

CONTRIBUTIONS

This chapter begins with the definition of “contribution” and provides guidelines necessary for proper reporting, including a discussion on valuing nonmonetary contributions. Contributions to state candidates and committees are subject to the limits described in Chapter 1.

A. What Is a Contribution?

A “contribution” is a monetary or nonmonetary payment received by a candidate or committee for which the candidate or committee has not provided full and adequate consideration in return. A contribution may take any of the following forms:

- Money (cash, check, credit card, wire transfers, text contributions);
- Nonmonetary items (donated goods or services, discounts, cryptocurrency);
- Payments made by a third party for advertising or other communications coordinated with the committee;
- Loans (including loan guarantees, co-signing, and lines of credit);
- Extensions of credit for goods or services;
- Money, nonmonetary items, and loans from the candidate to their own committee or from the candidate’s family; and
- Enforceable promises to make a payment (for example, a contributor promises, in writing, to pay for specific goods or services and, based on that written promise, the committee expends funds or enters into a legally-enforceable contract to purchase the goods or services).

QUICK TIP: Contributions of \$100 or more may never be made or received in cash.

B. Reporting a Contribution Received

Each type of contribution is reported differently. In fact, *when* a contribution is received is determined in part by what type of contribution it is.

Ex 4.1 - A committee's campaign consultant received a hand-delivered check at a May 14, Friday evening fundraiser. The check was delivered to the committee's treasurer the following Monday, May 17. The contribution was received on May 14, the day the committee's agent obtained possession of the check.

A **monetary** contribution is received on the date the candidate, committee, or an agent of the committee obtains possession or control of the cash, check, or other item that constitutes the contribution.

Ex 4.2 - The committee also contracts with a website service to receive contributions over the Internet. The website service sends the committee's treasurer an email each time a contributor logs on to the website service and enters their donor information and credit card number. By logging on to the website service, the treasurer can accept the contribution and receive the funds. The committee reports receipt of the contribution on the date it receives the email because it controls the contribution on that date.

When an agent of the committee, such as a campaign consultant, receives a contribution for the committee, the agent must notify the treasurer no later than the closing date of the next campaign statement due. The date of the contribution is the date the agent obtained possession of the contribution. (See Chapter 3.)

A **nonmonetary** contribution is received on the **earlier** of the following:

- The date funds were expended by the contributor for the goods or services;
- The date the candidate, committee, or an agent of the committee obtained possession or control of the goods or services; or
- The date the candidate or committee received the benefit of the expenditure.

A nonmonetary contribution of **employee services** is made by the contributor and received by the candidate or committee on the **payroll date** of the employee. See the discussion later in this chapter for information about how to value a contribution of employee services.

A committee may solicit a contribution of **cryptocurrency** as a nonmonetary contribution, subject to specific requirements. Contributions received in cryptocurrency are subject to any applicable limits and may not be accepted from foreign principals, lobbyists, or anonymous sources. Committees cannot receive cryptocurrency contributions directly. However, a committee may receive cryptocurrency contributions through a payment processor selected to act as a vendor on behalf of the committee.

Any cryptocurrency contribution must be made and received through a U.S. based cryptocurrency payment processor registered with the U.S. Department of Treasury, Financial Crimes Enforcement Network, which utilizes know your customer (KYC) protocols to verify the identity of the contributor for all contributions. A committee that chooses to solicit contributions in cryptocurrency must ensure that the payment processor it selects to process these contributions does all of the following:

- Utilizes KYC procedures that enable it to know the identity of each contributor,
- Collects the name, address, occupation, and employer of each contributor at the time the contribution is made and transmits this to the committee within 24 hours of the time the contribution is made, and
- Immediately converts the cryptocurrency to U.S. dollars upon receipt at the prevailing rate of exchange at the time of receipt, and deposits the funds into the committee's campaign bank account within two business days of receipt.

The amount of a cryptocurrency contribution is the fair market value of the cryptocurrency at the time the payment processor obtains possession of the contribution. A cryptocurrency contribution is received on the date the payment processor, an agent of the committee, obtains possession of the cryptocurrency that constitutes the contribution.

An **enforceable promise** is received on the date the candidate, committee, or an agent of the committee, receives documents verifying that a contributor has made a legally enforceable promise to make a payment. A person makes an “enforceable promise to make a payment” if they:

- Guarantee, furnish security for, endorse or cosign a loan;
- Make and deliver a post-dated check; or
- Establish a line of credit at a bank or other commercial lending institution for a candidate or committee.

Exceptions:

A pledge card is not considered an enforceable promise to make a payment. “Enforceable promise” also does not include a contributor’s agreement to make future installment payments through wire transfer, credit card transaction, debit account transaction, or similar electronic payment.

An **extension of credit** is a contribution when there is an agreement between the provider of goods or services and a state candidate or their controlled committee that payment for goods or services provided to the candidate or committee will be made at a later date. An extension of credit does not become a contribution if the candidate or committee pays for the goods or services on or before the earlier of:

- 45 days after the date of the invoice;
- 45 days from the date the goods or services are delivered; or
- For ongoing services, 45 days after the date of the invoice as long as the services are billed no less frequently than on a three-month billing cycle.

