

OHIO CAMPAIGN FINANCE HANDBOOK

CHAPTER 2: CANDIDATES

Updated September 2012

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CANDIDATES

What to Do First

Before receiving any contribution or making any expenditure, a potential candidate must file a *Designation of Treasurer (Form 30-D)*. This is considered a “registration” form and includes basic information such as the candidate’s name and address, the campaign committee’s name, the office sought and the name of the treasurer and any deputy treasurers. The candidate must either designate himself or another person as the campaign committee treasurer. The candidate must, and the treasurer should, sign the *Designation of Treasurer form*. Candidates are responsible to update/amend this information as necessary (e.g., change in treasurer or change of committee name or change of address).

[*R.C. 3517.081, 3517.10(D)*]

Candidates who only spend their own personal funds still must file a *Designation of Treasurer form* prior to making out-of-pocket expenditures related in any way to their campaign. However, the use of personal funds to pay the filing fee to run for office does not require the filing of a *Designation of Treasurer form*. Please see the **Filing Fee Only Candidate** section in this chapter for more information.

[*OAC 111-5-01*]

Bank Account

A campaign committee must establish a bank account that is separate from a personal or business account of the candidate, or of a member of the candidate’s campaign committee. All monetary campaign contributions received must be deposited into this account. All contributions received and deposited, and all expenses paid from this account must be disclosed.

[*R.C. 3517.10*]

Campaign contributions may not be placed in a candidate’s personal or business account.

A federal identification number may be required by the committee’s chosen financial institution. This number is issued by the Internal Revenue Service upon request.

THE NEED TO FILE
A DESIGNATION OF
TREASURER AND CREATE
A CAMPAIGN COMMITTEE
MAY OCCUR WELL BEFORE
THE CANDIDATE BEGINS
CIRCULATING PETITIONS.

Where to File Reports

The office for which the candidate is running determines where campaign finance reports are filed. Candidates running for governor/lieutenant governor, attorney general, secretary of state, treasurer of state, auditor of state, supreme court justice or state board of education member must file their campaign committee reports with the secretary of state's office.

[R.C.3517.11, 3513.259]

Similarly, campaign committees for candidates for member of the general assembly or candidates for the courts of appeals are subject to electronic filing with the secretary of state. Electronically filed reports are not additionally required to be produced and/or filed in paper form. See *Chapter 11, Electronic Filing*, for more information.

All other candidates file their reports with the county board of elections in the county in which they are running for office. State law neither requires nor permits a local candidate's campaign committee which submits campaign finance reports at the local county board of elections to file electronically.

[R.C. 3517.11(A)].

A committee that must change its place of filing does so by first filing an amended *Designation of Treasurer form*. The original copy of the amended *Designation of Treasurer form* should be filed with the new place of filing. A photocopy should be sent to the prior place of filing, with a notation or letter clearly indicating that the form is intended as a termination for purposes of filing at that location.

Federal political committees, which include a campaign committee's name of a candidate for federal office, file reports with the Federal Election Commission. However, when a federal political committee makes a disbursement to an Ohio non-federal candidate's campaign committee, the federal candidate committee must disclose this information to the secretary of state's office.

[R.C. 3517.107]

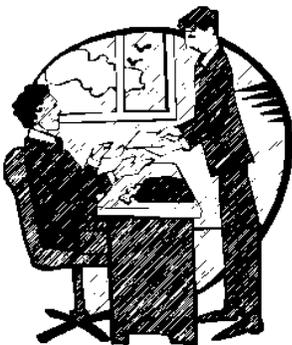
When to File Reports

Campaign committee reports are due based on when the candidate's name appears on the ballot.

For example, if the name of the candidate does not appear on a ballot, no pre- or post-election report is required.

[R.C. 3517.10(A)]

All reports must be physically received at the secretary of state or county board of elections office to meet the filing deadline requirement. A report postmarked but not received by the deadline is a late filing and must be referred to the Ohio Elections Commission.



A **pre-election** report is due by 4:00 p.m. on the 12th day before an election (primary, general or special) if \$1,000 or more was spent or received between the time the last report was filed and the 20th day before the election, if the candidate appears on the ballot at that election. The \$1,000 threshold includes monetary and in-kind contributions along with the value of any new loans received during the reporting period.

[R.C. 3517.10(A)(1)]

Examples:

The campaign committee of a candidate who will appear on the ballot has raised \$800 in contributions and has made \$300 in expenditures during the pre-election filing period. This committee is not required to file a pre-election report.

The campaign committee of a candidate who will appear on the ballot has raised \$1,200 in contributions and has made \$300 in expenditures during the pre-election filing period. This committee must file a pre-election report.

A CAMPAIGN COMMITTEE
MAY CHOOSE TO FILE
A PRE-ELECTION
REPORT EVEN IF TOTAL
CONTRIBUTIONS AND
EXPENDITURES ARE
BELOW THE \$1,000
THRESHOLD.

A **post-election** report is due by 4:00 p.m. on the 38th day after the election if the candidate appeared on the ballot. A post-general report covers all activity not previously reported through the 31st day after the election. Any campaign committee whose candidate appeared on the ballot must file a post-election report.

