FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 102, 103, 104, and 110

[Notice 1987-1]

Contribution and Expenditure Limitations and Prohibitions; Contributions by Persons and Multicandidate Political Committees

AGENCY: Federal Election Commission.

ACTION: Final rule; Transmittal to Congress.

SUMMARY: The Commission's regulations governing contributions by persons and multicandidate political committees at 11 CFR 110.1 and 110.2 have been revised and transmitted to Congress pursuant to 2 U.S.C. 438(d). These regulations implement the contribution limitations established by 2 U.S.C. 441a(a) (1) and (2), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act" or "FECA"), 2 U.S.C. 431 et seq. The revisions clarify the scope of the contribution limitations prescribed by each section, and resolve several issues which have arisen since the regulations were originally promulgated in 1977. These issues concern designation, redesignation and reattribution of contributions, net debts outstanding, spousal and joint contributions, the date of making a contribution, and partnership contributions. In addition, the Commission has made several corresponding revisions to 11 CFR 100.7(c), 100.8(c), 102.9, 103.3 and 104.8(d) to bring those provisions into conformity with the amendments to 11 CFR 110.1 and 110.2. Further information on these revisions is provided in the supplementary information which follows.

DATES: Further action, including the announcement of an effective date, will be taken after these regulations have been before Congress for 30 legislative days pursuant to 2 U.S.C. 438(d).

FOR FURTHER INFORMATION CONTACT: Susan E. Propper, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463, (202) 376-5690 or toll free (800) 424-9530.

SUPPLEMENTARY INFORMATION: The Commission is publishing today the final text of revised rules governing limitations on contributions by persons and multicandidate political committees at 11 CFR 110.1 and 110.2. The Commission is also publishing conforming amendments to §§ 100.7, 100.8, 102.9, 103.3 and 104.8 to reflect the changes made in the contribution limitation regulations.

On April 17, 1985 the Commission issued a Notice of Proposed Rulemaking seeking comments on proposed revisions to these regulations. 50 FR 15189. Thirteen comments were received in response to the Notice. On October 16, 1985 the Commission held a public hearing on the proposed regulations.

2 U.S.C. 438(d) requires that any rule or regulation prescribed by the Commission to carry out the provisions of Title 2, United States Code, be transmitted to the Speaker of the House of Representatives and the President of the Senate prior to final promulgation. These regulations were transmitted to Congress on January 6, 1987.

Explanation and Justification

The two principal areas in which the rules published today differ from the previous rules concern redesignation of contributions for different elections and reattribution of contributions to different contributors. See 11 CFR 110.1(b)(5) and 110.1(k). The Commission has adopted specific procedures whereby political committees may seek and obtain from contributors redesignations and reattributions of certain contributions that would otherwise be illegal. Under the revised rules, the timing and operation of the redesignation process is consistent with the timing and operation of the reattribution process. This allows political committees to seek redesignation, reattribution, or a combination of both in a single written request to a contributor.

After considering the public comments and testimony on the net debts outstanding rule and the aggregation of contributions rule, the Commission has decided to retain its longstanding approach in these areas. See 11 CFR 110.1(b)(3) and 110.1(h). The Commission has concluded that the net debts provision is based on the FECA's requirement that the contribution limits apply on a per election basis, and that this rule correctly interprets the statutory requirement that contributions be made with respect to and for the purpose of influencing particular elections. Consequently, the Commission reaffirms today its position that it cannot adopt an approach which places fewer restrictions on the timing or receipt of contributions absent statutory changes.

Section 110.1 Contributions by persons other than multicandidate political committees.

This section has been substantially revised to resolve several issues that have been raised during the administration and enforcement of these

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provisions since they were promulgated in 1977. In addition, § 110.1 has been retitled "Contributions by persons other than multicandidate political committees" to reflect that several provisions pertaining to multicandidate committees have been removed from § 110.1 and placed in § 110.2.

Section 110.1(a) Scope.

A new "Scope" paragraph has been included in § 110.1 to provide a statement as to who is subject to the contribution limitations of this section. Paragraph 110.1(a) clarifies that the ability to make contributions under this section does not apply to corporations, labor organizations, foreign nationals or other entities prohibited from contributing to federal candidates. The new "Scope" provision has been added to eliminate any confusion that could arise from the inclusion of these entities in the definition of person in 2 U.S.C. 431(11).

Section 110.1(b) Contributions to candidates; designations; and redesignations.

Revised § 110.1(b)(1) follows current § 110.1(a)(1).

Revised § 110.1(b)(2) generally follows current § 110.1(a)(2) in defining the term "with respect to any election." A new sentence has been added to § 110.1(b)(2)(i) encouraging contributors to supply written designations for their contributions. Written designations ensure that the contributor's intent is clearly conveyed to the recipient candidate or committee. Moreover, written designations promote consistency in reporting by the recipient committee and the contributor, where the contributor is a political committee subject to the limitations of § 110.1. For these reasons, written designations are strongly encouraged, although they are not required. However, a designation would be required if the contributor wishes to make a contribution for an election other than the next upcoming election.

With regard to undesignated contributions, revised § 110.1(b)(2)(ii) requires that they be counted toward the contributor's limit for the next election for that Federal office after they are made. Current § 110.1(a)(2)(ii) (A) and (B) state that undesignated contributions are counted toward the primary election if made on or before that election, and are counted toward the general election if made after the date of the primary election. Since the current language does not address several situations, it is being revised to provide that undesignated contributions simply count against the limits for the next election, whichever election that may be, even if the next election is not in the same election cycle.

Paragraph 110.1(b)(3) reaffirms and clarifies the Commission's position as to the circumstances in which contributions for a particular election may be made and accepted after the election has taken place. Having considered the public comments on this issue, the Commission had decided to continue its previous policy of permitting post-election contributions only to the extent that the candidate's authorized campaign committee has net debts outstanding from that particular election. Paragraph 110.1(b)(3)(i) clarifies that this rule applies to all elections, not just primaries. *See* AO 1977-24.

The approach embodied in § 110.1(b)(3) is based on the Commission's interpretation of specific statutory language. The FECA defines "contribution" as being "for the purpose of influencing any election for Federal office." 2 U.S.C. 431(8). Furthermore, section 441a(a) (1)(A) and (2)(A) of the FECA limits the amounts that may be contributed "with respect to any election for Federal office." 2 U.S.C. 441a(a) (1)(A) and (2)(A). The Commission believes that funds given to a candidate after an election is over cannot meet the Act's requirements that contributions be made with respect to and for the purpose of influencing that election unless they could be used to retire outstanding debts from that election. Absent such debts, contributions to past elections would, in reality, influence future elections. Hence, the net debts rule, by effectuating the contribution limits, furthers the fundamental goal of the FECA, which is to protect the integrity of the electoral process.

