

The Biennial Contribution Limit

Federal Election Commission

Published in February 2004 (Updated June 2008)

Please note that the section of this brochure referring to the provisions of the Millionaires' Amendment has been affected by the Supreme Court decision in Davis v. FEC. Please visit the FEC's Litigation page (http://www.fec.gov/law/litigation_CCA_Alpha.shtml) for additional information.

Introduction

This brochure focuses on the biennial limit placed on all contributions made by an individual to influence federal elections.¹ (A section at the end of this brochure discusses other limitations that apply to federal contributions made by an individual.)

If you have any questions after reading this brochure, please call, write or visit:

Federal Election Commission:

999 E Street, N.W.

Washington, D.C. 20463

800/424-9530

202/694-1100 (local)

202/219-3336 (for the hearing impaired)

<http://www.fec.gov>

info@fec.gov

The Biennial Limit

As an individual, you are subject to a biennial limit on contributions made to federal candidates, party committees and political action committees (PACs). The limit is in effect for a two-year period beginning January 1st of the odd-numbered year and ending on December 31st of the even-numbered year. 11 CFR 110.5.

¹ Citations contained in this brochure refer to Federal Election Commission (FEC) regulations, contained in title 11 of the Code of Federal Regulations (11 CFR) and to advisory opinions (AOs). The reader should not rely solely on this brochure, but should also consult Commission regulations and advisory opinions. These materials can be viewed on the FEC web site.

The biennial limit is indexed for inflation in odd-numbered years. The **2007-08 limit is \$108,200**. This limit includes up to:

- \$42,700 in contributions to candidate committees²; and
- \$65,500 in contributions to any other committees, of which no more than \$42,700 of this amount may be given to committees that are not national party committees. 11 CFR 110.5(b)(1).

The Commission announces the amount of the adjusted overall limit in the *Federal Register* and on the FEC web site. 11 CFR 110.5(b)(4).

Moreover, within this biennial limit on total contributions, an individual may not exceed the specific limits placed on contributions to different types of committees, as illustrated in the contribution limits chart later in this brochure.

Application

As an individual, your contribution to a federal candidate counts against your biennial limit for the year in which the contribution is made, even if the candidate is not up for election within that two-year period.³ By contrast, the specific limits on your contributions to candidates apply on a per election basis. As a result, if you make a contribution during 2008 to support a Senate candidate's primary election campaign for 2010, the contribution would count against your 2010 primary election limit for that candidate, but would also count against your 2007-08 biennial limit.

Applying the biennial limit to your individual PAC and party contributions is more straightforward. Those contributions count against your biennial limit for the year in which the contribution is made and against your calendar year limit for that committee. For example, if you contributed \$28,500 to a national party committee in 2007, that contribution would count against your 2007-08 biennial limit and your \$28,500 calendar year limit to that committee for 2007.

Problem Areas to Watch Out For

The Commission cautions you to be especially aware of two situations that could cause you inadvertently to exceed the biennial limit:

- Joint contributions; and
- Contributions to political committees that have separate accounts for federal and nonfederal election activity.

² Under the so-called "Millionaires' Amendment," ** individual contribution limits to Congressional candidates may increase if the candidate's opponent makes expenditures from his or her personal funds above a certain threshold. Should this occur, contributions exceeding the normal \$2,300 per election individual limit would not be subject to the overall biennial limit. 11 CFR 110.5(b)(2).

Please note that the section of this brochure referring to the provisions of the Millionaires' Amendment has been affected by the Supreme Court decision in Davis v. FEC. Please visit the FEC's Litigation page (http://www.fec.gov/law/litigation_CCA_Alpha.shtml) for additional information.

³ Contributions to candidates made prior to January 1, 2004, count against the biennial limit for the year in which the candidate's election is held, regardless of when the contribution is made. For example, a contribution you made in 2003 to a Senate candidate running in 2006 would count against your biennial limit for 2005-06, rather than 2003-04.

Joint Contributions

A joint contribution typically occurs when you and another individual each make a contribution using a single check or written instrument. If you both sign the check, the contribution counts equally against your respective limits, unless you specify, in writing, a different split. 11 CFR 110.1(k)(1) and (2).

If, however, you alone sign the check or note, the recipient committee must attribute the entire amount to you. That amount will count against your biennial limit. 11 CFR 104.8(c).

Note that, if you make a contribution using a joint account, only you sign the check, and the contribution would be in excess of your limit if attributed solely to you, the excessive portion may be reattributed to the other account holder even though you are the only one who signed the check. 11 CFR 110.1(k)(3)(ii)(B).

Examples:

In 2007, you and your spouse write a check for \$5,000 to a PAC. If you both sign the check, \$2,500 counts against your 2007-08 biennial limit and \$2,500 towards your spouse's biennial limit for 2007-08. However, if only you sign the check, the entire \$5,000 contribution is attributed to you and counts towards your 2007-08 biennial limit.

