

# Partnerships

Federal Election Commission

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*Please Note: Portions of this publication may be affected by the Supreme Court's decision in Citizens United v. FEC on January 21, 2010 ([http://www.fec.gov/law/litigation/cu\\_sc08\\_opinion.pdf](http://www.fec.gov/law/litigation/cu_sc08_opinion.pdf)). Essentially, the Court's ruling permits corporations and labor organizations to use treasury funds to make independent expenditures in connection with federal elections and to fund electioneering communications. The ruling did not affect the ban on corporate or union contributions or the reporting requirements for independent expenditures and electioneering communications. The Commission is studying the Court's opinion and will provide additional guidance as soon as possible.*

## Introduction

This brochure describes the special rules that apply to the involvement of partnerships and partners in federal elections. (The President and members of both the U.S. Senate and U.S. House of Representatives are chosen in federal elections.) This publication is written for:

- Partners;
- Partnerships;
- Certain limited liability companies (LLCs);<sup>1</sup> and
- Political action committees (PACs) established by partnerships.

Citations refer to Federal Election Commission (FEC) regulations, contained in Title 11 of the Code of Federal Regulations (11 CFR). Advisory opinions<sup>2</sup> (AOs) issued by the Commission are also cited.<sup>3</sup>

If you have questions after reading this brochure, please consult our web site ([www.fec.gov](http://www.fec.gov)) or call the FEC in Washington, D.C., at 800/424-9530 or 202/694-1100. Hearing impaired people may use the agency's TDD by calling 202/219-3336.

## What Is a Contribution

A contribution is anything of value given to influence a federal election. 11 CFR 100.52(a). The most common types of contributions are:

- Gifts of money;
- Gifts of goods and services (in-kind contributions); and
- Loans (including guarantees or endorsements of loans). See "Loans," p. 8.

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<sup>1</sup> In some cases, limited liability companies (LLCs) are treated as partnerships. For the purposes of contribution limitations and prohibitions, an LLC is treated as a partnership if it does not have publicly traded shares and has either chosen to file, under IRS rules, as a partnership or made no choice at all. 11 CFR 110.1(g)(2) and (3).

<sup>2</sup> AOs are official Commission responses to questions about how the federal campaign finance law applies to specific, factual situations.

<sup>3</sup> The reader should not rely solely on this brochure and FEC regulations but should also consult the federal election provisions of Title 2 of the United States Code (2 U.S.C. §§431-455) and cited advisory opinions. Review of the text of all cited opinions is encouraged because the circumstances of partnership contributions often vary in legally significant respects.

## Gifts of Money

Contributions exceeding \$100 must be made by check (or other written instrument).  
11 CFR 110.4(c).

## In-kind Contributions

### Definition

In-kind contributions include:

- Goods and services offered free of charge;
- Goods and services offered at less than the usual and normal charge (but discounts are not contributions if they are offered in the ordinary course of business to both political and nonpolitical clients); and
- Payments by a third party for goods and services rendered to a candidate or political committee.

11 CFR 100.52(a) and (d).

### Value

The dollar value of an in-kind contribution is subject to limits and must be reported. The value of a particular in-kind gift is determined as follows:

- *Goods* (such as equipment, supplies, facilities and mailing lists) are valued at their normal purchase or rental price in the market at the time they are provided.
- *Services* (such as advertising, printing or consulting) are valued at the prevailing commercial rate at the time the services are rendered (i.e., the amount that was paid or would have been paid for the services).
- *Discounts* that are not provided in the ordinary course of business are valued at the amount discounted (i.e., the difference between the usual and normal charge and the amount paid by the committee).

11 CFR 100.52(d).

## Partnership Contributions: The Basics

### Contribution Limits

A partnership may make contributions to influence federal elections, subject to the limits. A partnership contribution always counts against the limits of the participating partners, as well as the partnership's limit.

### Partnership's Limits

A partnership may contribute up to:

- \$2,500 per election to a candidate for federal office;
- \$30,800 annually to a national party committee;
- \$10,000 annually to state and local party committees;<sup>4</sup> and
- \$5,000 annually to any other political committee.