[R.C. 3517.10(A)]

A **semiannual** report is due by 4:00 p.m. on the last business day of July showing all activity since the last report through June 30 and should reflect only the activity that has occurred since the previous report was filed. The campaign committee of any statewide or county candidate must file the semiannual report in a year when the candidate does not appear on an election ballot.

Exceptions and exclusions:

- » A semiannual report is not required if the campaign committee was required to file a post-primary election report in that year (because the candidate’s name appeared on the ballot).
- » Campaign committees of candidates for judicial office are not required to file a semiannual report in any year.
- » The campaign committee of a candidate for any non-statewide, non-county or non-judicial office (e. g. mayor, city council, township trustee, etc.) is not required to file a semiannual report unless that campaign committee **both**:
 - » Receives, during the semiannual reporting period, contributions **exceeding** ten thousand dollars.
 - » Did not file a post-primary election report.

[R.C. 3517.10(A)(4); OAC 111-5-04]

An **annual** report is due by 4:00 p.m. on the last business day of January showing all activity since the last report through December 31 and should reflect only the activity that has occurred since the previous report was filed. An annual report must be filed by a campaign committee that was not required to file a post-general election report.

[R.C. 3517.10(A)(3); OAC 111-5-04]

A campaign finance report can be filed even if one is not required to be submitted. This option allows a filing entity the flexibility of disclosing more frequently and, possibly, avoiding a late filing or completely failing to file a required report.

Local Candidate Waiver of Reporting Requirements

A candidate's campaign committee may be exempt from the requirement to file campaign finance reports during an election year (except for the *Designation of Treasurer form*) if the candidate is running for:



1. An elected municipal office that pays an annual amount of compensation of \$5,000 or less.
2. A board of education office , except for state board of education office.
3. An educational service center office, except for state board of education office.
4. A township trustee or township fiscal officer office.

In order to qualify for the *Local Candidate Waiver form*, the campaign committee of a candidate seeking election to the office listed above must file a certificate within 10 days

after filing a candidacy petition. This certificate is prescribed as *form No. 31-BB, Local Candidate Waiver*, which requires the treasurer to agree that the campaign committee will not accept more than \$2,000 of aggregate contributions during an election period and no more than \$100 from any one individual and that the committee will not make expenditures that total more than \$2,000. If the campaign committee exceeds any of those limitations, the certificate is void and the campaign committee is thereafter responsible for filing all required reports including all activity occurring since the candidacy petition was filed. The \$100 per individual contribution restriction does not apply to contributions made from the personal funds of the candidate.

[OAC 111-1-09]

The *Local Candidate Waiver form* covers activity occurring through the post-general reporting period of the year in which the waiver is filed. After that election year, the campaign committee must either terminate or begin filing campaign finance reports as prescribed by *section 3517.10 of the Revised Code*.

[R.C. 3517.10(K); OAC 111-1-09]

A campaign committee that qualifies for and operates under the conditions of the waiver is exempted from filing reports, but is not exempted from keeping a strict and accurate accounting of all campaign finance activity and preserving that information for six years, should there arise any need to examine disclosed information.

[*R.C. 3517.10 (D)(2); OAC 111-5-14*]

If a candidate has not filed a *Designation of Treasurer form* to establish a campaign committee, then there is no need to file a *Local Candidate Waiver form*. By not filing a *Designation of Treasurer form* a candidate indicates he/she will not receive or expend any funds – even their own – to influence the outcome of their election.

Short Form Report

If a candidate has no activity before January 1 of the year in which he or she appears on the ballot, and spends \$500 or less and receives \$500 or less in the year he or she appears on the ballot, then only the cover page of a campaign finance report is required to be filed. If all of these criteria are met, the candidate may file a *Short Form Report composed of only an Ohio Campaign Finance Report Cover Page (form 30-A)* at either the post-primary or post-general filing deadline.

If the candidate lost the primary, then the committee must also terminate to qualify to file only a *Short Form Report comprised of only an Ohio Campaign Finance Report Cover Page* for his/her post-primary report. If a Short Form Report is filed for the post-general, then the committee must simultaneously terminate.

Whenever a *Short Form Report* is filed, the portion of the form that contains lines to indicate total amounts should be completed.

If the candidate does not qualify for the *Short Form Report*, then a full campaign finance report must instead be filed.

[*R.C. 3517.10(H)*]

State and County Central Committee

For the purpose of compliance with Ohio's campaign finance disclosure law, "candidate" does not apply to candidates for election to the offices of member of a county or state central committee, presidential elector, and delegate to a national convention or conference of a political party.

[*R.C. 3517.01 (B)(3)*]

Report Forms

All reporting forms, along with instructions for their use, are available at the secretary of state's website: www.OhioSecretaryofState.gov

Filers may choose to download the forms and use them for creating reports eligible for filing in paper form. Filers may choose to create their own forms for use in paper filing, with the approval of the secretary of state's office, as long as they are substantially similar to the forms prescribed by the secretary of state's office.