The Commission received numerous public comments on the net debts regulation. The responses were divided between those who favored retaining and strengthening the net debts rule and those who argued against such restrictions on post-election contributions. The Commission considered an approach which would have permitted both primary and general election contributions to be made up to the date of the general election, but would have permitted them after that date only to the extent of net debts outstanding. The Commission concluded, however, that such an approach would not be consistent with the Act's per election contribution limitations, and would require new legislation establishing contribution limits on an election cycle basis. Thus, the Commission rejected this avenue, as being beyond the Commission's regulatory authority under the current statute.

Paragraph 110.1(b)(3)(i) explains how candidates should handle post-election contributions that cannot be accepted because they have no net debts outstanding. This provision is based on the principle established by the 1974 legislative history that "Individuals cannot give to any candidate or political committee supporting that candidate more than $1,000 for each election *in which the candidate participates*. . . ." 120 Cong. Rec. S18,525 (daily ed. Oct. 8, 1974) (Statement of Sen. Cannon summarizing the Conference Committee Report, emphasis added). Paragraph 110.1(b)(3)(i) is also consistent with the Commission's interpretation of the current net debts rule. For example, the Commission has stated that where a general election is held, but the candidate does not participate in that election, no separate contribution limit for that general election is available to contributors. AOs 1986-17, 1985-41, and 1980-122; cf. AO 1982-49 (no separate contribution limit is available where the primary election was cancelled) and AO 1980-68 (a candidate must return contributions for a primary runoff election in which the candidate does not participate).

Paragraph 110.1(b)(3)(i) explains the campaign committee's options when it receives post-election contributions in the absence of or in excess of net debts outstanding. Within ten days of receipt, the committee must either deposit the contribution or return it to the contributor. If the treasurer chooses to deposit the contribution, then within sixty days of receipt, the treasurer must do one of the following: (1) Refund the contribution to the contributor; (2) Obtain a redesignation for a different election; or (3) Obtain a reattribution to a different contributor in combination with a redesignation for a different election. It should be noted that a reattribution alone would not be sufficient, since neither contributor could make post-election contributions in the absence of net debts outstanding. However, the contribution could be accepted if it was first reattributed to another contributor, and then redesignated for a different election. The redesignation and reattribution procedures are explained more fully below. For the purposes of these regulations, contributions are "returned" when the negotiable instrument comprising the contribution is sent back to the contributor instead of being deposited. Contributions are "refunded" when the recipient committee sends the

contributor a check for the amount of the contribution which had been previously deposited.

Paragraph 110.1(b)(3)(ii) provides candidates and campaign committees with guidelines for determining whether they have net debts outstanding from a particular election. It defines "net debts outstanding" as total unpaid debts and obligations incurred with respect to a particular election minus cash on hand and receivables available to pay those expenses as of the date of the election. The definition of cash on hand in revised § 110.1(b)(3)(ii) parallels the definition in current § 104.3(a)(1) with one minor exception. In § 110.1(b)(3)(ii) committee investments are valued at fair market value, not at cost, since the fair market value more accurately reflects a committee's financial position. In calculating election-related expenses, a candidate who will not be participating in the next election, or whose authorized committee is terminating, may include necessary winding down costs. However, a candidate who will be running in the next election may not include such costs because he or she is not terminating political activity. It would be difficult to distinguish post-election expenses legitimately related to that election from expenses that are intended to benefit the candidate in future elections. The Commission also considered and rejected inclusion of a committee's assets in the net debts formula. One public comment noted that including assets could force committees to liquidate those assets to pay their debts.

Paragraph 110.1(b)(3)(iii) provides that the net debts outstanding figure, initially calculated as of the date of the election, shall be adjusted as updated financial information becomes available. Campaign committees may retain and use designated post-election contributions so long as they have net debts outstanding from that election at the time the contributions are received. Once a committee's net debts have been extinguished, any contributions designated to pay those debts must be returned, refunded, redesignated or reattributed. If a campaign committee receives several contributions on the same date, which exceed the amount needed to retire its net debts, the committee may choose either to accept a proportionate amount of each contribution, or to accept some contributions in full and return, refund, or seek redesignation or reattribution of the others.

Finally, § 110.1(b)(3)(iv) has been included in the net debts provision to clarify that candidates who participate in the general election may pay their primary election debts with funds properly received for the general election.

To demonstrate how the net debts outstanding rule operates, the Commission has prepared the following hypothetical example:

Illustration

On May 8, 1986 the Candidate wins the primary election. As of that day, the Candidate's principal campaign committee's financial position is as follows:

Outstanding Balance on Loans	$60,000
Other Unpaid Debts and Obligations	15,000
Cash on Hand and Receivables	35,000

1. To determine the committee's net debts outstanding, the treasurer should begin by calculating the total amount of primary related debts and obligations owed by the committee as of the date of the primary. This amount is $60,000 plus $15,000, or $75,000. Please note that total primary debts and obligations should not include any expenses that have been incurred solely with respect to the general election.

2. Next, the treasurer should subtract cash on hand and receivables from total debts. This amount is $75,000 minus $35,000, or $40,000. Hence, the Committee has $40,000 of net debts outstanding as of May 8, 1986. Please note that for purposes of this calculation cash on hand need not include preprimary contributions that are specifically designated for the general election and separately accounted for in accordance with 11 CFR 102.9(e). (If the candidate had not won the primary, the calculation could not include contributions designated for the general, although the candidate could seek redesignation from those contributors who had not reached their contribution ceilings for the primary election.)

