

Step 5: Resignation/Reattribution Made or Make Refund Within 60 Days

Within 60 days after the date of the committee's receipt of the contribution either:

- The contributor must provide the committee with a resignation or reattribution; or
- The committee must refund the excessive portion of the contribution.

103.3(b)(3).

A contribution is properly redesignated if, within the 60-day period, the contributor provides the committee with a written, signed statement redesignating the contribution for a different election. 110.1(b)(5)(ii)(B).

A contribution is properly reattributed if, within the 60-day period, the contributors provide the committee with a written statement reattributing the contribution. The statement must be signed by all contributors and must indicate the amount attributable to each donor. (If the contributors do not specify how to divide the contribution, the committee must attribute the contribution equally among the contributors.) 110.1(k)(2) and (3)(ii)(B).

Step 6: Keep Records and Report

The committee must keep documentation for each reattribution and resignation to verify that it was received within the 60-day time limit. Documentation for a reattribution or a resignation must include one of the following:

- A copy of the postmarked envelope bearing the contributor's name, return address or other identifying code;
- A copy of the signed statement reattributing or redesignating the contribution with a date stamp showing the date of the committee's receipt; or
- A copy of the written resignation or reattribution dated by the contributor.

110.1(l)(6).

The documentation relating to a reattribution or resignation must be retained for three years. 102.9(c).

8. Contributions to Retire Debts

If a committee has net debts outstanding after an election is over, a campaign may accept contributions after the election to retire the debts provided that:

- The contribution is designated for that election (since an undesignated contribution made after an election counts toward the limit for the candidate's upcoming election, unless the campaign requests its redesignation);
- The contribution does not exceed the contributor's limit for the designated election; and
- The campaign has net debts outstanding for the designated election on the day it receives the contribution.

110.1(b)(3)(i) and (iii).

How to Calculate Net Debts Outstanding

A campaign's net debts outstanding consist of unpaid debts incurred with respect to the particular election minus cash on hand plus the total amounts owed to the campaign in the form of credits, refunds of deposits, returns and receivables or a commercially reasonable estimate of the collectible amount, and loans exceeding \$250,000.¹² 110.1(b)(3)(ii).

Unpaid Debts

Unpaid debts include the following:

- All outstanding debts and obligations;
- The estimated cost of raising funds to liquidate the debts; and
- If the campaign is terminating, estimated winding down costs (for example, office rental, staff salaries and office supplies).

110.1(b)(3)(ii).

¹² For an illustration of how the net debts outstanding calculation is performed, see the Explanation and Justification published with the final rule, 52 Fed. Reg. 762 (January 9, 1987), available online at http://www.fec.gov/law/cfr/ej_compilation/1987/1987-1.pdf#page=3

Cash on Hand

Cash on hand consists of the resources available to pay the campaign's total debts, including currency, deposited funds, traveler's checks, certificates of deposit, treasury bills and any other investments valued at fair market value. I 10.1(b)(3)(ii)(A).

For the purpose of calculating net debts outstanding for the primary, cash on hand need not include contributions designated for the general. I 10.1(b)(3)(iv).

Adjustment to Net Debts Total

A campaign first calculates its net debts outstanding as of the day of the election. Thereafter, the campaign continually recalculates its total net debts outstanding as additional funds are received for, or spent on, the election for which the debt remains. I 10.1(b)(3)(ii) and (iii).

Contributions Exceeding Net Debts

If, on the same day, a campaign receives several contributions that, together, exceed the amount needed to retire its debts, the campaign may:

- Accept a proportionate amount of each contribution and either refund the remaining amount or ask contributors to redesignate the excessive portions for another election; or
- Accept some contributions in full and either return or refund the others or seek redesignations or reattributions for them. (See "Redesignations" and "Reattributions" in Section 7 above.)

I 10.1(b)(3).

9. Contributions from Partnerships

Partnerships are permitted to make contributions according to special rules. I 10.1(e) and (k)(1). For further details, see Appendix B.

10. Contributions from Limited Liability Companies

Corporation v. Partnership

For purposes of contribution limitations and prohibitions, a limited liability company (LLC) is treated as either a corporation or a partnership.

An LLC is treated as a corporation if:

- It has chosen to file, under Internal Revenue Service (IRS) rules, as a corporation; or
- It has publicly traded shares. I 10.1(g)(3).

An LLC is treated as a partnership if:

- It has chosen to file, under IRS rules, as a partnership; or
- It has made no choice, under IRS rules, as to whether it is a corporation or a partnership. I 10.1(g)(2).

If an LLC is treated as a corporation, it is prohibited from making contributions to candidate committees, but it can establish an SSF (see Chapter 5 for general information on the corporate prohibition). If it is considered a partnership, it is subject to the contribution limits for partnerships outlined in Appendix B. I 10.1(g).

Single Member LLC

If a single member LLC does not require corporate tax treatment, it may make contributions; the contributions will be attributed to the single member, not the LLC.

Notifying Recipient Committee

An LLC must, at the time it makes a contribution, notify the recipient committee:

- That it is eligible to make the contribution; and
- How the contribution is to be attributed among members.

This requirement will prevent the recipient committee from inadvertently accepting an illegal contribution. I 10.1(g)(5).