[*OAC 111-5-11*]

Filers seeking the approval of alternative paper forms may direct their request, along with a sample of each of the alternative forms to:

OHIO SECRETARY OF STATE
CAMPAIGN FINANCE DIVISION
180 E. BROAD ST., 15TH FLOOR
COLUMBUS, OH 43215

GENERAL RULES

Treasurer Duties and Liability

Generally, the candidate, treasurer, and any appointed deputy treasurer are legally responsible for campaign finance reporting requirements. The treasurer is appointed by the candidate and is responsible for keeping detailed records of everything received, given or expended. A treasurer may appoint one or more deputy treasurers to assist in the accounting, record-keeping and disclosure responsibilities. Each report must contain a statement that the report is complete and accurate, subject to the penalty for election falsification. Whoever commits election falsification is guilty of a fifth degree felony. The cover page of every report filed must be signed by the treasurer or a deputy treasurer. The candidate's signature is not sufficient unless he or she is the treasurer or deputy treasurer. A treasurer or the candidate, if no treasurer is appointed, must retain accurate records of all activity for six years.

[*R.C. 3517.081, 3517.10(A) and (D), 3517.13(O)-(R), 3517.992(A), 3599.36; OAC 111-5-12, 111-5-14*]

Federal Candidates

Federal law governs campaign finance in federal elections. However, to the extent Ohio campaign practices are not preempted by federal law, Ohio law may apply to federal candidates. Such determination must be made on a case-by-case basis. Questions regarding federal law may be answered by the Federal Election Commission.

[R.C. 3513.261, 3517.107]

IF A FEDERAL CANDIDATE’S POLITICAL COMMITTEE WANTS TO MAKE CONTRIBUTIONS TO OHIO NON-FEDERAL CANDIDATES, IT MUST FIRST BECOME AUTHORIZED IN OHIO BY FILING, WITH THE SECRETARY OF STATE, A COPY OF THE MOST RECENT FEDERAL STATEMENT OF ORGANIZATION.

Filing Fee Only Candidate

The payment of a filing fee by the candidate from the candidate’s own funds is not considered either a contribution or an expenditure that would require the filing of a *Designation of Treasurer form*. Therefore, a candidate who receives no contributions and makes no expenditures, except for the filing fee paid from his own personal funds, is not required to file the *Designation of Treasurer form* and create a campaign committee. A candidate who is not required to file a *Designation of Treasurer form* – because no contributions will be received or expenditures made – is not subject to the reporting requirements. However, if the candidate has filed a *Designation of Treasurer*, payment of a filing fee is an ordinary and legitimate campaign expenditure and may be paid by campaign committee funds and reported as a normal expenditure.

[R.C. 3517.10; OAC 111-5-01]

Judicial Candidates/Canon 4 of the Code of Judicial Conduct

Judicial candidates are subject to Ohio campaign finance law. However, the Ohio Supreme Court has also issued special rules for judicial candidates under Canon 4 of the *Code of Judicial Conduct*, including special contribution limits and expenditure limits. For more information on judicial candidate requirements, please visit the Ohio Supreme Court’s website:

www.supremecourt.ohio.gov/Judiciary/candidates

Multi-beneficiary Campaign Committee

This statutory provision provides express permission for the creation and operation of a single campaign committee to represent multiple candidates. All of the following criteria must be met when creating a multi-beneficiary committee:

1. Each candidate seeks the same office at the same election and the office is a member of a board or commission or other similar body of elected officials with multiple members (example: two candidates running for four open school board seats).
2. The number of candidates in the multi-beneficiary committee does not exceed the number of open positions.

3. The candidates jointly designate one of the candidates or one member of the campaign committee as the treasurer of that campaign committee and file a combined *Designation of Treasurer form*.

The following, additional conditions are placed on a multi-beneficiary campaign committee:

1. The candidates jointly file all reports.
2. The multi-beneficiary committee must terminate if:
 - a. The candidates disagree on the appointment or removal of the treasurer.
 - b. Any of the candidates withdraw or otherwise end their candidacy.
 - c. Any of the candidates leave to create their own campaign committee.

Prior to the termination, the multi-beneficiary campaign committee must dispose of its balance on hand by doing any of the following:

1. Giving the amount to the Ohio Elections Commission fund.
2. Giving the amount to individuals who made contributions as a refund of all or part of their contribution.
3. Giving the amount to a tax-exempt organization.

No monies in a multi-beneficiary campaign committee may be contributed or transferred into any candidate's individual campaign committee.

[*R.C. 3517.081*]

WHEN CONSIDERING A NAME FOR THE CAMPAIGN COMMITTEE, IT MAY BE PRUDENT TO MAKE IT GENERAL IN NATURE RATHER THAN OFFICE-SPECIFIC. FOR EXAMPLE: FRIENDS OF JOHN DOE RATHER THAN DOE FOR COUNCIL. IF CANDIDATE DOE RUNS FOR A DIFFERENT OFFICE, ALL OF THE COMMITTEE BANK ACCOUNT INFORMATION AND ASSETS WITH A DISCLAIMER WILL NEED TO BE CORRECTED.

Naming a Campaign Committee

A campaign committee must include at least the last name of the candidate. If a campaign committee is established as a multi-beneficiary campaign committee, the last name of each benefiting candidate must be included in the name of the campaign committee.