3. Between May 8, 1986 and May 30, 1986 the Committee receives $33,000 of designated primary contributions. (Undesignated contributions made after May 8, 1986 count toward the general election and do not automatically reduce the amount of net primary debts. However, the Committee may use such funds to pay primary debts if the undesignated contributions are properly received for the general election.) During this time period the Committee receives an additional bill for primary-related expenses in the amount of $2000. The adjusted amount of net debts outstanding on May 30, 1986 is $9,000, which was calculated as follows:

Previous net debts	$40,000
Additional bill	+ 2,000
	42,000
Additional primary contributions	− 33,000
Adjusted net debts	9,000

4. On June 1, 1986 the Committee receives several contributions designated for primary debt retirement totalling $10,000. The Committee may accept only $9,000 for the primary election, since it has $9,000 of net primary debts on June 1, 1986. Hence the Committee has two options: (1) The Committee can accept 90% of each contribution and refund the other 10%. In addition, the candidate may ask the contributors to redesignate the remaining 10% of their contributions for the general election, assuming this would not cause them to exceed their general election contribution limits. (2) In the alternative, the Committee can accept some primary contributions in full and refund or seek redesignations for the others, so long as only $9000 is accepted and $1000 is refunded or redesignated. Note that the Committee may obtain redesignations for the general election because the Candidate won the primary. If the Candidate had lost, this option would be foreclosed. Note also that the Committee may obtain redesignations for an election in a previous election cycle so long as the Committee has net debts outstanding as of the date it receives the redesignation.

New § 110.1(b)(4) follows current § 110.1(a)(2)(ii) by providing that designations of contributions for particular elections must be made in writing. The designation must appear on the check, money order, or other negotiable instrument, or in an accompanying writing signed by the contributor. The Commission will also consider a contribution redesignated in accordance with 11 CFR 110.1(b)(5) to be properly designated, whether or not the contribution was originally designated.

These guidelines clarify that designations must be made by the contributor and not the recipient committee. They are also intended to be responsive to questions regarding the timing of the designation and whether the designation has to appear on the written instrument. The Commission has also revised 11 CFR 102.9(e) to refer to contributions designated in writing by the contributor, to eliminate any apparent conflict as to who may provide designations.

The Commission has considered and rejected a suggestion to allow

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contributors that are political committees to designate their contributions by indicating on the reports they file with the Commission whether the contribution is for the primary or general election. A serious drawback to such a system is that the designation information would not be communicated to the recipient candidate or committee. This may lead to conflicts as to how the designated contribution is reported by the recipient committee and the donor, when the donor is a reporting entity. See, e.g., *Antosh* v. *FEC*, 599 F. Supp. 850 (D.D.C. 1984). In addition, individual contributors could not designate their contributions in this manner because they are not required to file reports. The Commission believes that all contributors should follow the same designation procedures. Therefore, the Commission has decided that the written designation must be sent by the contributor to the candidate or political committee at the time the contribution is made. However, contributors may make subsequent redesignations, provided that certain requirements discussed below are satisfied.

A question has also been raised as to whether contributions received in response to a solicitation for a particular election should be considered to be designated for that election. Under new § 110.1(b)(4), the contributor would be able to effectuate a designation by returning a preprinted form supplied by the soliciting committee that clearly states the election to which the contribution will be applied, provided that the contributor signs the form, and sends it to the committee together with the contribution.

New § 110.1(b)(5) sets forth procedures under which a contribution made for a particular election may be redesignated by the contributor for a different election. Under the new regulations, the recipient candidate or his or her authorized political committee may ask the contributor for a redesignation in three situations: (1) The contribution, either by itself or when added to other contributions from that person, exceeds the contribution limitations for a particular election; (2) The contribution cannot be accepted because it was made after the election for which it was designated, and there are no net debts outstanding from that election; or (3) The contribution is undesignated and will count toward the contributor's limit for the next election, but the candidate wishes to count it toward a previous election for which the candidate has net debts outstanding. However, the new redesignation rule does not permit committees to seek redesignation for contributions prohibited by 2 U.S.C. 441b, 441c, 441e, or 441f. Finally, committees do not need to seek or obtain a redesignation when a contribution can be properly accepted for a particular election, but the committee does not need to use it for that election, and wishes to apply it toward expenditures for another election. *See, e.g.*, AO 1981-9.

The issue of whether to permit redesignations was raised for public comment in the April 17, 1985 Notice of Proposed Rulemaking because this is an area of concern to candidates. *See, e.g.* AO 1984-32. Several public comments favored the concept of redesignation, but differed as to the specific approach to be adopted. The Commission has decided to adopt a system which permits candidates to seek redesignation of contributions for different elections. By allowing redesignation, the Commission is attempting to encourage candidates to pay their campaign debts by eliminating the need to refund impermissible contributions and then solicit contributions for another election.

New § 110.1(b)(5)(ii) establishes the procedures for making redesignations. These new procedures provide a sixty day period from the date a treasurer receives a contribution within which the treasurer must examine the contribution for compliance with the contribution limits, make a written request for redesignation if necessary and receive the written redesignation from the contributor. If the redesignation is not in writing, or is not received within the required sixty day time frame, the contribution must be refunded. Written redesignations signed by the contributor are required to ensure that they effectuate donor intent and to aid accurate recordkeeping and reporting.

The Commission has considered various public comments as to the appropriate time limit for obtaining redesignations. Current § 103.3(b)(2) simply requires the return of contributions within a reasonable time if they cannot be determined to be legal. The new sixty day time limit established by the Commission represents a balance between the need to establish a realistic deadline, on the one hand, and the need to resolve the problems created by excessive contributions as quickly as possible, on the other hand. The sixty day deadline applies to redesignations under § 110.1(b)(5), reattributions under § 110.1(k) and refunds of excessive contributions under § 103.3(b)(3). The sixty day period begins on the date the treasurer of the committee receives the original contribution. The Commission considered beginning the time period on the date of deposit but rejected that approach because committees are required to report the date of receipt. The Commission also considered establishing an interim thirty day period in which the recipient must aggregate contributions from the same contributor, and calculate net debts outstanding, if necessary. Although the Commission did not adopt the interim deadline, in order for political committees to be able to obtain contributor redesignations within the sixty day period, they are encouraged to perform their required aggregations and net debts calculations within thirty days after receiving a contribution. The Commission did adopt a thirty day time limit for refunding contributions from corporations, labor organizations, foreign nationals, and Federal contractors. *See* revised 11 CFR 103.3(b)(1).

The new procedures for redesignating contributions for different elections may be invoked only by authorized committees, because other political committees do not receive contributions on a per election basis.

Paragraph 110.1(b)(5)(iii) establishes two limitations on redesignation. First, contributions redesignated for previous elections must comply with the net debts outstanding rule at § 110.1(b)(3). Second, a redesignation for a different election is not permitted if it would result in an excessive contribution being made for that election. These restrictions prevent the redesignation procedures from being used to circumvent the contribution limitations established by the FECA.

