



FEDERAL ELECTION COMMISSION
Washington, DC 20463

March 14, 2005

MEMORANDUM

TO: The Commission
General Counsel
Staff Director
Public Information
Press Office
Public Records

FROM: Brad C. Deutsch *BCD*
Assistant General Counsel

SUBJECT: Late comment on Definition of "Agent" for BCRA Regulations on
Non-Federal Funds or Soft Money and Coordinated and
Independent Expenditures

Attached please find one late comment submitted in response to the above Notice of Proposed Rulemaking, Notice 2005-3, published on February 2, 2005 (70 FR 5382). The comment period ended on March 4, 2005.

Attachments

cc: Associate General Counsel for Policy
Congressional Affairs Officer
Executive Assistants



Morton Cynthia D
<Cynthia.D.Morton@irsconse
el.treas.gov>

03/09/2005 10:56 AM

To "agentnprm@fec.gov" <agentnprm@fec.gov>

Morton Cynthia D
cc <Cynthia.D.Morton@irsconse
el.treas.gov>, Blumenfeld
Michael B

bcc

Subject Definition of agent for non-federal funds and coordinated and
independent expenditures

Dear Mr. Deutsch:

Thank you for providing us a copy of the FEC's proposed rules related to the definition of agent for non-federal funds and coordinated and independent expenditures. I am attaching our comments below. We are also sending the signed original letter via regular mail.

If you have any questions or concerns regarding our comments or other related matters, please feel free to contact Michael B. Blumenfeld or me at (202) 622-6070.

Sincerely,

Cynthia Morton
Attorney
Exempt Organizations Branch 1
Office of the Division Counsel/Associate Chief Counsel (Tax-Exempt & Government Entities)
CC:TEGE:EOEG:EO1
Internal Revenue Service
1111 Constitution Ave., N.W.
Washington, D.C. 20224

Cynthia.D.Morton@irsconse
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OFFICE OF
CHIEF COUNSEL

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

March 8, 2005

VIA E-MAIL & REGULAR MAIL

Mr. Brad C. Deutsch
Assistant General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Dear Mr. Deutsch:

Thank you for sending to us a copy of Notice 2005-3, which contains proposed rules relating to the definition of "agent" for BCRA regulations on non-federal funds or soft money and coordinated and independent expenditures. Pursuant to 2 U.S.C. § 438(f), the Federal Election Commission and the Internal Revenue Service are to "consult and work together to promulgate rules, regulations, and forms which are mutually consistent."

Your Notice proposes revisions to the definition of agent at 11 C.F.R. 109.3 and 300.2(b) in order to comply with the district court's decision in Shays v. FEC, 337 F. Supp. 2d 28 (D.D.C. 2004). Specifically, you propose to revise the definition of "agent" to include any person acting with either actual authority, express or implied, or apparent authority. Please be advised that we believe the proposed rules do not pose a conflict with the Internal Revenue Code or the regulations thereunder.

If you would like to discuss any the issues involved, please feel free to call Cynthia Morton or me at (202) 622-6070.

Sincerely,

Michael B. Blumenfeld
Senior Technician Reviewer
Exempt Organizations Branch 2
Office of the Division Counsel/Associate Chief
Counsel (Tax Exempt & Government Entities)