If the candidate or committee does not pay for the goods or services within 45 days as described above, an extension of credit does not become a contribution if **all** of the following requirements are met:

- The credit arrangement is recorded in writing;
- It is the regular business of the provider of the goods or services to provide similar goods or services;
- The goods or services are provided in the ordinary course of business and on the same terms and conditions offered to customers generally;
- The provider enters into the agreement with the intent that the candidate or committee will pay in accordance with the terms of the written agreement and the provider does not know that the candidate or committee would not be able to pay; and
- The provider makes reasonable efforts to collect the full amount of the payment within four months of the date that the payment is due under the terms of the written agreement.

Ex 4.3 - Katz Construction, Inc. has agreed to let an Assembly candidate use some empty offices in its building for their campaign headquarters. The company does not normally rent space in its building, but they have estimated the fair market value of the space rental at \$1,000 per month. The company and the candidate have a written agreement stating that the rent is due on the first of each month. Because Katz Construction does not provide rental office space in the normal course of business, if the candidate does not pay each month's rent within 45 days of the first of the month, the \$1,000 will become a nonmonetary contribution to their campaign on the 46th day and will be reportable on Schedule C of Form 460 and subject to contribution limits.

C. Contribution Exceptions

There are many exceptions to the definition of “contribution.” Exceptions for certain types of political communications are also discussed in detail in Chapter 7. Some of the most common exceptions include:

Volunteer Personal Services

If an individual donates their personal or professional services to a campaign (including a volunteer’s travel expenses), no contribution has been made or received as long as there is no understanding of reimbursement.

However, if an employer donates employee services to a campaign, and any employee spends more than 10 percent of their compensated time in a calendar month performing campaign activity for one or more campaigns, the employer has made a nonmonetary contribution to the committee. Determine the contribution amount by allocating the gross salary to the time spent on campaign activity.

Home/Office Fundraisers (Other than a Lobbyist or Lobbying Firm)

If a person, other than a lobbyist (or a cohabitant of a lobbyist) or lobbying firm, holds a fundraiser or other campaign event in their home or office, the costs incurred by the occupant of the home or office need not be reported as long as the total cost of the event is \$500 or less. However, if someone else donates food, beverages, or anything else of value to the event, the fair market value of those donated goods is a nonmonetary contribution. In addition, the donated goods must be counted to determine whether the total cost of the event is \$500 or less.

Ex 4.4 - Your neighbor holds a fundraiser in their home for your committee. They spend \$250 on decorations, food, and drinks for the event. A coworker brings some door prizes with a fair market value of \$50. Since the total cost of the event is under \$500, your neighbor's \$250 is not reportable. However, since your coworker is not the occupant of the home, their nonmonetary contribution of \$50 is reportable.

Home/Office Fundraisers – Restrictions on Lobbyists and Lobbying Firms

The home/office fundraiser exception does not apply to a state lobbyist or to a cohabitant of a state lobbyist. A registered state lobbyist may not make a contribution to an elected state officer or candidate for elective state office if the lobbyist is registered to lobby the official's agency or the agency for which the candidate is seeking election.

A fundraiser held in the home of a lobbyist is considered a contribution; therefore, a lobbyist is prohibited from holding a fundraiser in their home for a candidate seeking election to a governmental agency that the lobbyist is registered to lobby. A similar prohibition applies to lobbying firms holding fundraisers at their offices.

Note:

- A lobbying firm may host a campaign meeting that is not a fundraising event in the firm's office for the benefit of an officeholder or candidate if the total cost is \$500 or less, exclusive of the value of the office as a venue.
- A lobbying firm owned by a lobbyist may not rent its firm's office as a fundraising venue to an officeholder or candidate the firm is registered to lobby.
- A lobbying firm owned by a lobbyist may not rent its firm's offices as a fundraising venue to one of its clients (a lobbyist employer) to benefit an officeholder or candidate the firm is registered to lobby.

Ex 4.5 - A business hosts a campaign fundraiser in its conference room. The business spends \$450 for beverages. A separate business entity provides the food valued at \$200. Since the total cost of the event now exceeds \$500, both businesses have made nonmonetary contributions that must be reported by your committee.

QUICK TIP: For the home/office fundraiser contribution exception to apply, the total cost of the event must be \$500 or less no matter how many candidates or committees benefit from the event.

QUICK TIP: A state lobbyist may not hold a fundraiser for a local candidate/ officeholder who is seeking election to a state office.

Social Media – Internet Communications

Uncompensated Internet activity by an individual, such as sending or forwarding electronic messages, social networking, blogging, creating or hosting a website, to support or oppose a candidate or ballot measure is not considered a contribution or expenditure. Certain Internet communications require advertisement disclosures as outlined in Chapter 8.

Ex 4.6 - Your friends send emails to their family and friends and post on their personal social networking sites communications supporting your campaign. Since your friends are not being compensated, these activities are not reportable even if you provided your friends with campaign materials.

Member Communications

Payments made by an organization (including a political party, union or trade association) for certain communications that are sent only to the organization's members, employees, shareholders, or their families, are not contributions to a candidate endorsed in the communications. For example, if a union sends a mailing to only its membership, supporting your campaign, the cost of the mailing is not a reportable contribution.

Gifts

A payment or other benefit to a candidate or official that is made principally for personal purposes (not political purposes) is a gift unless the candidate or official provides payment or services of equal or greater value. Generally, gifts are subject to annual limits and must be disclosed by the candidate or official on a Form 700 (Statement of Economic Interests). For additional information about gifts, see the fact sheet on the FPPC's website entitled, *Limitations and Restrictions on Gifts, Honoraria, Travel and Loans*.