Finally, the Commission has adopted new guidelines for reporting redesignated contributions and maintaining adequate records of redesignations. The recordkeeping provision is located in new § 110.1(1), and the reporting provision may be found at revised § 104.8(d). These are discussed more fully below.

New § 110.1(b)(6) specifies that a contribution is considered to be made when the contributor relinquishes control over the contribution. This provision was added to the regulations because the timing of a contribution is of significance in several situations. For example, the date on which an undesignated contribution is made will determine whether the contribution counts against the contributor's limit for the primary or general election. The date also affects whether the net debts outstanding rule at § 110.1(b)(3) is triggered, because if a contribution is made on or before the date of a

particular election, it will not be subject to a net debt test even though it is received after the election.

The Commission sought comment on several alternative dates, including the date the contributor relinquished control over the contribution, the date of receipt, the date appearing on the check or negotiable instrument, and the date of deposit. The public response reflected no consensus as to which approach should be taken.

This has been an area of considerable difficulty for the Commission, as there are drawbacks to each of the alternative dates that could be selected. Nonetheless, this is an important question to resolve. Accordingly, the Commission has decided that a contribution shall be considered to be made when the contributor relinquishes control over the contribution. New § 110.1(b)(6) explains that relinquishing control occurs when the contribution is delivered to the candidate, or to the political committee, or to an agent of the political committee. If the contribution is mailed to the candidate or political committee, it is considered to be made on the date of the postmark, regardless of whether it was sent by registered, certified or first class mail. New § 110.1(b)(6) also specifies that in-kind contributions are considered to be made on the date that the goods or services are provided by the contributor.

The approach taken in the new rules is based on the premise that the FECA establishes different dates for the making and receipt of contributions. This will, in some instances, result in reporting discrepancies when the donor and the recipient are both reporting political committees. Committees making contributions will report the date of making on Schedule B (Itemized Disbursements), and committees receiving contributions will report the date of receipt on Schedule A (Itemized Receipts). Although the Commission believes that two different dates are mandated by the Act, difficulties can arise when the two dates straddle an election, thereby causing the contribution to be reported inconsistently. This problem may be compounded by the existence of a significant delay between the date on the check or negotiable instrument and the date of deposit. When such a discrepancy is investigated, the contributor, the recipient, and any intermediaries are responsible for establishing that the date they each reported is correct, and that they complied with the time limits for forwarding and depositing contributions, where applicable. *See* 11 CFR 102.8(a) and 103.3(a). They may rely on evidence such as a contemporaneous log recording the dates on which contributions are made or received, a date stamp marking when contributions are received, and the return receipts for contributions sent by registered or certified mail. Hence, these questions will be resolved on a case-by-case basis. The potential difficulties that could result from these situations lead the Commission to strongly encourage contributors to provide designations.

The Commission also sought public comment as to whether the regulations should define who is an agent for purposes of receiving contributions on behalf of a candidate or committee. Two comments stated that the term "agent" is self-explanatory and that a definition is unnecessary. The Commission agrees with these comments and has decided not to define "agent" in these regulations. Should "agency" questions arise in particular cases, they can be resolved in accordance with established law in this area.

Section 110.1(c) Contributions to political party committees

Paragraph 110.1(c) generally follows current § 110.1(b) by implementing the statutory $20,000 per year limitation on contributions by persons to political committees established and maintained by national political parties. This provision has been modified to clarify that the national committee of a political party may receive contributions up to $20,000 even if it is the authorized committee of a Presidential candidate under 11 CFR 9002.1(c). However, this provision does not permit a contributor to donate $20,000 to the Presidential candidate. A national committee acting as a Presidential candidate's authorized committee must keep separate accounts for the Presidential campaign. 11 CFR 102.12. The Commission did not receive any public comments regarding § 110.1(c) or the clarification.

Section 110.1(d) Contributions to other political committees

Paragraph 110.1(d) combines current paragraphs (c) and (d) into one new provision. This new paragraph follows the current regulations by restating the statutory limitation of $5,000 per year for contributions made to other political committees, including contributions to political committees making independent expenditures under 11 CFR Part 109. None of the public comments received addressed this provision.

Section 110.1(e) Contributions by partnerships

Paragraph 110.1(e) generally follows the current rule by providing that contributions made by a partnership are attributable to the individual partners either in direct proportion to their shares of the partnership profits or according to an agreement made by the partners. This paragraph has been revised slightly to clarify that such contributions are attributable to both the partnership and the individual partners.

The rule also clarifies that a corporate partner may not make contributions to federal candidates, and that the corporate partner's portion of the partnership profits or losses must not be affected by the partnership's political contributions. *See* AOs 1982-63, 1981-56, 1981-54 and 1980-132. In response to a concern raised by one comment, the Commission considered whether to require all contributing partners to sign the written instrument or an attached writing. The Commission has concluded that such a requirement would be burdensome for many partnerships and would duplicate the attribution instructions that the partnership must already provide. Accordingly, new § 110.1(k), which sets forth signature requirements for joint contributions, states that the signature of each contributing partner is not required.

The Commission considered several alternatives to the dual attribution rule for partnership contributions, and received a wide range of responses to its suggestions. One approach was to attribute contributions to the partnership but not to its partners if the amount attributable to individual partners would be less than $50 or $100. However, this approach would be inconsistent with many state laws and the approach taken by the Internal Revenue Code, under which charitable contributions are considered to be made by a partnership on behalf of the partners, and are deductible only by the partners. 26 U.S.C. 701, 702 and 703. There is also no legal basis for exempting small contributions from dual attribution.

The Commission also considered eliminating the limitation on partnership contributions and attributing the contributions only to the individual partners, thereby allowing partnerships to contribute as much as all their individual partners combined could contribute. The Commission concludes that this approach would be in conflict with the FECA because a partnership is a "person" under 2 U.S.C. 431(11). Consequently, a partnership is

prohibited from contributing more than $1,000 to a federal candidate. Thus, the Commission has decided to retain the prior dual attribution rule. It has worked well in the past, and it ensures that members of a partnership do not receive the benefit of an additional contribution ceiling that is not available to others who do not belong to a partnership.

The Commission also sought public comment on several related partnership issues, such as whether a partnership should be treated as a conduit or political committee if it establishes a contribution program to facilitate the making of political contributions by its partners. Another question presented was how to treat the partnership's payment of its political committee's administrative expenses. These questions were addressed in AOs 1984-18, 1982-63, 1982-13, 1981-56, 1981-54, 1981-50 and 1980-72. The public comments that responded to these concerns opposed treating partnerships as conduits, and were divided as to the questions regarding political committees formed by partnerships. Upon further consideration, the Commission has decided not to issue general rules in this area because it has been the Commission's experience that such questions are best resolved on a case-by-case basis. The Advisory Opinion process affords an opportunity to consider the particular circumstances of each case.