In another case, you and your spouse write a \$6,000 check to a PAC and only your spouse signs the check. Since the full amount of the contribution would exceed your spouse's \$5,000 annual limit on contributions to the PAC, the committee could automatically consider the extra \$1,000 as a contribution from you.⁴ As a result, \$5,000 of the \$6,000 contribution would count against your spouse's 2007-08 biennial limit and the remaining \$1,000 would go towards yours.

Separate Accounts: Federal and Nonfederal

Some PACs and political party committees have separate accounts for federal and nonfederal election activity. Contributions deposited into the federal account are viewed as federal contributions and count against the biennial limit. Donations to the nonfederal account do not.

To avoid the possibility that a committee might deposit your nonfederal donation into its federal account without your knowledge or consent, the Commission recommends that you designate your donations for a specific account, either directly on the check or in an accompanying note. See AO 1988-18.

If Your Contributions Exceed the Biennial Limit

Exceeding the biennial limit is a violation of federal law. An individual who exceeds the limit faces a potential penalty equal to the amount of the contributions involved (or up to twice this amount in the case of a knowing and willful violation).⁵

⁴ The committee must notify both donors of its intention to reattribute the contribution, and offer the option of a refund.

⁵ For more information on the enforcement process, consult the FEC brochure *Filing a Complaint*.

If you inadvertently exceed the biennial limit, the Commission advises that you immediately take one or more of the steps listed below. Viewing such actions as mitigating circumstances, the Commission may decrease any potential civil money penalty.

Steps to Take:

1. Obtain Refunds from Committee.

Contact the committee (any type) to obtain a refund of those contributions that caused you to exceed the biennial limit. The Commission recommends that you document your requests in writing.

2. Reattribute Joint Contributions.

In the case of a contribution that was intended to be a joint contribution, but was not on its face excessive and was accompanied by only one contributor's signature, instruct the committee (any type), in writing, to reattribute a portion of the contribution to the other individual. Make sure:

- You and the other donor both sign the statement instructing the committee to reattribute the contribution;
- The reattribution does not cause either of you to exceed your contribution limits; and
- The reattribution occurs within 60 days of the treasurer's receipt of the contribution. 11 CFR 110.1(k)(3)(ii)(A).

Ask the committee to give you a written confirmation that your contributions were reattributed.

3. Request Transfers to Nonfederal Accounts.

Contact PACs and party committees to request that they transfer your contributions from their federal accounts to their nonfederal accounts, assuming that such transfers are legal under state law. See 11 CFR 102.6(a). The Commission recommends that you make requests in writing, and ask for written confirmation that the committees have made the requested transfers.

Other Limitations on Personal Federal Contributions

This section defines "contribution" and explains other limitations that apply when individuals make personal contributions. For more information on specific types of contributions and the contribution limits, consult the FEC publication *Supporting Federal Candidates: A Guide for Citizens* and the brochure *Contributions*. These materials are available on our web site, or may be ordered by calling 800/424-9530.

Definition of Contribution

Federal law defines a contribution as anything of value given to influence a federal election including:

- Donations of checks or currency;
- Donated items or services;

- Purchases of fundraising tickets and items;
- Loans;
- Endorsements and guarantees of bank loans; and
- Advances of personal funds.
11 CFR 100.52 and 100.53.

Limitations on Contributions You Make

The value of the contributions you make counts against dollar limits. You, the contributor, and the committees you contribute to are legally responsible for making sure that your contributions do not exceed your contribution limits. 11 CFR 110.1. The law places the following limits on any type of contribution you make to influence federal elections:

Individual Limits for 2007-2008

Recipient Federal Committee	Limit
Candidate Committee	\$2,300* per candidate, per election ⁶
National Party Committee	\$28,500* per calendar year
State, Local & District Party Committee	\$10,000 per calendar year ⁷ (combined limit)
Political Action Committee	\$5,000 per calendar year

* These contribution limits are indexed for inflation in odd-numbered years. The Commission announces the amount of the adjusted contribution limits in the *Federal Register* and on the FEC web site.

This publication provides guidance on certain aspects of federal campaign finance law. This publication is not intended to replace the law or to change its meaning, nor does this publication create or confer any rights for or on any person or bind the Federal Election Commission (Commission) or the public. The reader is encouraged also to consult the Federal Election Campaign Act of 1971, as amended (2 U.S.C. 431 et seq.), Commission regulations (Title 11 of the Code of Federal Regulations), Commission advisory opinions, and applicable court decisions. For further information, please contact:

Federal Election Commission
 999 E Street, NW
 Washington, DC 20463
 (800) 424-9530; (202) 694-1100
info@fec.gov
www.fec.gov

⁶ A primary, runoff and general are each considered separate elections.

⁷ Because local party committees are presumed to be affiliated with the party’s state committee, a contribution to a local party committee counts against the contributor’s limit for the state party. 11 CFR 110.3(b)(3).