[*R.C. 3517.10(D); OAC 111-1-04*]

One Campaign Committee per Candidate

A candidate may have only one campaign committee, regardless of the number of state and/or local offices held or sought by that candidate. Candidates benefiting from a multi-beneficiary campaign committee may not have a separate campaign committee. This single committee restriction does not prevent a local or statewide candidate from also having a federal political committee in concurrent operation for the purpose of seeking election to a federal office. [R.C. 3517.081, 3517.10(J)]

Personal Financial Disclosure Statement

A copy of the Personal Financial Disclosure Form should be provided by the office where petitions are filed when a candidate file his/her petitions. The form must be filed with the appropriate ethics commission, which is either the Ohio Ethics Commission, the Joint Legislative Ethics Commission, or the Board of Commissioners on Grievances and Discipline of the Ohio Supreme Court. [R.C. 102.01-102.04, 102.09, 102.99] For more information on ethics filing requirements, please visit the Ohio Ethics Commission's website: www.ethics.ohio.gov

Political Communications and Disclaimers

Please see *Chapter 12, Disclaimers*, for complete details related to political communications issued by candidate campaign committees.

CONTRIBUTIONS

Generally speaking, the value of all contributions received by a candidate's campaign committee must be disclosed. With the exception of those received at a fundraising event, all contributions must be separately itemized. The primary elements for complete disclosure of a contribution are the name and address of each contributor as well as the date and amount of each contribution.

Anonymous Contributions

Contributors may not remain anonymous by request. If a donor does not want to be identified, the contribution is not truly anonymous and the campaign committee should not accept the contribution. However, if an anonymous contribution is received, the campaign committee must make an effort to identify the donor. If that effort is unsuccessful, the contribution should have an explanation of the circumstances that caused it to be anonymous and a description of the efforts made to determine the donor's identity. This information should appear in the address portion of *form 31-A, Statement of Contributions Received*.

[R.C. 3517.10 (C)(2)]



Cash Contribution Limits

A contributor, including the candidate, may not give more than \$100 per election in cash. Cash includes only currency or coin. In the event a contribution exceeds this amount, the recipient should issue a refund of the amount over the \$100 limit. The full amount of the contribution received and deposited must be disclosed on the appropriate campaign finance report form(s) as well as the offsetting refund expenditure issued.

[*R.C. 3517.13(F); OAC 111-5-06*]

Contributions from Minor Children

Individuals under the age of seven are prohibited from making any political contribution.

[*R.C. 3517.102 (B)(1)(c)*]

Contribution Limits

Under state law, limits on contributions apply only to the campaign committees of candidates for statewide office or the office of member of the general assembly. See *Chapter 3, Special Regulations for Statewide and General Assembly Candidates*, for more information. Refer also to limits that apply to entities awarded government contracts.

The secretary of state examines reports for compliance with contribution limits prescribed by state law. Complaints of alleged violations of campaign finance law – including contribution limit violations – are filed with the OEC which has original jurisdiction to hear complaints, find violations, and impose penalties. Please see *Chapter 14, Ohio Elections Commission*, for more information.

Judicial candidates must abide by contribution limits as set or modified by the Ohio Supreme Court. Details of these limits are available by contacting the Court or visiting the Ohio Supreme Court's website: www.supremecourt.ohio.gov/Judiciary/candidates

County or local candidates are not limited in the amount of contributions they may receive, other than those received in cash, unless there is a municipal or county charter that provides otherwise. Enforcement of charter-prescribed contribution limits is the responsibility of the law director or other charter office. County and local candidates are limited as to how much their committees may contribute to certain other entities.

[*R.C. 3517.102*]

Contributions by Candidates to Their Committees

Candidates may donate items or money to their own campaign committees. If items are donated, such as when a candidate purchases a sign or stamps for the benefit of the campaign committee and does not expect reimbursement, then the contributions should be reported as in-kind contributions received by the campaign committee from the candidate. Although there is no contribution limit on the amount of in-kind contributions a candidate may make to his or her campaign committee, it is important to note that in-kind amounts do count toward the \$1,000 threshold for determination of whether a pre-election report is required to be filed. In-kind contributions are disclosed on *form 31-J-1, In-Kind Contributions Received*.

[R.C. 3517.01]

If the candidate provides items to the campaign committee and expects reimbursement in a later reporting period for these items, then the amount must be listed as an outstanding debt so that the candidate may later be reimbursed. This information is disclosed on *form 31-N, Statement of Outstanding Debts*. As long as loans or debts remain outstanding, each report filed by the campaign committee must disclose the obligations until they are paid or forgiven.

Contributions of money to the campaign committee by the candidate must be reported. If a candidate deposits money to the campaign committee bank account and expects to be repaid in a later reporting period, then the money must be reported as a loan when first received. This information is disclosed on *form 31-C, Statement of Loans Received*. As long as a loan or debt remains outstanding, each report filed by the campaign committee must disclose the obligation until it is paid or forgiven.

[R.C. 3517.13(O); OAC 111-1-03]

Corporate \ Professional Association Contributions

Corporations are prohibited from directly or indirectly supporting or opposing any candidate. This prohibition applies to the provision of corporate funds or property to a candidate or campaign committee. The use of a corporate logo on an endorsement or solicitation letter is also a prohibited corporate contribution.