Section 110.1(f) Contributions to candidates for more than one federal office.

Section 110.1(f) follows the current rule in setting forth the conditions under which a contributor may give up to $1,000 for each election for each office when a candidate runs for more than one federal office. Although no substantive revisions have been made, this provision was slightly reworded for clarity.

Section 110.1(g) Contributions to retire pre-1975 debts.

Section 110.1(g) follows the current rule by providing that contributions designated to retire debts from elections held prior to January 1, 1975 are not subject to the limitations of Part 110, and that contributions to retire debts resulting from elections held after December 31, 1974 are subject to 11 CFR Part 110. The amended provision is identical to the current rule except that the title was revised and the phrase "clearly designated" was replaced by the phrase "designated in writing", which is defined in new § 110.1(b)(4).

Section 110.1(h) Contributions to committees supporting the same candidate.

Section 110.1(h) remains the same as the wording of the current provision. This section governs the circumstances under which contributions to a candidate and his or her authorized campaign committee(s) must be aggregated with contributions to other political committees for purposes of the contribution limits of § 110.1.

In the Notice of Proposed Rulemaking, the Commission sought comment on several possible revisions to § 110.1(h). Several of the public comments were based on the mistaken impression that the proposals represented an attempt to require such aggregation for the first time. The Commission notes that the aggregation provision has been in the regulations continuously since they were promulgated in 1977, and has been interpreted and applied in a variety of situations over the years. *E.g.*, Policy Statement 1976-46; re: AOR 1976-20, AO 1984-2; and MUR 1414. The aggregation provision is based on the legislative history to the 1976 Amendments to the FECA. H.R. Conf. Report No. 94-1057, 94th Cong., 2d Sess. 57-58 (1976). Having considered the public comments and testimony, the statutory language and legislative history of the FECA, the Commission has decided to retain the current wording of the aggregation rule to assure that there is no misunderstanding as to the Commission's intention to adhere to its longstanding policy in this area.

Section 110.1(i) Contribution by spouses and minors.

Paragraph 110.1(i)(1) explains that the contribution limitations apply separately to each spouse, even if only one spouse has income. It has been revised from current § 110.1(i)(1) to apply to all political contributions by spouses, not just contributions made to candidates. Although the Commission considered whether to delete this provision, it decided not to because it provides helpful guidance, and because deletion might create the misleading impression that both spouses would no longer enjoy separate contribution limits.

Similarly, § 110.1(i)(2) has been revised to specifically permit minor children to contribute to political committees under certain conditions. Although the Notice of Proposed Rulemaking raised the question of revising the language regarding contributions made from the proceeds of a trust, that language is being retained because it has not presented problems to date.

Section 110.1(j) Application of limitations to elections.

Paragraph 110.1(j)(1) generally follows the current provision. A cross reference to the definition of "election" at 11 CFR 100.2 has been included in § 110.1(j)(1).

Paragraph 110.1(j)(2) generally follows the current provision in stating that an election in which a candidate is unopposed is considered to be a separate election.

Paragraph 110.1(j)(3) has been revised to provide separate contribution limits for general elections that are not held because the candidate received a majority of votes in a previous election, and for general elections that are not held because the candidate is unopposed. This provision follows the current rule by providing a separate contribution limit for primaries that are not held because the candidate is unopposed. In all these situations, the date on which the election would have been held is considered to be the date of the election. These revisions are consistent with Commission policy to permit separate contribution limits in these situations. *See* AO 1984-54.

In the Notice of Proposed Rulemaking, the Commission raised the question of whether the changes to § 110.1(j)(3) necessitate any amendments to 11 CFR 104.5(a) regarding the filing of pre- and post-election reports. The Commission has concluded that current § 104.5(a) adequately alerts candidates and their authorized committees to their obligation to file such reports. *See* AO 1986-21.

New § 110.1(j)(4) addresses the situation in which a primary election is not held because the nominee was selected by a caucus or convention having authority to nominate under State law. In that situation, § 110.1(j)(4) provides that there is no separate contribution limit with respect to the primary election. Hence, the candidate is required to refund or seek redesignation of primary contributions if the contributors have exhausted their contribution limits for the caucus or convention. This new provision is consistent with the Commission's decision in AO 1982-49.

Section 110.1(k) Joint contributions and reattribution.

New § 110.1(k) governs contributions made by more than one person in a single written instrument. In drafting this provision, the Commission has included in the regulations for the first time specific regulatory language permitting after the fact reattributions of contributions to other contributors. This

provision also sets forth requirements for making valid joint contributions.

Section 110.1(k)(1) continues the current requirement that joint contributions include the signature of each contributor on the check, money order, or other negotiable instrument, or in a separate writing. The Commission received two public comments objecting to the joint signature requirement on the grounds that it may be burdensome for recipient committees to obtain additional signatures. Although some additional effort may be required, the contribution cannot be considered to be made by more than one person unless there are two signatures. *See* AO 1980–67. The dual signature requirement provides evidence of donative intent on the part of each person whose name appears on an instrument drawn on a joint account. It also affords an opportunity for the contributors to indicate the proper attribution if equal attribution is not intended. Finally, the joint signature requirement reduces the opportunity for contributions to be made in the name of another, which is prohibited by 2 U.S.C. 441f. For these reasons, the Commission has decided to retain the joint signature requirement. However, § 110.1(k)(1) provides an exception for joint contributions made by partnerships. The Commission has concluded that the signature of each contributing partner is not necessary because adequate evidence of donative intent is provided by the attribution statement supplied by the partnership in accordance with 11 CFR 110.1(e).

New § 110.1(k)(2) incorporates and builds upon the provisions of current § 104.8(d) regarding the attribution of contributions between joint contributors. The Commission decided that this provision is more logically included in § 110.1 than in the reporting sections in Part 104. New § 110.1(k)(2) is intended to eliminate some of the questions raised by the apparent differences between § 104.8(d) and other regulations, such as 11 CFR 100.7(c). Under § 104.8(d), joint contributors are required to indicate on the written instrument or in an accompanying writing the amount to be attributed to each contributor. This has presented some difficulties because joint contributors do not always provide attributions, and recipient committees are obliged to contact the contributors to obtain this information. *E.g.* AO 1980–67. Accordingly, the Commission requested public comments as to whether contributions should be attributed equally to each contributor in the absence of written attribution statements. The Notice of Proposed Rulemaking discussed whether equal attribution should apply only to joint contributions from spouses, or whether it should apply to all joint contributions. No public comments addressed these questions.