Payments for Legislative, Governmental, or Charitable Purposes

Behested payments made in connection with a legislative, governmental, or charitable purpose, are not considered to be made for political purposes; therefore, they are not considered contributions. However, if the payment is "made at the behest of" an elected official and the payment(s) totals \$5,000 or more from a single source in a calendar year, the official is required to file a Form 803 (Behested Payment Report) as described in Chapter 11.

Contribution Restrictions

- There are contribution limits for state candidates and committees that make contributions to state candidates. (See Chapter 1.)
- There are restrictions on receiving contributions applicable to all committees. For example, contributions of \$100 or more must be made by written instrument and may not be made or received in cash. (See Chapter 5.)
- Contributions of \$100 or more must be returned if the contributor's name, address, occupation, and employer are not obtained within 60 days of receipt of the contribution. (See Chapter 3.)

D. Aggregating Contributions

Contributions received from certain combinations of individuals and entities must be added together to determine the total amount that will be treated as received from a single contributor. These rules apply for purposes of the contribution limits and reporting.

The following are aggregated:

- Contributions from the personal funds of an individual and contributions made by an entity when the same individual directs and controls the entity's contributions
- Contributions from two or more entities if a majority of the same persons directs and controls the contributions of each entity
- Contributions made by entities that are majority owned by any person with the contributions of the majority owner and all other entities majority owned by that person, unless those entities act independently in their decisions to make contributions

The following are basic examples to provide general guidance regarding aggregation of contributions. Every case is unique and if these examples are not helpful, contact the FPPC for advice.

QUICK TIP: The term “person” includes an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, and association.

Ex 4.7 - Sally Perez contributed \$98 from her personal funds and another \$98 from the funds of her wholly-owned business, Flowers by Sally Perez, to the Anderson Committee. Because contributions from an individual and their business, or from any other account they direct and control, are considered to be from a single contributor, the Anderson Committee must itemize both contributions and report a cumulative amount received from Sally and her business of \$196 on its committee campaign statement.

Ex 4.8 - EXtream Snowboards, Inc., made a contribution of \$250 to the Johnson Committee. EXtream Snowboards, Inc., is a wholly-owned subsidiary of LeesureTech Industries, which also made a contribution of \$250 to the Johnson Committee. If there was coordination between EXtream Snowboards and LeesureTech Industries, their contributions are considered to be from a single contributor. The Johnson Committee must itemize both contributions and report a cumulative amount received of \$500 on its campaign statement.

Ex 4.9 - William Smith is a developer with four separate corporations. William makes political contributions from his personal funds and directs and controls the contributions of each of his corporations. William made a contribution of \$2,500 from William's personal funds and contributions of \$2,200 from the funds of one of his corporations to the Perez for Assembly Committee for the 2020 primary election. The committee may not receive any additional contributions from Smith or his corporations for the primary election.

Ex 4.10 - Southwest TeleCom has a greater than 50% ownership interest in American TeleCom. Each entity, entirely on its own and with separate decisionmaking bodies, makes a contribution of \$1,000 to Senator Yadon. The senator does not aggregate these contributions because Southwest TeleCom and American TeleCom acted completely independently in their decisions to make the contributions.

E. Reporting Various Types of Contributions

Credit Card, Electronic, and Other Types of Contributions

Contributions may be received by credit card, wire transfer, debit account transaction, or similar electronic payment options (including contributions received via the Internet or telephone). All of the reporting and recordkeeping requirements apply to these contributions. (See Chapter 3.) Some tips are:

- For contributions of \$25 or more, the committee treasurer should make sure that a copy of the credit card voucher or other documentation is sent to the committee as soon as practicable after the contributions are made.
- The entire amount charged to the contributor is reported as a contribution.
- Fees associated with this type of fundraising, or deducted by the vendor before the contributions are sent to the committee, are reported as expenditures; the fees are not deducted from the amount of each contribution reported.

Cryptocurrency Contributions

The amount of a cryptocurrency contribution is the fair market value of the cryptocurrency at the time the payment processor obtains possession of the contribution. A cryptocurrency contribution is received on the date the payment processor, an agent of the committee, obtains possession of the cryptocurrency that constitutes the contribution. Some tips on reporting cryptocurrency contributions include:

- The entire amount of the cryptocurrency contribution is reported as a nonmonetary contribution. The processing fee charged by the payment processor is not deducted from the amount reported.
- The processing fee is reportable as an expenditure of the committee at the time the fee is deducted or charged.
- The entire amount of the cryptocurrency contribution is reportable as a “Miscellaneous Increase to Cash.”

Ex 4.11 - Your candidate-controlled committee contracts with a payment processor, which charges a 2% processing fee, to accept cryptocurrency on its behalf for the upcoming election. The payment processor accepts a contribution in bitcoin valued at \$1,000 on October 15. The committee would report the receipt of the \$1,000 cryptocurrency in the following ways on the Form 460:

- Schedule C: The committee would report the receipt of the \$1,000 as a non-monetary contribution. The committee would disclose the date received as October 15 and report all the required contributor information. For the description of goods or services, include “cryptocurrency contribution”.
- Schedule E: The committee would report the processing fee of \$20 as an expenditure.
- Schedule I: The committee would report the \$1,000 contribution as a miscellaneous increase to cash, along with the name and address of the contributor. For description of receipt, include “cryptocurrency contribution”.

