, the total amount of loan repayments received and the total amount of loan repayments made must be disclosed on the appropriate lines of the Detailed Summary Page. For authorized committees, the total amount of loan repayments of loans made or guaranteed by the candidate and the total amount of loan repayments of all other loans must be disclosed on the appropriate lines of the Detailed Summary Page.

**SCHEDULE D**  
(Revised 3/80)

**DEBTS AND OBLIGATIONS**  
Excluding Loans

Page \_\_\_\_ of \_\_\_\_ for  
LINE NUMBER \_\_\_\_  
(Use separate schedules  
for each numbered line)

Name of Committee (in Full)	Outstanding Balance Beginning This Period	Amount Incurred This Period	Payment This Period	Outstanding Balance at Close of This Period
A. Full Name, Mailing Address and Zip Code of Debtor or Creditor				
Nature of Debt (Purpose):				
B. Full Name, Mailing Address and Zip Code of Debtor or Creditor				
Nature of Debt (Purpose):				
C. Full Name, Mailing Address and Zip Code of Debtor or Creditor				
Nature of Debt (Purpose):				
D. Full Name, Mailing Address and Zip Code of Debtor or Creditor				
Nature of Debt (Purpose):				
E. Full Name, Mailing Address and Zip Code of Debtor or Creditor				
Nature of Debt (Purpose):				
F. Full Name, Mailing Address and Zip Code of Debtor or Creditor				
Nature of Debt (Purpose):				
1) SUBTOTALS This Period This Page (optional) . . . . .				
2) TOTAL This Period (last page this line only) . . . . .				
3) TOTAL OUTSTANDING LOANS from Schedule C (last page only) . . . . .				
4) ADD 2) and 3) and carry forward to appropriate line of Summary Page (last page only) . . . . .				

## INSTRUCTIONS FOR PREPARING SCHEDULE D

When filling out Schedule D, the committee must enter its full name in the box at the top of the page.

DO NOT combine debts and obligations owed to the committee with those owed by the committee on the same Schedule D. Instead, use a separate Schedule D.

### **DEBTS AND OBLIGATIONS OWED BY THE COMMITTEE (Other Than Loans)**

For debts and obligations owed BY the reporting committee at the close of the reporting period and which are required to be disclosed, the committee must report the full name and mailing address of each creditor, the amount of the debt outstanding at the beginning of the period, the amount of the debt or obligation incurred this period (including any finance charges), the payment(s) this period to retire the debt or obligation, the outstanding balance at the close of the reporting period and the nature or purpose of the debt and obligation. The terms "nature" or "purpose" mean a brief statement or description of why the debt or obligation was incurred (e.g., media, salary, polling, supplies, mailing).

A written contract (including a media contract), promise, or agreement to make an expenditure which has not been paid for by the committee is an expenditure as of the date the contract, promise or obligation is made and is subject to the reporting requirements. Accounts payable and written contracts, promises, or agreements to make expenditures, in amounts of \$500 or less, need not be disclosed until outstanding for sixty days or more.

Debts and obligations owed BY the committee must continue to be reported on each subsequent report until extinguished or settled in a manner permitted by Federal Election Commission regulations (see 11 CFR 114.10 for settlement of corporate debts). When a payment is made to reduce or extinguish an obligation owed BY the committee, the payment must be itemized on Schedule B, reported on the appropriate line of the Detailed Summary Page, and included in the "Payment This Period" column on Schedule D. If a debt or obligation is settled for less than the reported amount or value, the reporting committee must include a statement as to the circumstances and conditions under which the debt or obligation was extinguished and the amount paid. A debt owed BY a political

committee which is forgiven or settled for less than the amount owed is a contribution unless the debt is forgiven or settled in accordance with 11 CFR 114.10. The extension of credit by any person for a length of time beyond normal business or trade practice is a contribution, unless the creditor has made a commercially reasonable attempt to collect the debt. The total amount of debts and obligations owed BY the committee during the reporting period must be entered at the bottom of the last page under "Total This Period" and added to the total loans owed BY the committee from Schedule C. The total amount of debts and obligations owed BY the committee (including loans) must be carried forward to the Summary Page.

### **DEBTS AND OBLIGATIONS OWED TO THE COMMITTEE (Other Than Loans)**

For each debt and obligation owed TO the committee at the close of the reporting period, the committee must report: the full name and mailing address of each debtor, the amount of the debt outstanding at the beginning of the period, the amount of the debt or obligation incurred this period, the payment(s) this period to retire the debt or obligation, the outstanding balance at the close of the reporting period and the nature or purpose of the debt or obligation. The terms "nature" or "purpose" mean a brief statement or description of why the debt or obligation was incurred (e.g., media, salary, polling, supplies, mailing). Written contracts or agreements (such as signed pledge cards), or oral promises to make contributions are not required to be reported.