[R.C. 3599.03; OEC Adv. 97ELC-05]

Corporations are permitted to communicate information about candidates so long as the communication is sent to the shareholders, employees, directors or officers of the corporation or to the immediate families of those individuals. Such communication may be made by mail, e-mail, reports, memoranda or other method of direct communication. The posting or permitted posting of campaign literature is permitted by a corporation so long as the literature is placed in an area generally accessible only to the employees, shareholders, directors or officers of the corporation.

[R.C. 3599.03 (F)(3); OAC 111-4-09]

Legal professional associations and other professional associations (e.g physicians, architects & dentists) under R.C. 1785 as limited liability companies under R.C. 1705, or partnerships as defined by R.C. 1775 through 1783, are not “corporations” under R.C. 3599.03. These entities are considered either partnerships or unincorporated businesses. A partnership or other unincorporated business may use its checking account to transmit a contribution to a candidate. The contribution must be accompanied by detailed information about each partner, owner or member and their allocated portion of the contribution. The recipient of such a contribution must itemize each allocated portion according to the information provided. No contribution from a partnership or other unincorporated business may be accepted, deposited or used unless the recipient has the allocation information necessary to itemize the contribution by the partner, owner or member.

[*R.C. 3517.10 (I); OAC 111-5-21; OEC Adv. 96ELC-03*]

To determine the status of a business or a corporation registered in Ohio, you may contact the secretary of state’s Business Services Division at (877) 767-3453. Also, the complete database of business entity filings is available and can be searched at the secretary of state’s website:

www.OhioSecretaryofState.gov

Follow the links for Business / Corporations and Search Filings or Search Database.

Debts

When a campaign committee has received a good or service that is 30 days or more payable at the time of a reporting deadline, it must disclose the transaction on *form 31-N, Statement of Outstanding Debts* within that report.

Loans

It is acceptable for a campaign committee to receive contributions in the form of a loan where the contributor expects to be repaid. While there is no requirement to obtain or disclose any formal loan agreement between the campaign committee and the contributor, it is advisable to consider having an agreement with all terms expressly detailed. Once a loan is received, the balance – along with any payments made – must be included in each report filed until the loan is repaid or forgiven by the contributor.

Public Employee Solicitations \ Contributions

Statewide and state legislative elected officials and candidates may not solicit nor accept a contribution from employees whose appointing authority is or would be that public official or who are or would be employed by the same public agency, department, division or office as the official.

[*R.C. 3517.092*]

Elected officials and candidates at the county, township, city, village, or school district level may not solicit contributions from employees whose appointing authority is or would be that public official or who are or would be employed by the same public agency, department, division or office as the official. The campaign committee for candidates at the county, township, city, village, or school district level may, however, accept voluntary, unsolicited, contributions from employees.

[R.C. 3501.01(T), 3517.092]

County or local elected officials who receive voluntary contributions from employees of a unit or department under their direct supervision or control must report them separately on *form 31-G, Contributors in Officeholder’s Employ*.

[R.C. 3517.10 (C)(3)]

Public employees are prohibited from being solicited for political contributions while performing their official duties or while they are in those areas of a public building where official business is transacted or conducted. Public employees are prohibited from soliciting contributions while performing official duties or in areas of a public building where official business is conducted. For the purpose of these prohibitions, the term “public employee” does not include any person holding an elective office.

[R.C. 3517.092]

Unbid Government Contracts - Contractor Contribution Limits

Individual / Partnership / Unincorporated Business / Association

Unbid contracts of more than \$500 may not be awarded to an individual, partnership or other unincorporated business, association, including a professional association, if the individual or the individual’s spouse or any partner, shareholder, administrator, executor, or trustee or the spouse of any of them has made as an individual, within the two previous calendar years one or more contributions totaling more than \$1,000 to the holder of a public office having ultimate responsibility of the award of the contract or to the public officer’s campaign committee.



[R.C. 3517.13 (I)]

Corporation / Business Trust

Unbid contracts of more than \$500 may not be awarded to a corporation or business trust if an owner of more than 20% or their spouse has made, as an individual, within the two previous calendar years one or more contributions totaling more than \$1,000 to the holder of a public office having ultimate responsibility of the award of the contract or to the public officer’s campaign committee.

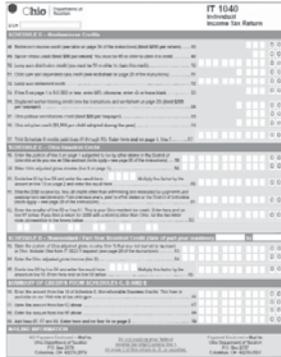
[R.C. 3517.13 (J)]

A contract is not considered to be unbid if it is awarded after action of the Ohio Controlling Board.

[R.C. 3517.13 (M)(2)]

The phrase “two calendar years” means the two periods of January 1 through December 31 preceding the year in which the contract is awarded.