Please note that if a cryptocurrency contribution is received and valued at \$1,000 or more from a single source in the 90 days prior to or on the date of an election, the committee may incur additional filing obligations such as the Form 497.

Fundraisers

The full amount (face value) of a fundraiser ticket is a reportable contribution.

Ex 4.12 - Your committee holds a fundraiser and charges \$1,000 per person. After the event, you determine that it cost your committee \$60 per person to pay the caterer, hall rental, entertainment, invitations, etc. Report on Schedule A of the Form 460 each contributor’s name, address, occupation, and employer and the full \$1,000 per ticket contribution. Do not subtract \$60 from each ticket sold.

Auctions and Garage Sales

When items are donated for auction or sale at a fundraiser, the donated item is a nonmonetary contribution. (See below for determining the value.) When someone buys an item, the payment is usually considered a “Miscellaneous Increase to Cash” and is reported as such. If any one person or entity pays \$100 or more, the payment is itemized.

However, when someone pays more for an item than it is worth, the amount that is equal to the fair market value is reported as a miscellaneous increase to cash and the amount over the fair market value as a monetary contribution. Each is itemized at \$100.

Ex 4.13 - Andy Foster owns an electronics store and donates a TV worth \$500 to your committee. At your committee’s auction, Gloria Fernandes bids \$600 for the TV. Itemize \$500 as a nonmonetary contribution from Andy’s store. Then, itemize \$500, that part of Gloria’s payment which is the fair market value of the TV, as a miscellaneous increase to cash. Also itemize \$100, the amount over the fair market value, as a monetary contribution from Gloria.

Bar Receipts

Funds received by selling drinks at a fundraiser at fair market value are reported as miscellaneous increases to cash, not contributions.

Raffle Tickets

Receipts from the sale of raffle tickets at a fundraiser are reported as contributions. Items donated for raffle prizes are reported as nonmonetary contributions. (Note that Penal Code Section 319 imposes some restrictions on raffles.)

Earmarked Contributions

A contribution to a committee that is earmarked for a contribution to any other particular committee, ballot measure, or candidate is required to be disclosed as outlined below.

A contribution is earmarked if it is made under any of the following circumstances:

- The committee or candidate receiving the contribution solicited the contribution for the purpose of making a contribution to another specifically identified committee, ballot measure, or candidate, requested the contributor to expressly consent to such use, and the contributor consents to such use.
- The contribution was made subject to a condition or agreement with the contributor that all or a portion of the contribution would be used to make a contribution to another specifically identified committee, ballot measure, or candidate.
- After the contribution was made, the contributor and the committee or candidate receiving the contribution reached a subsequent agreement that all or a portion of the contribution would be used to make a contribution to another specifically identified committee, ballot measure, or candidate.

However, there is an exception for dues, assessments, fees, and similar payments made to a membership organization or its sponsored committee in an amount less than five hundred dollars (\$500) per calendar year from a single source for the purpose of making contributions or expenditures. Such funds are not considered to be earmarked by each individual contributor, instead the membership organization is to be reported as the source for these funds.

The committee making an earmarked contribution shall provide the committee receiving the earmarked contribution with the name and address and, if applicable, the occupation and employer of the contributor who earmarked their funds and the amount of the earmarked contribution at the time it makes the contribution. If the committee making the contribution received earmarked contributions that exceed the amount contributed, or received contributions that were not earmarked, the committee making the contribution shall use a reasonable accounting method to determine which contributors to identify, but in no case shall the same contribution be disclosed more than one time to avoid disclosure of additional contributors who earmarked their funds.

Reporting Earmarked Contributions

A committee that makes a contribution to another committee earmarked for a third specifically identified committee must disclose the specifically identified committee as the recipient of the contribution and the other committee as an intermediary at the time the earmarked contribution is made. The specifically identified committee must disclose the contributor and intermediary at the time the funds are received from the intermediary. The intermediary must disclose receipt of the funds as a miscellaneous increase to cash on Schedule I of Form 460 at the time the funds are received and must disclose the expenditure as the transfer of an earmarked contribution from the contributor to the specifically identified committee at the time the funds are given to the specifically identified committee.

A committee that makes a contribution to another committee and subsequently reaches an agreement with that committee that all or a portion of the contribution would be used for another committee, ballot measure or candidate must include a notation on its next statement that the original contribution was subsequently earmarked, including the name of the specifically identified committee, ballot measure, or candidate. The committee that initially received the funds must also include a notation on its next statement that the original contribution was subsequently earmarked and must disclose the original contributor to any new committee to which it transfers the earmarked funds. The new committee shall disclose the true source of the contribution with a notation that the contribution was earmarked to the specific ballot measure or candidate.

A committee that makes a contribution earmarked for a specifically identified ballot measure or candidate must disclose a contribution to the committee that received the contribution with a notation that the contribution was earmarked to the specific ballot measure or candidate. The committee receiving the earmarked contribution must disclose the contributor with a notation that the contribution was earmarked for the specific ballot measure or candidate when the contribution is received. This committee is solely responsible for disclosing the ultimate use of the earmarked contribution, whether by contribution or expenditure, at the time the funds are used. If the

committee receiving the earmarked contribution contributes any portion of the contribution to another committee to support or oppose the specifically identified ballot measure or candidate, that committee shall disclose the true source of the contribution to the new committee receiving the earmarked funds for disclosure on the new committee's campaign report. The new committee shall disclose the true source of the contribution with a notation that the contribution was earmarked to the specific ballot measure or candidate.