Debts and obligations owed TO the committee must continue to be reported on each subsequent report until extinguished. When a payment is received to reduce or extinguish a debt or obligation owed TO the committee, the payment must be itemized on Schedule A, reported on the appropriate line of the Detailed Summary Page, and included in the "Payment This Period" column on Schedule D. The total amount of debts and obligations owed TO the committee during the reporting period must be entered at the bottom of the last page under "Total This Period" and added to the total loans owed TO the committee from Schedule C. The total amount of debts and obligations owed TO the committee (including loans) must be carried forward to the Summary Page.

FEC FORM 32

**CONSOLIDATION REPORT OF RECEIPTS AND DISBURSEMENTS**  
(To Be Used By A Principal Campaign Committee)

Name of Principal Campaign Committee				Report Covering Period:				
				From:		To:		
	Committee Name(s)			(a) Line No. 11(a) Total Contributions From Indiv./Persons Other Than Political Cmtes.	(b) Line No. 11(b) Total Contributions From Political Party Committees	(c) Line No. 11(c) Total Contributions From Other Political Committees	(d) Line No. 11(d) Total Contributions From The Candidate	(e) Line No. 11(e) Total Contributions
A								
B								
C								
D								
E								
F								
G								
H								
I	Column Total This Page . . . . .							
J	Column Total Last Page Only . . . . .							
	(f) Line No. 12 Total Transfers From Other Authorized Committees	(g) Line No. 13(a) Total Loans Made or Guaranteed by the Candidate	(h) Line No. 13(b) Total All Other Loans	(i) Line No. 13(c) Total Loans	(j) Line No. 14 Total Offsets to Operating Expenditures	(k) Line No. 15 Total Other Receipts	(l) Line No. 16 Total Receipts	(m) Line No. 17 Total Operating Expenditures
A								
B								
C								
D								
E								
F								
G								
H								
I								
J								
	(n) Line No. 18 Total Transfers to Other Authorized Committees	(o) Line No. 19(a) Total Loan Repayments of Loans Made or Guaranteed by the Candidate	(p) Line No. 19(b) Total Loan Repayments of All Other Loans	(q) Line No. 19(c) Total Loan Repayments	(r) Line No. 20(a) Total Contribution Refunds to Individuals/ Persons	(s) Line No. 20(b) Total Contribution Refunds to Political Party Committees	(t) Line No. 20(c) Total Contribution Refunds to Other Political Committees	(u) Line No. 20(d) Total Contribution Refunds
A								
B								
C								
D								
E								
F								
G								
H								
I								
J								
	(v) Line No. 21 Total Other Disbursements	(w) Line No. 22 Total Disbursements	(x) Line No. 23 Cash on Hand Beginning of Reporting Period	(y) Line No. 27 Cash on Hand Close of Reporting Period	(z) Line No. 9 Debts & Oblig. Owed TO the Committee	(za) Line No. 10 Debts & Oblig. Owed BY the Committee	(zb) Line No. 6(c) Net Contributions	(zc) Line No. 7(c) Net Operating Expenditures
A								
B								
C								
D								
E								
F								
G								
H								
I								
J								

### INSTRUCTIONS FOR PREPARING FEC FORM 3Z

A principal campaign committee which is the only authorized committee of a candidate does not use FEC FORM 3Z.

Form 3Z must be filed by the principal campaign committee if the candidate has authorized other political committees. The name of the principal campaign committee and the coverage dates for the report must be entered in the appropriate blocks at the top of the page. The name of the principal campaign committee, and all authorized committees must be listed in the column entitled "Committee Names". The candidate's activity must be reported by the principal campaign committee or by one of the other authorized committees. Each line is coded with a letter from A through J. All information for each committee is recorded on the same lettered line throughout the form (e.g., the principal campaign committee is on Line A for columns (a)-(cc)).

Columns (a) through (cc) on the Worksheet correspond to the numbered lines on the Summary Page of Receipts

and Expenditures (FEC FORM 3) and the Detailed Summary Page of Receipts and Expenditures (FEC FORM 3, page 2). For Lines (a)-(w) and (z)-(cc), the dollar amounts are transferred from Column A of each numbered line of each committee's report to the appropriate column on the Consolidation Report. For lines (x) and (y), there is no Column A and the dollar amounts are transferred from Line 23 and Line 27, respectively, of the Detailed Summary Page. The total for each column must be entered on Line I. If there are more than eight authorized committees, more than one FEC FORM 3Z will be needed and the total amount for each column for all pages must be entered on Line J for the last page.

The completed form must be submitted with the principal campaign committee's report and the reports of all other authorized committees for campaigns in which a candidate has authorized in writing more than one political committee to act on his or her behalf.



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