[*OEC Adv. 87-5*]



Income Tax Credit

Contributions of money made to the campaign committee of a candidate for any of the following public offices:

- » governor and lieutenant governor
- » secretary of state
- » auditor of state
- » treasurer of state
- » attorney general
- » member of the state board of education
- » chief justice of the supreme court
- » justice of the supreme court
- » member of the general assembly (house or state senate)

The amount of the credit equals the lesser of the combined total of contributions made during the year by each taxpayer filing a return of \$50, in the case of an individual return, or \$100 in the case of a joint return.

[*R.C. 5747.29*]

Questions related to this section of Ohio’s tax law should be directed to:

OHIO DEPARTMENT OF TAXATION
 P.O. BOX 530
 COLUMBUS, OHIO 43216-0530
 (800) 282-1780

Independent Expenditures

An independent expenditure is one that is made in support of or in opposition to either a candidate or a ballot issue without the consent of, and not in coordination, cooperation or consultation with, or at the request of or suggestion of, the candidate or ballot issue committee. Such expenditures are reported by the entity that makes them, but not by the benefited committee.

[*R.C. 3517.01(B)(17), 3517.105; OAC 111-3-02*]

In-Kind Contributions

An in-kind contribution is a non-monetary contribution of goods or services that was made with the consent of, in coordination or cooperation with, or at the request or suggestion of, the benefited candidate or committee. Examples include receiving postage or signs, receiving rent-free office space, having personnel assistance compensated by a third party or having a third party buy media advertising on behalf of a committee.

[*R.C. 3517.01(B)(16)*]

An in-kind contribution is considered a campaign contribution and should be reported as such on the appropriate contribution form(s).

The exception to the general definition and operation of an in-kind contribution is when a political party makes one or more expenditures for the purpose of financing communications advocating the election or defeat of a candidate for judicial office. This type of expense made by a political party, whether or not it is made in coordination with a candidate or campaign committee, shall be deemed to be an independent expenditure and reported as such by the political party on *form 31-U, Independent Expenditures Made by a Campaign Committee, PAC, Political Party or Legislative Campaign Fund*. As an independent expenditure, the affected judicial candidate campaign committee does not have a duty to disclose the expenditures made by the political party.

[*R.C. 3517.105 (D)*]

Joint Fund-Raisers

Each candidate committee that engages in a joint fund-raising activity must deposit into its account only the checks that are made out to that particular committee. If a check is received that is made out to more than one committee, it must be refunded to the contributor and not deposited into any committee bank account. The expenses for the activity must be divided equally among the participants, unless they have agreed to divide them in another manner. If the expenses are not divided equally and one committee pays for most or all of the event costs, an in-kind contribution occurs and must be disclosed – both by the maker and the recipient of the contribution.

[*R.C. 3517.01 (B)(16); OAC 111-5-18*]

Labor Organization Contributions

A candidate's campaign committee may accept contributions from a PAC sponsored by a labor organization or from a labor organization's political contributing entity (PCE).

[*R.C. 3517.01(B)(21), 3517.082*]

Partnerships/Unincorporated Associations

Contributions received from partnerships or unincorporated associations must reflect both the name of the entity and the individual making the contribution. Incorporated professional associations and limited liability companies are considered unincorporated associations or, if applicable, partnerships. Contributions may be transmitted by these entities, but must include, at the time of the distribution, detailed information on the allocation of the contribution amount among the owners or partners of the unincorporated association or partnership. No contribution from a partnership or other unincorporated business may be accepted, deposited or used unless the recipient has the allocation information necessary to itemize the contribution by the partner, owner or member.

[*R.C. 3517.10(I); OAC 111-5-21; OEC Adv. 96ELC-03*]

Raffles

The use of raffles or other games of chance to raise money for a campaign committee, political action committee, political party or any other political entity, while not specifically prohibited in the campaign finance statutes, is discouraged for several reasons. First, the collecting and reporting of all the required contributor information for every raffle ticket or chance sold can be very difficult. A campaign treasurer is required to keep a strict account of all contributions received – regardless



of the amount of the contribution. Second, the raffle or other games or schemes of chance in which persons pay to play may be a lottery prohibited by Article XV, Section 6 of the Ohio Constitution or may constitute gambling in violation of R.C. 2915. In addition, political fund-raising events involving a raffle or other scheme or game of chance held on the premise of a liquor permit holder may involve a violation of OAC 4301:1-1-53 of the Ohio Department of Commerce, Division of Liquor Control.

Many fund-raising events award door prizes to some of the persons who attend. Giving door prizes of minimal value, such as flower arrangements, is unlikely to constitute a violation because the persons participating would have contributed regardless of the possibility of receiving a prize. However, if the value of the prize is significant enough to encourage contributors to purchase a ticket in the hopes of winning the prize, then a violation may have occurred. Questions or information concerning raffles and other schemes or games of chance should be referred to the county prosecutor in the county where the activity occurs.

[SOS Advisory No. 94-04]

Deposit of Contributions and Other Income

All contributions and other monetary income must be deposited in the candidate's campaign committee account within 30 days of receipt or returned to the donor without having been deposited. A contribution that is clearly illegal must be returned and not deposited. A contribution that appears to be legal (i.e., not from a foreign national, corporation or in excess of contribution limits) may be deposited and used by the committee. Contributions that appear questionable may be

deposited but not spent. The treasurer must make a good faith effort to determine the legality of the contribution. If, within 30 days of receipt, it cannot be determined that the contribution is legal, then it must be returned.