The Commission has decided to adopt new § 110.1(k)(2), which states that all joint contributions shall be attributed equally to each contributor if the amount attributable to each is not indicated. Section 110.1(k)(2) also permits joint contributors to supply alternative attributions, if they wish to do so. A similar approach was adopted by the Commission in the Presidential matching funds regulations. *See* 11 CFR 9034.2(c)(1)(i) (48 FR 5239; February 4, 1983). The presumption of equal attribution acknowledges the legal status of the contributors as joint tenants in a joint account, each of whom may draw on all the funds in that account. Finally, the Commission has decided that the equal attribution presumption should not be restricted to joint contributions by spouses since the political committee receiving the contribution may not know whether or not the contributors are married.

New § 110.1(k)(3) sets forth procedures enabling political committees to request and obtain written reattributions of contributions to other contributors. The new provision permits reattribution if the original contribution, either by itself, or when added to other contributions from the same contributor, exceeds the contribution limitations for a particular election. A candidate's authorized committee may also seek a reattribution if it receives a designated contribution after an election for which it has no remaining net debts. In that situation, the contribution could be accepted if it is first reattributed to another contributor and then redesignated for another election. However, the new reattribution provisions do not allow committees to seek reattribution if the original contribution is prohibited by 2 U.S.C. 441b, 441c, 441e, or 441f.

The new reattribution procedures set forth in § 110.1(k)(3)(ii) establish a sixty day time period from the date the treasurer receives a contribution within which the treasurer must examine the contribution for compliance with the contribution limits, make a written request for reattribution if necessary and receive the written reattribution signed by all joint contributors. If the reattribution is not received within the sixty day period, or if a reattribution fails to meet these requirements, the contribution must be refunded. The Commission is requiring reattributions to be in writing and to be signed by all joint contributors to ensure that each individual did, in fact, intend to contribute, and to avoid creating an opportunity for contributions to be made in the name of another. Written reattributions also provide the contributors with an opportunity to specify an alternative attribution if equal attribution is not intended, and promote accurate recordkeeping and reporting.

The Commission has chosen a sixty day time limit for the reattribution process, which is consistent with the sixty day deadline for obtaining redesignations. This enables political committees to coordinate their communications requesting reattribution and redesignation.

In the past, the Commission has imposed several restrictions on reattribution. *See* AO 1985–25. For example, the reattribution process has been limited to those situations in which the recipient political committee or its treasurer has a reasonable basis for concluding that the contributor is married and intended to make a joint contribution with his or her spouse. Upon further consideration, the Commission has decided not to impose this restriction since it is often difficult for political committees to ascertain from the face of a negotiable instrument whether the account holders are married. The Commission also considered and rejected inclusion of language which would have prohibited reattributions if the total amount of the contribution exceeded the combined contribution limits for all contributors. In this situation the non-excessive portion of the contribution may be reattributed. The Commission also decided not to require each contributor to state that he or she has sufficient personal funds in the joint account to cover his or her portion of the joint contribution because each account holder enjoys the right to draw upon the entire amount in the account.

Finally, the Commission has adopted new regulations for reporting reattributions and maintaining adequate records of reattributed contributions. New § 110.1(l) contains the recordkeeping provision and revised § 104.8(d) addresses reporting.

Section 110.1(l) Supporting evidence.

Section 110.1(l) is new to the regulations. It provides treasurers of political committees with guidance in establishing that they have accurately reported all designations, redesignations and reattributions they have received. Under current § 104.14(d), treasurers are

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responsible for the accuracy of committee reports filed with the FEC. New § 110.1(l) requires political committees receiving designated contributions to retain a written copy of the contributor's designation. If a recipient committee fails to comply, the contribution shall be treated as though it is undesignated. Similarly, the recipient committee is required to maintain copies of all written redesignations and reattributions. Failure to maintain these records will invalidate the redesignation or reattribution, and the original designation or attribution shall control. The Commission is requiring committees to maintain these records in order to demonstrate that illegal contributions have been cured through the redesignation or reattribution process.

New § 110.1(l) also provides that the political committee shall retain the envelope or a copy of the envelope whenever it wishes to rely on a postmark for evidence of when a contribution was made. Although political committees are not required to retain envelopes, it is advisable for them to do so if a contribution was mailed shortly before or on the date of the election. The postmark will enable them to establish that an undesignated contribution counts against the contributor's limit for that election. It will also enable them to accept a contribution designated for that election without having to determine whether they had net debts for that election.

A cross-reference to the § 110.1(l) supporting evidence provision has been included in the recordkeeping provision located at 11 CFR 102.9.

Section 110.2 Contributions by multicandidate political committees.

This section consolidates the provisions in current § 110.1 and § 110.2 that implement the statutory limitations on contributions made by multicandidate political committees. This revision enables multicandidate committees to locate the provisions affecting them in a single section. Section 110.2 has also been reorganized to more closely parallel the format of § 110.1. In addition, a new "Scope" paragraph (§ 110.2(a)) has been added to clarify that § 110.2 applies to all political contributions made by a multicandidate committee, as defined at 11 CFR 100.5(e)(3). The scope paragraph replaces current § 110.2(b).