11 CFR 110.1(a)-(e).

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<sup>4</sup> In any given state, local and state party committees are affiliated and share the same contribution limit for contributions from any one partnership, unless the particular party committee can demonstrate its non-affiliation in accordance with 11 CFR 110.3(b)(3)(i) and (ii).

### **Partner's Limits**

An individual partner, like a partnership, may contribute up to:

- \$2,500 per candidate, per election;
- \$30,800 annually to a national party committee;
- \$10,000 annually to state and local party committees; and
- \$5,000 annually to any other political committee.

11 CFR 110.1(a)-(e).

In addition to the limits on individual contributions to a particular political committee, there is an overall biennial limit. During the 2011-2012 two year period, an individual may contribute a total of \$117,000 to all federal political committees combined.<sup>5</sup> 11 CFR 110.5.

This amount may not go entirely to any one type of political committee. Only \$46,200 may be contributed to candidate committees. The remaining \$70,800 may be contributed to PACs and party committees, but only \$46,200 of that amount may go to state and local parties and PACs. 11 CFR 110.5(b)(1)(i)-(ii).

### **Contributions Attributed Among Partners**

A portion of a partnership contribution must be attributed to each contributing partner.<sup>6</sup> The portion attributed to each partner must not exceed the individual partner's contribution limit. If all partners within the organization are contributing, the partnership may attribute the contribution according to each partner's share of the firm's profits. If the partnership attributes a contribution on another basis agreed to by the partners, or if it attributes contributions only to certain partners, the following rules must be observed:

- The profits and losses of only the contributing partners must be affected; and
- The profits of each contributing partner must be reduced (or his/her losses increased) by the amount of the contribution attributed to him or her.

11 CFR 110.1(e).

### **Reporting Requirements**

A contribution from a partnership is dually attributed, so the partnership must provide to the recipient committee a written notice listing the names of the contributing partners and the amount to be attributed to each. 11 CFR 110.1(e)(1).

### **Signature Requirements**

Contributions from a partnership need not be accompanied by the signature of each contributing partner. 11 CFR 110.1(k)(1).

### **Example: Attribution and the Contribution Limits**

A firm has four partners who split the partnership profits as follows:

- Partner A takes 30%;
- Partner B takes 20%;
- Partner C takes 25%; and
- Partner D takes 25%.

<sup>5</sup> The biennial limit is indexed for inflation in odd-numbered years.

<sup>6</sup> No portion of a contribution drawn on a partnership account may be attributed to a partner who is prohibited from making contributions in connection with federal elections. See "Prohibited Partnership Contributions," page 4. Nor may any portion be attributed to the spouse of a partner, unless the spouse is also a member of the partnership. AO 1980-67.

The partnership makes a \$2,500 contribution to a candidate for the primary election. That contribution exhausts the partnership's limit for that candidate for the primary. If the partnership attributes the contribution to every partner in proportion to his or her percentage share of the firm's profits, the contribution counts as a contribution from each partner as follows:

- Partner A, \$750 Contribution; may still personally contribute \$1,750 to the same candidate with respect to the same primary;
- Partner B, \$500 Contribution; may still personally contribute \$2,000 to the same candidate with respect to the same primary; and
- Partners C & D, \$625 Contribution each; each may still personally contribute \$1,875 to the same candidate with respect to the same primary.

## **Electioneering Communications**

An electioneering communication is any broadcast, cable or satellite communication which refers to a clearly identified federal candidate and is aired to the relevant electorate during a certain period prior to an election. For more information, see the *Electioneering Communications* brochure.

Partnerships funding electioneering communications exceeding \$10,000 in a calendar year must disclose certain information, including the identity of any person who executed the contract to pay for the communication and any person sharing or exercising control over the person paying for the communication. 11 CFR 104.20.

## **Prohibited Partnership Contributions**

### **Partnerships with Corporate Members<sup>7</sup>**

Contributions from and electioneering communications by corporations are prohibited, so a partnership with corporate members may not attribute any portion of a contribution or electioneering communication to corporate partners. 11 CFR 110.1(e) and 114.2.