If a contribution that is kept is later found to be illegal, then the committee must refund it within 10 days of discovery.

[*R.C. 3517.992; OAC 111-5-12*]

EXPENDITURES

The value of all expenditures made by a campaign committee must be disclosed. The primary elements for complete disclosure of expenditures include the name and address of each payee as well as the date, amount and detailed purpose of each expenditure. In some cases, additional information or more detailed itemization may be required.

Permissible Campaign Expenses

The use of campaign funds for personal or business expense purposes is prohibited. All expenditures made by a campaign committee must be for influencing the result of an election, a campaign expense, the candidate’s duties of public office, or making a charitable contribution. No beneficiary, i.e. the candidate, of a campaign fund shall convert campaign funds for personal use, except as reimbursement for:

- » Legitimate and verifiable prior campaign expenses originally paid by using personal funds.
- » Legitimate, verifiable, ordinary and necessary expenses incurred in connection with the duties as the holder of a public office.
- » Legitimate, verifiable, ordinary and necessary expenses incurred by the beneficiary while:
 - » Engaged in activities to support or oppose another candidate, political party, or issue.
 - » Raising funds for, or participating in activities of, a political party or other political committee.
 - » Attending a political party convention or meeting.

These terms have been defined by the Ohio Elections Commission as follows:

Legitimate	Conforming to recognized principles or accepted rules and standards.
Verifiable	Able to be proven true, confirmed or authenticated.
Ordinary	Taking place according to customary occurrences or procedures.
Necessary	Appropriate and helpful to accomplishing a particular end.

In addition, the Ohio Elections Commission has made clear that these expenses must be reasonable in cost and form.

[*OEC Adv. 87ELC-4*]

Greeting cards to a candidate's staff and campaign contributors, holiday parties for a candidate's staff, a candidate's inauguration party, gifts to employees for birthdays, weddings and retirements and flowers to employees or their family members due to illness or death have been deemed permissible campaign expenses.

The Ohio Elections Commission has also advised that campaign expenditures for legal fees are permissible when the fees are associated with furthering the candidate's campaign committee or in carrying out the proper duties of a public office holder.

[*OEC Adv's. 87ELC-9, 87ELC-15, 88ELC-1, 90ELC-4, 96ELC-06, 96ELC-08, 2000ELC-05, 2006ELC-01*]



Candidates and treasurers must ensure that items purchased with campaign funds are permitted and are used appropriately. For example, the purchase of postage with campaign funds is a common occurrence – both for candidate campaign committees as well as other reporting entities. The postage must be used by the entity to influence the result of an election, for making a charitable donation or, if purchased by a campaign committee, the performance of the candidate's duties of public office. It is prohibited for an item which was purchased with campaign funds to be used for the personal benefit of the candidate or other person.

Attendance to political party conventions or other political meetings for the candidate or officeholder is a permitted expense of a campaign committee. The committee may reimburse such expenses for an employee of the campaign committee. It cannot pay the expenses for contributors, constituents or family members – unless their attendance is necessary in furtherance of the candidate's campaign or while pursuing policy initiatives of the candidate in connection with the performance of the duties of the holder of the public office.

A campaign committee may directly pay for any item only if the expense relates exclusively to one of the permitted uses (e.g. campaign expense or in connection with the duties of public office).

If the expense was incurred by a mix of campaign and personal use, the beneficiary must pay the expense and then seek reimbursement from the campaign committee for that part of the payment that was campaign related.

[*R.C. 3517.13 (O) – (R); OEC Adv. 87ELC-3*]

Charitable contributions are those made to a charity that has been designated as exempt from federal income taxation under subsection 501(a) and described in subsections 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10) or 501(c)(19) of the Internal Revenue Code or to any charity approved by advisory opinion of the Ohio Elections Commission.

[*R.C. 3517.08(G)*]

Campaign committees may not make any refund of any contribution, unless the purpose is to refund a contribution in excess of the applicable contribution limit or to refund a contribution that has been determined to be illegal.

[*OEC Adv. 99ELC-03*]

Credit Cards

A campaign committee may obtain a credit card to purchase goods and services on behalf of the committee. If the committee pays the credit card company directly, each credit card purchase should be listed separately as an expenditure on *form 31-B, Statement of Expenditures, or on form 31-F, Statement of Expenditures for a Social or Fund-Raising Event*, with the vendor name, address, date and amount of purchase. The credit card statement should be attached to the report along with a copy of the canceled check to the credit card company.

[*OAC 111-5-14*]

If the candidate or another individual uses a personal or non-committee credit card and then seeks reimbursement from the committee for the purchases, then the reimbursement expenditure must be reported on the expenditure form. The treasurer must obtain receipts for all reimbursements issued in order to verify the legitimacy of each campaign expense. The underlying documentation for an expenditure may be requested by a county board of elections or the secretary of state.