Intermediary

An intermediary is a person or entity that makes a contribution on behalf of another person. For example, an employee who is reimbursed for a contribution by their employer is not the true source of the funds, but the intermediary of the employer's contribution.

Ex 4.14 - Berry Barr and Vienna Waltz each made a \$100 contribution from their personal funds to support Tina Baker for State Treasurer, with the understanding that they would be reimbursed by their employer, the Music Company. Berry and Vienna must tell the committee that they are acting as intermediaries on behalf of their employer, the Music Company. Tina's campaign statement must show the \$200 contribution from the Music Company, and also Berry Barr and Vienna Waltz as intermediaries of \$100 each.

For each contribution of \$100 or more from an intermediary, the name, address, and, if applicable, the occupation/employer information must be disclosed for both the true source of the contribution and the intermediary. Additionally, for contributions of \$100 or more from an intermediary that is a limited liability company (LLC) that has qualified as an independent expenditure committee or major donor, include the name of the LLC and the full legal name of the LLC's responsible officer as defined in Regulation 18402.2. If the contributor is an LLC that has qualified as a recipient committee, include the name of the committee and its principal officer as defined in Section 82047.6. For an LLC that has not qualified as a committee, include the name of the LLC and the full legal name of the individual primarily responsible for approving the contribution. If more than one individual shares in the primary responsibility of approving a contribution, at least one such individual must be identified.

Ex 4.15 - A business collects ten contributions of \$200 each earmarked for a candidate's campaign. The business deposits the contributions and provides the campaign committee one check from the business rather than providing ten individual checks. The committee reports the business as an intermediary and the individuals as the contributors.

Failure to disclose the true source of a contribution is considered one of the most serious violations of the Political Reform Act.

Candidates and committees are required to check and, if necessary, correct any information regarding the true source of a contribution that a person of reasonable prudence would question based on all of the surrounding circumstances. If there is reason to question the source of a contribution, i.e., if there is reason to believe the information contained on the contribution check does not contain the name of the person who is actually making the contribution, the donor should be asked if they are acting as an intermediary for the true source of the contribution.

Ex 4.16 - Linda and Jerry Nelson have a joint checking account. From this account, Linda signed a \$100 check payable to Friends of Joshua Truman. The committee identifies Linda Nelson as the contributor of the full \$100.

This manual cannot address all scenarios that may need to be questioned, but it is prudent to question unusually large contributions from sources unfamiliar with the candidate or their agents; a series of contributions from a single employer; and, significant contributions from a nonprofit organization or multipurpose organization that is not registered as a political committee on the Secretary of State's website.

Joint Checking Accounts and Business Accounts

Individuals (including spouses) may make separate contributions from a joint checking account. For reporting purposes, the full amount of the contribution is reported as coming from the individual who signs the check. If two or more individuals sign the check, the contribution is divided equally between or among the signers, unless there is an accompanying document signed by each individual whose name is printed on the check which clearly indicates a different apportionment.

A check drawn on a joint checking account that is signed by an individual not listed on the check (e.g., an accountant) must be accompanied by a document signed by at least one of the individuals listed on the check stating to whom the check is to be attributed.

Generally, if a check is drawn on the account of a business entity, the contributor is the business entity, not the person who signs the check.

Minor Children

A contribution made by a child under the age of 18 is presumed to be a contribution from their parent or guardian.

Transfers and Carryover from a Prior Campaign

A state candidate may carry over funds from one election to the next election for the same office, and may transfer funds from one controlled committee to another committee for a different office, subject to certain restrictions. (See Chapter 1.)

Contributions from Other Candidates

Candidates and committees may receive contributions, within the applicable contribution limits, from other candidates or officeholders. (See Chapter 1.)

Undesignated Contributions

Candidates soliciting contributions for more than one office that receive an undesignated contribution may deposit the contribution in any of their campaign bank accounts.

Undesignated monetary contributions must be deposited in a campaign bank account within 30 days of receipt. Nonmonetary contributions must be allocated to a particular committee within 30 days of receipt or by the deadline for the reporting period in which the nonmonetary contribution is received, whichever is earlier.

F. \$5,000 Major Donor Notice

Committees receiving one or more contributions totaling \$5,000 or more in a calendar year from an individual or entity that made the contribution(s) from personal, business, or corporate funds must send the contributor written notice that they may have a filing obligation.

Generally, the notice must be mailed, faxed or emailed to the contributor within two weeks of receiving contributions totaling \$5,000 or more. But, if a contribution of \$10,000 or more is received in the 90 days prior to the election, the notice must be mailed, faxed or emailed to the contributor within one week.

A copy of each notice or a record of all notices showing the date sent and the name and address of the person receiving the notice must be retained.

The notice is not required:

- for a subsequent contribution from the same contributor in the same calendar year; or
- if the contribution was from a candidate.

The notice may be tailored as long as it contains language substantially similar to the language below:

Major Donors

If your contribution(s) to this committee and to other California state or local committees total(s) \$10,000 or more in a calendar year, California law requires you to file a Major Donor Committee Campaign Statement (Form 461). The deadline and location for filing this statement will depend upon the timing and type of contribution(s) you have made. For additional information, see www.fppc.ca.gov.