### **Partnerships with Foreign National Members**

Contributions from and electioneering communications by foreign nationals are prohibited, so a partnership may not attribute any portion of a contribution or electioneering communication to a partner who is a foreign national. 11 CFR 110.20. See the *Foreign Nationals* brochure.

### **Partnerships with Federal Government Contracts**

A partnership that is negotiating a contract with the federal government or that has not completed performance of such a contract is prohibited from making contributions or electioneering communications. However, an individual partner in such a firm may make

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<sup>7</sup> A group of individuals organized as a professional corporation (e.g., some law firms and medical practices) is not a partnership. A professional corporation is prohibited from making contributions because contributions from any type of corporation are unlawful. 11 CFR 114.2 and 114.7(d). See the *Campaign Guide for Corporations and Labor Organizations*.

contributions from personal funds (rather than from funds drawn on a partnership account). 11 CFR 115.4. See AOs 1991-1 and 1984-10.

Additionally, an individual partner who is a federal contractor is prohibited from making contributions using funds (business or personal) under his or her control. 11 CFR 115.5.

## **Political Action Committees Sponsored by Partnerships<sup>8</sup>**

In addition to making direct contributions, a partnership may participate in federal elections by sponsoring a nonconnected political action committee (PAC).<sup>9</sup>

### **PAC Sponsorship**

PAC sponsorship affords a partnership two advantages. First, contributions made by the PAC are generally not attributed to the partnership or the individual partners. Second, once it has qualified as a multicandidate committee,<sup>10</sup> the PAC has a higher contribution limit than the partnership. A multicandidate PAC may contribute up to \$5,000 per candidate, per election whereas the partnership can only contribute \$2,500.

A PAC must file regular FEC reports of receipts and disbursements. Also, partnership support in the form of administrative costs and other contributions is limited to \$5,000 per year. See p. 2.

### **\$1,000 Registration Threshold**

The law requires all political committees to register with the FEC. A nonconnected PAC becomes a "political committee" once it raises or spends more than \$1,000 in a calendar year to influence federal elections.<sup>11</sup> 11 CFR 100.5(a) and 102.1(d).

To register, the PAC must file a Statement of Organization, FEC Form 1, with the FEC. The form must be signed by the PAC treasurer. 11 CFR 102.2(a)(1). For a copy of the form and other information, consult the FEC web site ([www.fec.gov](http://www.fec.gov)) or contact the FEC at 800/424-9530.

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<sup>8</sup> A partnership composed entirely of corporations cannot establish or support a political committee (AOs 1981-56 and 1981-54) unless the partnership is affiliated with one of the corporate partners. See "Partnerships Affiliated with Corporations" below.

<sup>9</sup> A nonconnected PAC supports candidates for federal office but is not established or administered by any candidate, party committee, corporation or labor organization.

<sup>10</sup> A nonconnected PAC qualifies as a multicandidate committee once it has been registered at least six months, has made contributions to five federal candidates, and has received contributions from over fifty (50) contributors. 11 CFR 100.5(e)(3). A multicandidate committee must file Form 1M with the Commission to certify that it has satisfied the criteria before it may take advantage of the higher contribution limits. 11 CFR 102.2(a)(3).

<sup>11</sup> Even though the partnership's contributions to candidates and its financial support to its nonconnected PAC may total over \$1,000 in a calendar year, it is not normally required to register as a political committee. Where the articles of partnership (or partnership agreement) set forth the type of activity to be engaged in by the partners, such as the practice of law, the Commission has not characterized the partnership as a political committee. AOs 1984-18 and 1981-50.

## **Treasurer's Responsibilities**

The treasurer is legally responsible for authorizing expenditures, monitoring contributions, depositing receipts in the PAC's designated bank account, keeping records of receipts and disbursements, and filing complete, accurate and timely reports of activity with the FEC. 11 CFR Parts 102, 103, 104 and 300.

