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Federal Election Law: Know Your Limits

Many AAPD members generously support the AAPD Political Action Committee (PAC) and also make individual contributions to various political campaigns during each election cycle. With the fall presidential and congressional elections fast approaching, this column will focus on the dollar limitations and other relevant federal election law requirements.

The Federal Election Commission Web site (<http://www.fec.gov>) includes detailed information on contribution limits of individuals, along with guidance for campaign committees, political party committees, and political action committees.

If you as an individual become involved in political support for the AAPD PAC and give directly to candidate's committee, the following limits apply for the 2007-08 election cycle:

- You may currently give \$2,300 to a congressional candidate per election. Note that a primary election, caucus or convention with authority to nominate, general election, runoff election, or special election are all considered separate elections. For example, you could give \$2,300 to a candidate in his or her party's primary, and an additional \$2,300 for that candidate's general election race.
- You may give \$5,000 annually to a Political Action Committee each year, such as the AAPD PAC. A husband and wife each have separate \$5,000 limits, even if only one spouse has income.
- You may give \$10,000 per year combined to a state, district, and local party committee.
- You may give \$28,500 per year to a national party committee. This amount is indexed for inflation in odd-numbered years.
- There is an overall aggregate political giving limit as follows:
 - o \$108,200 biennially (indexed for inflation in odd-numbered years) not to exceed \$42,700 to all candidates and \$65,500 to all PACs and parties.
 - o Of the \$65,500 overall PAC/party limitation, no more than \$42,700 of this amount may be contributed to state and local parties and PACs.

While political campaign contributions are usually in money, in-kind contributions also count toward the above limits. This is defined by the FEC as:

"Goods or services offered free or at less than the usual charge . . . Goods (such as facilities, equipment, supplies or mailing lists) are valued at the price the item or facility would cost if purchased or rented at the time the contribution is made. For example, if someone donates a personal computer to the campaign, the contribution equals the ordinary market price of the computer at the time of the contribution. Services (such as advertising, printing or consultant services) are valued at the prevailing commercial rate at the time the services are rendered."

Campaign committees, political parties, or PACs may not solicit or accept contributions from foreign nationals.

The AAPD regularly reminds members that AAPD PAC "hard" dollars – funds that the AAPD PAC can be spent on direct

candidate support – must be contributed from personal accounts rather than corporate checking accounts or corporate credit cards. When the latter occurs, these funds must be allocated to "soft" dollars. Such funds cannot be given to candidates directly, but can be used to support the administrative expenses of the AAPD PAC. This could include items such as arranging meetings of the Steering Committee, printing of PAC promotional materials, or underwriting legislative training or travel for legislative visits for AAPD members.

What about practice partnerships or limited liability companies? Partnerships are permitted to make PAC contributions according to special rules in which contributions must be allocated to both partners. A limited liability company (LLC) is considered a *corporation* if it has filed under IRS rules as a corporation or has publicly traded shares, but is considered a partnership if it has chosen to file as a partnership. If no choice is made under IRS rules, it is treated as a partnership.

If an LLC is considered a corporation, it is prohibited from making PAC hard money contributions. If an LLC is considered a partnership, it is permitted to make contributions to political committees, but subject to the contribution limits for partnerships.

However, note the FEC's cautionary guidance concerning professional corporations:

"Although law firms, doctors' practices and similar groups are often organized as partnerships, some of these groups may instead be professional corporations. Unlike a partnership, a professional corporation is prohibited from making any contributions because contributions from corporations are unlawful."

What penalties can the FEC impose for election law violations?

"Most violations of the Federal Election Campaign Act (FECA) result in civil penalties – fines arrived at through a conciliation process. Knowing and willful violations of certain FECA provisions can lead to imprisonment. The FEC has exclusive civil enforcement authority, and may refer criminal violations to the U.S. Department of Justice."

For further details on campaign committees, see the guide at <http://www.fec.gov/pdf/candgui.pdf> and for further details on political action committees, see the guide at <http://www.fec.gov/pdf/colagui.pdf>

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