Multipurpose Organizations Including Nonprofits

If your organization is a multipurpose group, it may qualify as a major donor committee required to file Form 461 or as a recipient committee required to file the Form 460 disclosing donors. Refer to Government Code Section 84222 and FPPC Regulation 18422. Additional information is on the FPPC's website.

24 Hour Reports

Major donors, nonprofits and other multipurpose organizations that trigger reporting obligations must also file a 24-Hour/10-Day Contribution Report (Form 497) if they:

Make contributions totaling \$1,000 or more to a single candidate, any of the candidate's controlled committees, or to a committee primarily formed to support or oppose a candidate or ballot measure during the 90 days prior to the election, or on the date of the election, in which the candidate or measure is being voted on; or

Make contributions totaling \$1,000 or more to a state or county political party committee during the 90 days prior to a state election, or on the date of the election, including a state special election.

Electronic Filing

State committees that make contributions of \$25,000 or more must file electronically with the Secretary of State. State committees that must file the Form 497 (24-Hour/10-Day Contribution Report) must file this form electronically even if the \$25,000 threshold has not yet been met. For more information, contact the Secretary of State's office at (916) 653-6224. Local committees should contact the local jurisdiction to determine if there are electronic filing requirements.

Late Filing Penalties and Fines

Failure to timely file campaign statements may result in the Secretary of State assessing late filing penalties of \$10/day (state committees may be fined \$20/day if they must file electronically and on paper). In addition, the FPPC's Enforcement Division may impose fines of up to \$5,000 per violation of the Political Reform Act.

FPPC Assistance

For assistance with your filing obligations, contact the Fair Political Practices Commission toll free at (866) ASK-FPPC, send an email to advice@fppc.ca.gov, or refer to their website: www.fppc.ca.gov.

G. Valuing Nonmonetary Contributions

This section provides assistance in determining how to value nonmonetary contributions so that they may be reported accurately. The varieties of nonmonetary contributions are vast, so not all possibilities are presented. Contact the FPPC for assistance.

Ex 4.17 - The owner of an audio-visual store donates a television set worth \$500 to your committee for sale at an auction. Although the set costs the store owner less than \$500, the fair market value of the television (the amount it would cost any member of the public to purchase the set from the store) is \$500. Therefore, the nonmonetary contribution from the store owner is \$500.

Ex 4.18 - An accounting firm provides your committee with the services of an accountant during the last month of the campaign. The accountant spends 25% of their time working for the campaign, for which their gross compensation from the accounting firm is \$2,500. The amount of the contribution from the accounting firm is \$2,500.

Fair Market Value

When a nonmonetary contribution is received, the fair market value of the goods or services must be reported. If the committee does not know the fair market value of a nonmonetary contribution, such as an original piece of artwork, the committee may send a letter requesting that the contributor provide the value of the contribution in writing. The contributor is legally obligated to provide an amount if the value of the contribution is \$100 or more.

Employee Time

If an employer donates the use of an employee to work on campaign activities for one or more campaigns, the amount the individual is paid is reportable as a nonmonetary contribution from the employer if the employee spends more than 10 percent of their compensated time in a calendar month working on campaign activity. To determine the contribution amount, the gross compensation is allocated to the

time spent on campaign activity. Compensation includes wages paid and any benefits in lieu of wages, such as stock options or an annuity purchase. Compensation does not include routine benefits, such as the employer's payments to a health care or retirement plan.

Discounts

If a committee receives discounts on goods or services it purchases and the discounts are not offered to the public in the regular course of business, the discount is a nonmonetary contribution which must be reported.

Private Air Transportation

A person who provides a candidate with a flight in a private airplane is making a nonmonetary contribution. The value is determined by using either the commercial rate to the destination, if available, or the charter rate divided by the number of passengers on the flight.

Email Lists

If a list of email addresses is donated, the fair market value must be reported as a nonmonetary contribution.

Corporate Stock

The contribution of corporate stock must be reported and valued as listed on the stock exchange on the date of receipt. When the stock is sold, the total proceeds of the sale are reported on Schedule I as a miscellaneous increase to cash. If the purchaser is unknown, report the brokerage firm as the source with a notation that the payment represents the sale of stock. Broker's fees must be reported on Schedule E.

Mailings

Generally, the fair market value of a mailing is reported as a contribution when the mailing expressly advocates support of or opposition to a candidate and was made at the behest of the affected candidate.

Multiple Candidates and Measures

If a mailer expresses support of or opposition to more than one candidate or ballot measure, the fair market value attributable to each may be calculated by prorating the costs among the featured candidates and ballot measures. The prorated value is based on the amount of space allotted to each candidate or measure supported or opposed in the mailer.

The value of a mailer that supports or opposes candidates and measures being voted on in different jurisdictions may be prorated based on the number of mailers sent to each candidate or ballot measure's jurisdiction.

Ex 4.19 - Your committee receives a 50% discount on a printing job that normally costs \$1,200. The committee receives a contribution of \$600.

QUICK TIP: Volunteer personal services are not considered to be a nonmonetary contribution.

Political and Non-Political Material

The cost of a mailing containing both express advocacy in support of or opposition to a candidate and other nonpolitical material can be prorated. Costs directly associated with the political message are reportable by the candidate, including, for example, compensation paid to employees who spend more than 10% of their compensated time in a calendar month producing or mailing the political materials, and the pro rata cost of paper, envelopes, and postage. The allocation may be based on the additional weight of the political material or the comparative number of pages as between the political and non-political material.