Under the reorganization, § 110.2(b)(1) restates the $5,000 statutory limitation on contributions by a multicandidate committee to a candidate and his or her authorized political committees currently located in § 110.2(a)(1). New paragraph 110.2(b)(2) has been added to follow new § 110.1(b)(2) as to the definition of the phrase "with respect to any election". New paragraph 110.2(b)(3) generally follows new § 110.1(b)(3) regarding the making and acceptance of post-election contributions to defray a candidate's outstanding debts. However, the explanation of how to calculate net debts outstanding has not been repeated in § 110.2 because multicandidate committees will not need to perform such calculations. Candidates and authorized committees should refer to § 110.1(b)(3) for the pertinent guidelines on this. New § 110.2(b)(4), which follows new § 110.1(b)(4), has been added to illustrate the methods by which multicandidate committees can designate their contributions in writing for a particular election. Multicandidate committees contributing to candidates are encouraged, but not required, to designate their contributions in writing for particular elections. Written designations tend to promote consistency in reporting by the contributing committee and the recipient committee. Moreover, written designations ensure that the contributor's intent is clearly conveyed to the recipient candidate or committee. New § 110.2(b)(5) generally follows new § 110.1(b)(5) to explain the conditions under which a multicandidate committee's contribution to a candidate may be redesignated for a different election, and the procedures for effectuating such a redesignation. New § 110.2(b)(6) follows the provisions of new § 110.1(b)(6) regarding the determination of when a contribution is considered to be made

Paragraph 110.2(c) implements the $15,000 per-year statutory limitation on contributions to the political committees established and maintained by a national political party, including the national committee, and the House and Senate campaign committees. This paragraph has not been significantly revised from current § 110.2(a)(2). However, a minor amendment was included to clarify that the national committee of a political party may receive contributions up to $15,000 per year even if it is also operating as the authorized committee of a Presidential candidate under 11 CFR 9002.1(c). This provision does not permit a multicandidate committee to contribute $15,000 to the Presidential candidate. 11 CFR 102.12 requires a national committee designated as the authorized committee of a Presidential candidate to maintain separate accounts for its function as the principal campaign committee.

Paragraph 110.2(d), which follows current § 110.2(a)(3), sets forth the $5,000 per year statutory contribution limit for multicandidate committee contributions to any other political committee. It also provides that this limitation applies to contributions to political committees making independent expenditures.

Paragraph 110.2(e) follows § 110.2(c) of the present regulations by implementing the $17,500 limitation on contributions from the Republican and Democratic Senatorial campaign committees, and the national party committees to Senatorial candidates, in accordance with 2 U.S.C. 441a(h). The second sentence of this paragraph has been revised for clarity.

Revised § 110.2 incorporates paragraphs (f), (g) and (h) from current § 110.1. These provisions have been specifically included in § 110.2 to clarify that they will continue to apply to multicandidate committees. Paragraph 110.2(f) addresses multicandidate committee contributions to candidates for more than one federal office. Such contributions are permitted provided that the requirements of § 110.1(f)(1), (2) and (3) are satisfied. Paragraph 110.2(g) follows revised § 110.1(g) in exempting from the limitations of Part 110 any contribution made to retire debts from an election held before January 1, 1975. Paragraph 110.2(h) follows § 110.1(h) in setting forth the conditions under which contributions to a candidate and his or her authorized committees must be aggregated with contributions to other political committees for the purposes of the contribution limitations of § 110.2. Paragraph 110.2(h) has been slightly revised to clarify that 110.2(h)(1) refers to recipient political committees.

Finally, revised § 110.2(i) explains which types of elections are considered to be separate elections for the purposes of the contribution limitations. Although this paragraph is largely based on current § 110.2(d), it contains several changes that are identical to the revisions found in amended § 110.1(j).

The Commission has omitted from § 110.2 provisions corresponding to new § 110.1 (k) and (l). A joint contribution/reattribution provision was not included in § 110.2 because political committees do not make joint contributions and do not seek to reattribute their contributions to other political committees. The supporting evidence provision was not repeated in § 110.2 because candidates and political committees can refer to § 110.1(l) for guidance on maintaining records of designations, redesignations and reattributions.

Conforming Amendments

In addition to the foregoing revisions to 11 CFR 110.1 and 110.2, several additional amendments have been made to other sections of the Commission's regulations to bring those sections into conformity with the new language of 11 CFR 110.1 and 110.2. The revisions are located in 11 CFR 100.7(c), 100.8(c), 102.9, 103.3 and 104.8(d). The Notice of Proposed Rulemaking indicated that revisions to regulations other than §§ 110.1 and 110.2 might have to be made.

Section 100.7 Contribution.

Paragraph (c) of this section has been revised to state that contributions by an individual are not attributable to any other individual unless so specified by that other individual in accordance with § 110.1(k). This amendment brings § 100.7(c) into conformity with the joint contribution and reattribution provisions in new § 110.1(k).

Section 100.8 Expenditure.

Section 100.8(c) has been amended to provide that a payment made by an individual is not attributable to any other individual unless that other individual supplies the attribution. It also refers the reader to new § 110.1(k) in the event that the payment qualifies as a contribution under 2 U.S.C. 431(8).

Section 102.9 Accounting for contributions and expenditures.

Section 102.9(e) has been amended in three respects. First, the phrase "which contributions are designated by the candidate or his or her authorized committee(s)" has been changed to read "which contributions are designated in writing by the contributor." This revision is intended to correct an inadvertent change in language which occurred when the original provision (§ 101.2(d)[1977]) was amended in 1980. The Explanation and Justification for the 1980 revisions stated that § 102.9(e) followed former § 101.2(d). However, previous § 101.2(d) recognized the contributor's right to designate contributions and did not grant the candidate the power to redesignate. Therefore, the Commission has decided to amend § 102.9(e) to clarify that contributions may be designated for particular elections only by contributors, and cannot be designated by the recipient candidates or their campaign committees. Consequently, the revision published today is intended to eliminate any confusion created by the apparent conflict between § 102.9(e) and § 110.1.

The second change in § 102.9(e) is relatively minor. In the last sentence of the paragraph, "and" has been changed to "or". This is designed to clarify that a committee would be following an acceptable accounting method for distinguishing between primary and general contributions if it maintains separate books or if it maintains separate accounts for each election.

Finally a new sentence has been added at the end of § 102.9(e) which provides that contributions made for a general election are to be either refunded to the contributors or redesignated or reattributed under 11 CFR 110.1(b)(5), 110.1(k) or 110.2(b)(5) in the event that the candidate is not a candidate in that general election. *See* AO 1986-17. This revision brings § 102.9(e) into conformity with the revised net debts outstanding provisions in 11 CFR 110.1(b)(3) and 110.2(b)(3).

New § 102.9(f) has been added to notify the reader that the treasurer has a duty under 11 CFR 110.1(1) to retain information supplied by contributors regarding designation, redesignation and reattribution of contributions. Section 110.1(1) also provides guidance as to when to retain evidence of the date on which a contribution is made. Failure to maintain the documentation required will invalidate the designation, redesignation, or reattribution. *See* 11 CFR 110.1(1)(5).

Section 103.3 Deposits of receipts and disbursements.