Expenditure Verification

Every expenditure in excess of \$25 must have a corresponding canceled check or receipt photocopy attached to the report. A paid receipt is one that has been marked "PAID" by the vendor. In addition, the secretary of state or the county board of elections may request a log for certain items, such as mileage reimbursements, so that the expenditure and its appropriateness may be verified. If canceled checks are not returned or provided by the banking institution of the committee, a copy or printout of the campaign committee's bank statements will suffice for the receipt requirement so long as the name of the vendor, date of transaction and amount of the expenditure are all provided. Additionally, printouts of cancelled check images as provided by the campaign committee's banking institution satisfy the expenditure verification requirement.

THE THREE PRIMARY
PIECES OF DATA
NEEDED TO MEET
THE EXPENDITURE
VERIFICATION ARE:

- » NAME OF PAYEE
- » DATE OF EXPENDITURE
- » AMOUNT OF EXPENDITURE

[*R.C. 3517.10(D); OAC 111-5-14; OEC Adv. 87ELC-03 and 87ELC-12*]

Reimbursement of Campaign Expenses

The candidate and employees or volunteers of a campaign committee may be reimbursed by the campaign committee for permissible campaign expenses they incur, so long as the expense is permissible and not otherwise prohibited by law. The campaign may not advance funds in any form (e.g. cash or check) to a candidate, employee or volunteer; the expense must be incurred prior to reimbursement. The treasurer must obtain receipts for all reimbursements issued in order to verify the legitimacy of each campaign expense. Reimbursements for items or services purchased on behalf of the committee that are not reimbursed during the reporting period must be reported as outstanding debt. The secretary of state or the county board of elections may request a log (e.g. for mileage reimbursement) or receipts for reimbursements so that the expenditure and its appropriateness may be verified.

[*R.C. 3517.13(O)*]

REPORTING

Disclosure of campaign finance activity is a crucial element in monitoring compliance with and effectiveness of Ohio's campaign finance laws and regulations. When a report is filed, it must be a full, true and itemized accounting of contributions and expenditures for the reporting period.

Corrections and Amendments

When a correction is necessary or additional information is obtained by the committee or required by the auditing authority relating to a report that has already been filed, an amended report must be filed. Amendments filed on paper consist of only corrections to previously submitted information or additional information. The amendment should include either a report cover page or a cover letter clearly indicating the name of the committee that is filing and what report is being amended. Amendments filed electronically consist of all report data – that which was originally filed and new or modified records.

When an error is found, or when checks are received that could not earlier be attached to a report, the amendment should be filed immediately. When an auditing authority requests additional information or a correction to a report, the committee has 21 days to provide the information or correction.

[*R.C. 3517.11(B); OAC 111-5-08, 111-5-09*]

Expenses Not Required to Be Reported

There are some financial transactions which are not considered either a contribution to or an expenditure by or on behalf of the candidate campaign committee. These include the personal expenses of a candidate for which reimbursement is not requested or made do not need to be reported. Also, the unreimbursed personal expenses of unpaid volunteers and ordinary home hospitality need not be reported.

[*R.C. 3517.01(B)(5), 3517.08(A)*]

Fund-Raiser Exemption

Individual contributions totaling \$25 or less per person received at a specific fund-raising activity do not need to be itemized (listed by person) within a report. These contributions should be reported as a single line item with an aggregate amount on *form 31-E, Statement of Contributions Received at a Social or Fund-Raising Event*. Also, in-kind contributions totaling \$325 or less from one contributor at a single fund-raising activity need not be itemized. These contributions should be reported as a single line item with an aggregate amount on *form 31-J-1, Statement of In-kind Contributions Received*. However, in both instances, the treasurer is responsible for keeping itemized records of any of these contributions, in case such records are requested by the secretary of state.

[*R.C. 3517.10(B)(4)(e)*]

THE TREND IN BANKING PRACTICES IS MOVING AWAY FROM MAILING A PAPER COPY OF STATEMENTS AND OTHER ACCOUNT INFORMATION. TREASURERS SHOULD DOWNLOAD AND SAVE BANK STATEMENTS AND/OR COPIES (IMAGES) OF CANCELED CHECKS EACH MONTH JUST IN CASE THE FINANCIAL INSTITUTION ONLY PROVIDES ONLINE ACCESS TO THESE ITEMS FOR BRIEF OR LIMITED PERIODS OF TIME.

Record Retention

Committees must keep their records for six years. The county boards of elections and the secretary of state must also keep all reports filed with them for six years. The secretary of state must keep all reports filed by electronic means of transmission for six years. This requirement includes all bank records (including deposit records), reports, amendments, correspondence, receipts, invoices and notices.

[*R.C. 3517.10(D), 3517.106 (D); OAC 111-5-14*]

Late Reports

When a required report is filed late, the county board of elections or the secretary of state must refer the matter to the Ohio Elections Commission.

[*R.C. 3517.11(C)*]

Closing the Committee

A committee must have a zero balance, no outstanding debts and no outstanding loans before it can terminate. When these criteria have been met, a committee must file a final report. This report should list all activity, if any, that has occurred since the previous report. The termination box must also be marked when the committee wants to terminate. There is no separate form for terminating.

[*R.C. 3517.10(A)*]

Issuance of Certificate

A successful candidate will receive his or her certificate of nomination or election, as appropriate, only after complying with all campaign finance filing requirements.

[R.C. 3517.11(D)]