Ex 4.20 - A Chamber of Commerce produces and mails a one-page flyer urging voters to vote for a gubernatorial candidate and against two ballot measures. Half of the flyer is devoted to supporting the candidate and the other half equally opposes the measures. The Chamber coordinates the mailing with candidate. The total cost of producing and mailing the flyer is \$14,000. The candidate received a nonmonetary contribution valued at \$7,000.

Member Communications

Payments made by an organization or its sponsored committee for a communication that supports or opposes a candidate are not contributions or expenditures as long as the communication is made only to the organization's members, employees, or shareholders, or the families of its members, employees, or shareholders. The communication may not be for general public advertising, such as billboards, newspaper ads, or radio or television ads. (See Chapter 7.)

Bulk Rate Permits

Use of an organization's bulk rate permit is a nonmonetary contribution from the organization. If the committee pays the actual postage costs incurred under the bulk rate permit, the fair market value of the contribution is either:

- The price the organization paid for the bulk mailing permit; or
- The difference in postage costs between the bulk mailing rate and that of regular mail.

If the organization pays for the costs of the mailing using its bulk rate permit, and the committee does not have such a permit, the value of the contribution is (1) the amount it would have cost to pay for the mailing using regular mail; or (2) the cost of the bulk rate mailing plus the cost of a permit.

Phone Banks

The use of business telephones for phone banking is a non-monetary contribution. The fair market value of the use of the phones is calculated to determine the amount reported as a nonmonetary contribution, even if only local calls are made. One method to determine the fair market value is to contact organizations that provide phone banks as a business.

Polls and Surveys

A person or entity that provides data from a public opinion poll or survey to a candidate or committee is making a nonmonetary contribution if the candidate or committee requests the data or the data are used for political purposes. FPPC staff has advised that a formula utilized by the Federal Election Commission may be used for valuing polling or survey data, as long as the formula is used in a reasonable manner to provide a fair estimate. The formula calculates the value based on the age of the data. The chart below illustrates the fair market value of data based on the number of days that pass from the date the entity originally received the data to the date the data were provided to the candidate or committee.

Ex 4.21 - A PAC commissioned a public opinion poll to determine voters' attitudes about candidates running for Governor, candidates in a Senate district, and a city ballot measure. The PAC may prorate the poll's cost by determining the questions/responses relevant to the particular candidate or measure.

Age of Data	Value
0 - 15 days	Full Value
16 - 60 days	50%
61 - 180 days	5%
More than 180 days	No Value

When only a portion of a survey is provided to or for the benefit of a candidate, the nonmonetary contribution is the prorated portion of the total value of the survey.

H. Common Political Party Expenditures

State candidates often work closely with state and county political party committees. Political party committees are not subject to contribution limits for monetary and non-monetary contributions made to state candidates, however, the contributions must be reported and made from the party's state candidate support account which is subject to contribution limits.

The following chart provides guidance on common political party activity coordinated with a state candidate. Non-monetary contributions are reported on Form 460 – Schedule C.

Activity	Reporting by Candidate
Renting office space	Yes.
Volunteer precinct walking	Yes, if the party is paying expenses for the individuals.
Phone banks	Yes. See Chapter 8 for disclosure requirements.
Voter identification	Yes. Payments for poll research and similar work are contributions.
Employee services	Yes. See earlier discussion of 10% employee rule.
Voter registration	No, as long as the registration material does not do any of the following: <ul style="list-style-type: none"> • Expressly advocate for a candidate’s election; • Solicit contributions for a candidate; or • Make reference to the candidate’s election.

I. Returning Contributions

There are several provisions in the Act and FPPC regulations that regulate the return of contributions.

Reporting

A contribution is not required to be reported if it is not deposited, cashed, or negotiated and it is returned to the contributor before the closing date of the campaign statement on which it would otherwise be reported.

A “late contribution” (a contribution of \$1,000 or more received during the last 90 days before an election) is not required to be reported if it is not deposited, cashed, or negotiated and it is returned within 24 hours of receipt. Once a contribution is deposited, cashed, or negotiated, it must be disclosed on the next campaign statement, even if it is subsequently returned.

Contributions in Excess of the Contribution Limits

A contribution received in excess of the applicable contribution limit must be returned to the contributor either: (1) within 14 days of receipt before deposit so long as the committee did not make use of the contribution prior to returning it, or (2) within 14 days of receipt even after deposit, so long as there was **no actual knowledge** the contribution was over the limit when deposited and the committee did not make use of the contribution prior to returning it. If a contribution is returned after it has been deposited it must be reported. A contribution must be reported even if not deposited if it is not returned to the contributor by the close of the reporting period. In cases of an over the limit nonmonetary contribution, it must be returned to the contributor within 14 days of receiving the contribution either in its original form, or in a monetary equivalent greater than or equal to the amount by which its value exceeds an applicable contribution limit.

A committee that receives a monetary contribution with **actual knowledge** that the contribution is over the applicable contribution limit in the Act may accept the contribution and return or attribute the portion in excess within 72 hours of receipt or before the date

of the election, whichever is sooner without being in violation of the contribution limit. However, a committee is prohibited from making use of the excessive contribution prior to returning or attributing it and the amount of a contribution that may be accepted is capped at twice the applicable contribution limit.