## **Keeping Records and Reporting Contributions**

PACs must keep records and file FEC reports. Contributions to the PAC from individuals and groups, other than political committees,<sup>12</sup> must be recorded and reported in the following manner:

### **Contributions Aggregating Over \$200**

For each contribution that exceeds \$200, either by itself or when aggregated with previous contributions from the same donor to the PAC during the same calendar year, the PAC must record and report on Schedule A the:

- Amount;
  - Date of receipt;
  - Donor's name and address; and
  - Donor's occupation and employer.
- 11 CFR 100.12, 102.9(a)(2) and 104.3(a)(4)(i).

### **Contributions of More Than \$50**

The PAC must include contributions that do not exceed the \$200 itemization threshold in the totals for unitemized contributions, which are entered on line 11a(ii) of FEC Form 3X.

The PAC's records must, for each contribution exceeding \$50, identify the:

- Amount;
  - Date of receipt; and
  - Donor's name and address.
- 11 CFR 102.9(a)(1).

### **Contributions of \$50 or Less**

For these contributions, the Commission recommends two possible accounting methods:

- Keep the same records as those required for contributions that exceed \$50; or
- In the case of contributions of \$50 or less collected at a fundraising event, keep a record of the name of the event, the date and the total amount of contributions received on each day of the event. AOs 1981-48 and 1980-99.

## **Best Efforts**

Under the Act and Commission Regulations, PACs are required to make best efforts to obtain, maintain and report the contributor information discussed above. In order to show the committee has made "best efforts," solicitations must specifically request such

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<sup>12</sup> A contribution from any political committee (federal or nonfederal) must be itemized, regardless of the amount. 11 CFR 104.3(a)(4)(ii).

information and inform contributors that the committee is required by law to undertake best efforts to report it. 11 CFR 102.9(d) and 104.7.

## **Partnership Support of PAC**

A partnership is limited in the amount of unreimbursed support it may give to its nonconnected PAC (for example, office space and phones) because such support is considered a contribution. (See AO 1982-63.) Partnership contributions to the PAC are limited to \$5,000 per calendar year. (Contributions from each partner's personal funds to the PAC are also limited to \$5,000 per calendar year.) 11 CFR 110.1(d). Contributions--including loans and in-kind contributions--made by partnerships to their nonconnected PACs are attributable among participating partners, as explained in "Contributions Attributed Among Partners." No part of a partnership's contributions to its PAC, however, may be attributed to a partner who is prohibited by the Act from making contributions, as explained in "Prohibited Partnership Contributions."

The various types of contributions a partnership may provide to its nonconnected PAC are explained below.

### **Contributions of Money**

A partnership may contribute money to its nonconnected PAC, which counts against the partnership's yearly \$5,000 limit. The PAC must report the contributions. 11 CFR 110.1(d).

### **In-Kind Contributions**

A partnership makes in-kind contributions when it pays for day-to-day costs of operating the PAC. For example, the partnership may pay for the PAC's rent, office equipment and supplies, utilities, telephone service and fundraising expenses. The partnership may also provide personnel to help run the PAC. All of the partnership's payments for goods, services and staff time are considered reportable in-kind contributions and are subject to the same \$5,000 limit (and attribution rules) as contributions of money. (Certain legal and accounting services, however, are not considered contributions to a PAC. See "Legal and Accounting Services.")

### **Payroll Deduction Plans**

The partnership's PAC may raise money from the organization's partners and employees through payroll deductions. If the costs of administering the payroll deduction plan are paid by the partnership and are not reimbursed, they are considered an in-kind contribution from the partnership. If, however, the PAC pays for the costs of the payroll deduction plan, then they are considered operating expenditures by the PAC. AO 1982-63.

### **Reimbursement Arrangements**

When a partnership employee provides the firm's PAC or another committee with legal and accounting services which fall outside the exemption for legal and accounting services (see "Legal and Accounting Services"), the partnership may establish a reimbursement schedule to avoid making an in-kind contribution to the committee. In AO 1979-22, an associate of a law firm served as counsel to a political committee. The firm

received payment from the committee for the counsel's time according to a predetermined payment schedule. That payment was subject to periodic review for accuracy in reflecting the amounts of time the counsel devoted to both the committee and the firm.