The Commission has adopted a conforming amendment to paragraph (a) of this section. The revision clarifies that upon receipt of a contribution, the treasurer of a political committee has a choice of whether to return the contribution to the contributor or to deposit it in an account at a designated campaign depository. The time limit for depositing the contribution or returning it is ten days from the date on which the treasurer received it. Thus, revised § 103.3(a) allows candidates who decide not to accept contributions from political action committees to return them without depositing them or reporting them. The amendment also permits the treasurer to choose whether to deposit or return contributions of questionable legality. If such contributions are deposited, the treasurer must comply with the procedures set forth in revised § 103.3(b). For the purposes of these regulations, contributions are "returned" when the negotiable instrument comprising the contribution is sent back to the contributor instead of being deposited. Contributions are "refunded" when the recipient committee sends the contributor a check for the amount of the contribution which had been previously deposited.

The Commission has revised § 103.3(b) to clarify the procedures to be followed when a political committee receives a contribution which requires further information before it can be determined to be legal. The procedures set forth in revised § 103.3(b) supplement the redesignation and reattribution procedures set forth in new §§ 110.1(b)(5), 110.1(k) and 110.2(b)(5). These procedures will continue to be located in § 103.3(b), however, because they apply to all impermissible contributions, not just to those that may be redesignated or reattributed.

Although committee treasurers should already be aware of these obligations, the Commission believes it is advisable to include in the regulations a clear statement as to the treasurer's responsibility. Revised § 103.3(b) explains that the treasurer of a political committee is responsible for examining all contributions received for any evidence of illegality, and is also responsible for aggregating all contributions from the same contributor to ascertain whether they exceed the contribution limits. If a contribution from a political committee exceeds $1,000, the treasurer of the recipient committee will also need to ascertain whether the contributing committee is qualified as a multicandidate committee.

Revised § 103.3(b) applies to three different categories of contributions. Section 103.3(b)(1) covers contributions made by entities which are or appear as though they might be corporations, labor organizations, Federal contractors or foreign nationals. Such contributions must be either deposited or returned within ten days. If deposited, the treasurer has thirty days from the date of receipt to make his or her best efforts to determine that they are legal and to make a refund if they cannot be determined to be legal. The treasurer will be deemed to have made best efforts only if he or she made at least one written or oral inquiry concerning the legality of the contribution. Evidence of legality includes a written explanation from the contributor, or an oral explanation which is noted by the treasurer in a subsequent memorandum. Redesignation and reattribution are not permitted for such contributions, since they cannot cure these violations.

Paragraph 103.3(b)(2) applies to contributions whose legality is not in question when received and deposited, but which are later discovered to be illegal. This provision applies, for example, to prohibited corporate contributions made in the name of employees, and individual contributions made in the name of another, as well as

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contributions from foreign nationals or Federal contractors when there is no evidence of illegality on the face of the contributions themselves. The rule requires the amount of the contribution to be refunded to the contributor within thirty days after the discovery of the illegality. If the political committee does not have sufficient funds to make the refund, it is required to make the refund from the next funds it receives. This is consistent with the Commission's approach in AO 1985–8.

Paragraph 103.3(b)(3) covers contributions which are excessive, either on their face or in the aggregate, and contributions that cannot be accepted under the net debts outstanding rule. The treasurer has the option to deposit them within ten days of receipt or to return them. If deposited, the treasurer has sixty days from the date of the treasurer's receipt to obtain a redesignation or reattribution under §§ 110.1(b)(5), 110.1(k)(3) or 110.2(b)(5) to cure the illegality. If the redesignation or reattribution is not obtained, the contribution must be refunded within the same sixty day time period.

New § 103.3(b)(4) prohibits the use of the funds while the legality of a contribution is in question. The political committee must either establish a separate account for such contributions or maintain sufficient funds as are needed to cover all potential refunds.

Paragraph 103.3(b)(5) revises the recordkeeping and reporting provisions in current § 103.3(b) (1) and (2). The treasurer is required to maintain a written record noting the basis for the appearance of illegality. The committee's reports shall indicate the questionable nature of the contribution, as well as any refund it makes. The reporting requirements are explained in more detail in new 11 CFR 104.8(d), discussed below.

Section 104.8 Uniform reporting of contributions.

The Commission has adopted a conforming amendment to § 104.8(d). Currently, that provision explains how joint contributions are to be attributed to each contributor. The joint contribution provisions are being moved from current § 104.8(d) to new § 110.1(k). Since Part 104 contains reporting requirements, the Commission has drafted new § 104.8(d) to provide political committees with guidance as to how to report joint contributions, reattributions to other contributors, redesignations for different elections, and refunds to contributors. The new reporting provision is necessary to ensure adequate public disclosure of the circumstances surrounding the making of the contribution, and to prevent the acceptance and use of illegal campaign contributions.

With regard to itemizable joint contributions, § 104.8(d)(1) provides that the amount to be attributed to each contributor shall be reported. Under § 110.1(k)(2), equal attribution will be presumed unless the contributors state otherwise. This provision does not alter the requirements concerning itemization of contributions. For example, if a committee receives a joint contribution for $300, which contains two signatures, it does not need to itemize the contribution, provided that $150 is attributed to each contributor, and they have made no previous contributions. If the $300 check represents two contributions of $250 and $50, the $250 contribution must be itemized.

New § 104.8(d)(2) explains how to report contributions redesignated by the contributor for a different election. New § 104.8(d)(3) governs the reporting of itemized contributions that are reattributed to a different contributor. Both redesignations and reattributions are to be reported by the recipient committee as memo entries on the report covering the reporting period in which they were received. To allow those reading the report to ascertain when the contribution was originally made, the memo entry will also indicate how the contribution was reported initially. In the situation where a political committee makes a contribution, and subsequently provides a redesignation, the contributing committee is also required to note the redesignation in the report covering the time period in which the redesignation was provided. This is to promote uniformity in reporting redesignations. Please note that the recipient candidate or committee must report reattributions and redesignations only if the original contribution was itemizable. Reporting ensures that the excessive portion of the original contribution has been properly remedied.

New § 104.8(d)(4) governs the reporting of contribution refunds. These are to be reported by the committee making the refund, but not as memo entries, since they will affect the committee's total disbursements and cash on hand. A political committee receiving a contribution refund is also obligated to report the refund when it is received.

The Commission has considered whether committees should have the option to disclose refunds, reattributions and redesignations by amending the report(s) which originally listed the contributions. The Commission concludes that this approach would not be advisable in light of the number of amendments which would have to be made, and because the amendments would not clearly reflect when the refund, redesignation or reattribution was made.

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