A committee may request that the contributor attribute in writing a contribution to a different election. A committee may automatically attribute a portion of a contribution that is in excess of the applicable limit between the primary and general elections. A committee attributes a contribution when the committee designates the portion of the contribution in excess of the applicable limit to another election.

A committee that receives an excessive contribution **with or without actual knowledge** that the contribution was over the limit must inform the contributor:

- that their contribution was in excess of the applicable limit, and
- if the contribution was automatically attributed to the connected primary or general election, that the contribution was attributed and the contributor may request a refund.

Defeated Candidates

If a state candidate is defeated in a primary election or withdraws from the general election, general election funds must be refunded to contributors on a pro rata basis, less any expenses associated with raising and administering the funds, and any general election expenses that were paid prior to the primary election or the candidate's withdrawal (e.g., media purchases). See Chapter 1.

Returning Contributor Contributions

A committee may return a donor's contribution at any time, unless the donor is the state candidate. Candidate loans are also restricted. See Chapter 1.

Answering Your Questions

- A. We are holding a \$100-a-plate fundraiser for our committee. The actual cost of the event to our committee will be \$25 per person. When someone gives us \$100 to attend the dinner, do we report \$100 as a contribution, or do we subtract the \$25 cost and report receiving a \$75 contribution?**

The cost of the ticket for the fundraiser is the amount of the contribution. Report \$100 as the contribution.

- B. When we send out a fundraising letter, are we required to put our committee identification number on the invitation?**

There is no requirement to put the identification number anywhere on the mailer. However, many campaigns do so because if other committees, or others with their own reporting obligations, contribute to your committee, they will need your identification number to complete their campaign reports.

- C. We would like to hold a raffle at our next fundraiser. Are there any restrictions on raffles?**

The Political Reform Act does not restrict raffles. However, Penal Code 319 does prohibit some raffles. This code is interpreted and enforced by each county's district attorney. Contact the local district attorney where the raffle will be held for further information. Of course, be sure all of the reporting and recordkeeping requirements are met.

- D. If my next door neighbor spends \$1,000 on an event to help raise funds for two different candidates and the event is held in their home, have they made a contribution to each committee?**

Yes. The total cost of a home fundraiser must be \$500 or less, or the event will qualify as a nonmonetary contribution. This is true no matter how many committees benefit from the event.

E. May a non-profit organization hold a joint fundraiser with a political committee?

Yes. However, any costs incurred by the non-profit organization which are not reimbursed by the political committee would be considered to be a nonmonetary contribution from the non-profit to the political committee. The non-profit organization should contact the IRS for any possible restrictions based upon the organization's tax status.

F. Three candidates wish to conduct individual polls. A polling firm has offered a reduced rate because all three polls can be combined using one very large sample. Are the candidates receiving contributions from the polling firm because of the discounted fee, and are the candidates making contributions to each other?

To the extent each candidate pays only their share of the cost of the poll, the candidates are not making contributions to each other. Additionally, if the polling firm provides the discount as part of its standard business policy of providing discounts in similar situations and does not provide the discount for political purposes, the candidates will not receive a contribution from the polling firm.

Authority

The following Government Code sections and Title 2 regulations provide authority for the information in this chapter:

Government Code Sections

82004.5	Behested Payments.
82015	Contribution.
82015.5	Contribution; Aggregation.
82018	Cumulative Amount.
82025	Expenditure.
82025.5	Fair Market Value.
82041.3	Made at the Behest of.
82047	Person.
82047.6	Principal Officer.
84105	Notification to Contributors.
84211	Contents of Campaign Statement.
84216	Loans.
84300	Cash and In-Kind Contributions; Cash Expenditures.
84302	Contributions by Intermediary or Agent.
84306	Contributions Received by Agents of Candidates or Committees.
85305	Restrictions on Contributions by Candidates.
85308	Family Contributions.
85312	Communications to Members of an Organization.
85319	Returning Contributions.
85319.5	Attribution of Contributions.
85700	Donor Information Requirements; Return of Contributions.
85704	Prohibition on Earmarking.

Title 2 Regulations, Advice Letter, and Opinion

- 18215 Contribution.
- 18215.2 Uncompensated Internet Activity by Individuals that is not a Contribution or Expenditure.
- 18216 Enforceable Promise to Make a Payment.
- 18402.2 Limited Liability Companies, Responsible Officer.
- 18421.1 Disclosure of the Making and Receipt of Contributions.
- 18421.2 Cryptocurrency Contributions.
- 18421.3 Reporting of Contributions and Expenditures Collected by Contract Vendors or Collecting Agents.
- 18421.10 Reporting Contributions from Limited Liability Companies.
- 18423 Payments for Personal Services as Contributions and Expenditures.
- 18427.1 Notification to Contributors of Filing Obligations.
- 18428 Reporting of Contributions and Independent Expenditures Required to be Aggregated.
- 18432.5 Intermediary and Earmarked Funds Disclosure.
- 18523 Nondesignated Contributions or Loans.
- 18530.7 Extensions of Credit.
- 18531 Return of Excessive Contributions.
- 18531.2 Refunding General Election Contributions.
- 18531.7 Payments for Communications—Section 85312.
- 18533 Contributions from Joint Checking Accounts.

Olson Advice Letter, No. I-15-065 (Lobbying Fundraising)

Opinion: In Re Rios (2017) FPPC Ops. No. O-17-001 (Contributions by State Candidates)