### **Loans**

A partnership may loan money to its nonconnected PAC. A loan to the PAC is considered a contribution to the extent that it remains outstanding and, therefore, counts against the partnership's \$5,000 contribution limit and each partner's individual \$5,000 limit. A loan exceeding the contribution limit is unlawful, even if repaid in full. The PAC must report the receipt of a loan and repayments made on the loan until the debt is extinguished. 11 CFR 100.52(b), 104.3(a)(4)(iv) and 104.3(b)(3)(iii).

### **More Information**

Consult the *Campaign Guide for Nonconnected Committees* for more information about setting up and running a PAC.

### **Partnerships Affiliated with Corporations**

When a political committee is sponsored by a partnership that is entirely owned by one or more corporations (such as a joint venture partnership) and is affiliated with at least one of the corporate owners, the rules generally applicable to nonconnected committees do not apply. Instead, the committee would operate under the rules governing separate segregated funds (SSFs), as explained below.

### **Exempt Administrative and Fundraising Payments**

A corporation may use its treasury funds to pay the costs of establishing, administering and soliciting contributions to its PAC (SSF), without making a prohibited corporate contribution or expenditure. 11 CFR 114.5(b). In several advisory opinions, the Commission has applied this provision to permit a corporation that is affiliated with an unincorporated entity, like a partnership, to pay the administrative and solicitation expenses of the affiliate's political action committee.

Moreover, when the unincorporated entity is wholly owned by corporations and affiliated with at least one of them, the unincorporated entity may also pay these expenses without the payments resulting in a contribution to the sponsored committee. In these cases, the affiliated corporation functions as the connected organization of the committee. See AOs 1997-13, 1996-49, 1994-9 and 1992-17.

By contrast, in AO 2001-7, the Commission concluded that a nonconnected political committee sponsored by a limited liability company (LLC) was not affiliated with any of the five corporations that jointly owned the LLC. As a result, neither the sponsoring LLC nor any of its corporate owners could pay the committee's administrative and solicitation expenses. Instead, the committee had to cover these expenses using the contributions it received.

### **Solicitation of Restricted Class**

If a corporation functions as the connected organization of a partnership PAC, then the PAC cannot solicit contributions from the general public; it may only solicit the restricted class of its sponsoring organization and affiliated corporation(s). See AO 1989-8.



## **Partnership PACs Affiliated with Corporate SSFs**

Under the Act and FEC regulations, SSFs may solicit contributions from only a restricted class of individuals. 11 CFR 114.5(g). In several advisory opinions, the Commission has applied this restriction to political committees sponsored by unincorporated entities that are affiliated with corporate SSFs. As a result, this type of committee cannot solicit contributions from the general public; it may only solicit the restricted class of its sponsoring organization and affiliated corporation(s). See AOs 1996-49, 1996-38, 1989-8, and 1987-34.

### **More Information**

For more information on corporate PACs and solicitation restrictions, see the *Campaign Guide for Corporations and Labor Organizations*.

## **Partnership Contribution Plans**

A partnership, without establishing a PAC or triggering reporting responsibility, may set up an internal plan to facilitate contributions from individual partners, or from the partnership as a whole, to candidates and political committees.<sup>13</sup> In several advisory opinions, the Commission has said that the incidental expenses incurred to administer such plans and to keep records on contributions are not considered contributions or expenditures. Therefore, such incidental expenses do not count toward contribution limits and do not cause the firm to become a political committee under the Act. See AOs 1984-18 and 1982-13.

(Note, by contrast, that when the partnership incurs expenses to facilitate contributions to its nonconnected PAC, the expenses are considered contributions to the nonconnected PAC and must be attributed among the partners eligible to make contributions. See AO 1982-63; "Partnership Support of PAC," p. 7.

The Commission approved the three contribution plans described below. None of the plans involve the partnership's soliciting contributions on behalf of specific candidates.

### **Partners Make Individual Contributions**

In AO 1980-72, each partner who wished to participate in the contribution plan deposited personal funds into a bookkeeping account established by the law firm. When the member wanted to make a contribution, he or she wrote a personal check drawn on this bookkeeping account to the candidate or political committee of his or her choice.

When, as in this case, contributions are made by personal checks drawn on accounts controlled by individual partners, rather than by checks drawn on the firm's account, the contributions are not attributed among other partners and do not count against the contribution limits for the firm.

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<sup>13</sup> Contributions from federal contractors are prohibited, so partnerships that are federal contractors cannot set up plans that make contributions from partnership accounts. Individual partners may make contributions from personal funds using personal checks. See AO 1984-10. See also "Prohibited Partnership Contributions," p. 4.

### **Participating Partners Make Partnership Contributions**

Under group contribution plans in AOs 1984-18 and 1981-50, groups of partners administered plans that offered fellow partners a guideline for an annual pledge of money to be used for contributions. The group also circulated among the partners solicitations received from candidates. Subsequently, each interested partner indicated which candidates he or she wished to support and how much of his or her pledge he or she wanted to designate to a particular candidate. Based on this designation information, the group issued a check drawn on the partnership's general account and deducted the appropriate attributed portion of the contribution from each participating partner's account. The contribution was subject to the partnership's contribution limit and the amount attributed to each participating partner was subject to his or her individual contribution limit.

### **Group of Partners Authorizes Partnership Contributions**

Under a third plan, approved in AO 1982-13, each fiscal year, the partners agreed on an amount to be budgeted for partnership political contributions. Each partner agreed to contribute a proportionate share, based on his or her percentage share of the partnership profits. Each partner paid his or her attributable portion, either by personal check or by charging it against his or her personal firm account, and having it withheld from his or her monthly income distribution. Partners had the right to refuse to have any portion of a particular contribution attributed to him or her before that contribution was made.

Each partner could, of course, make individual contributions outside those authorized by the partnership plan. Those contributions counted only against the partner's individual contribution limit and not against the partnership's limits. The partnership required, however, that the partners notify it of any contributions made outside the plan to ensure that any attribution of partnership contributions would not cause the partner to exceed his or her limit.

### **Legal and Accounting Services**

A partnership may offer free legal and accounting services to its nonconnected PAC, to candidate committees and to other political committees provided that:

- The services to candidate committees and other nonparty committees are provided only for the purpose of helping them comply with the federal campaign finance law;
- The services provided to political party committees do not directly further the election of any specific candidates for federal office; and
- The individual who performs the service is a regular employee of the partnership. 11 CFR 100.85 and 100.86.

The recipient committee must report the value of the donated services as a memo entry on Schedule A if the aggregate value exceeds \$200 per calendar year. To facilitate reporting, the partnership should provide the committee with the necessary information. 11 CFR 104.3(h).

## Partner Activity on Behalf of Candidates

In several advisory opinions, the Commission addressed the issue of partners engaging in political activity during working hours. (This situation is different from the limited exemption for legal and accounting services. That exemption is not for campaign activity, but rather for work which helps a committee comply with the federal campaign finance law.)

## Compensation for Partner/Volunteer

In AOs 1980-107 and 1979-58, two senior partners of law firms wished to provide volunteer services during working hours to the campaigns of federal candidates. In these cases, the partners' compensation was based not on the number of hours worked, but rather on their proprietary interest in their firms. Moreover, the partners had complete discretion over the use of their time. The Commission concluded that the firms could pay full compensation to the partners without making contributions to the campaigns receiving their services.

## Compensation for Partner/Candidate

As a general rule, compensation paid by a partnership to a partner who is simultaneously running as a candidate is not considered a contribution from the partnership if the compensation:

- Results from bona fide employment genuinely independent of the candidacy;
- Is exclusively in consideration of services provided; and
- Does not exceed the amount that would be paid to a similarly qualified person for the same work.

11 CFR 113.1(g)(6)(iii)

Compensation to a partner for time spent campaigning is a contribution from the partnership, unless the compensation is reduced to reflect the lost time. See also AOs 1980-115 and 1978-6.

*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:*

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