

# CONTRIBUTIONS

This chapter discusses contributions and provides guidelines for proper reporting, including how to value nonmonetary contributions. For information about how to determine if a payment made for a communication is an independent expenditure, see Chapter 8.

## A. What is a Contribution?

A “contribution” is a monetary or nonmonetary payment made to or received by a candidate or committee for which the candidate or committee has not provided full and adequate consideration in return. See the definition of “contribution” in Regulation 18215. A contribution may take any of the following forms:

- Money (cash, check, credit card, wire transfers, text contributions);
- Nonmonetary items (donated goods or services);
- Payments made by a third party for advertising or other communications coordinated with a candidate or committee;
- Loans (including loan guarantees, co-signing, lines of credit, and forgiveness of a loan);
- Tickets to political fundraisers (full value of ticket);
- Funds collected through payroll deduction or membership dues that are earmarked or allocated for the purpose of making contributions to state or local candidates or committees; 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 good or services).

Note: Contributions of \$100 or more may never be made or received in cash. See Chapter 6 for additional contribution restrictions.

## B. Reporting the Date Contributions are Made and Received

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

**QUICK TIP:** Contributions 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.)

In general, a **monetary** contribution is *made* on the date the contribution is mailed, delivered, or otherwise transmitted to the candidate or committee. Alternatively, the date of the check may be used provided it is no later than the date the contribution is mailed, delivered, or otherwise transmitted.

A **monetary** contribution is *received* on the date the committee or an agent of the committee obtains possession or control of the cash, check, or other item that constitutes the contribution. When an agent of the committee, such as a campaign consultant, receives a contribution for the committee, the treasurer must be notified by the agent 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.

**QUICK TIP:** When an agent of a committee, such as a professional fundraiser, receives a contribution, the treasurer must be notified by the agent no later than the closing date of the next campaign statement due.

**Ex 4.1** – John Burns, the campaign consultant for Citizens for Cleaner Air, received a hand-delivered check at a May 14, Friday evening fundraiser for Citizens. John did not give the check to the committee’s treasurer for deposit until the following Monday, May 17. The contribution was received on May 14, the day the committee’s agent obtained possession of the check.

Citizens for Cleaner Air 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. Logging onto 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 from the website service because it controls the contribution on that date.

A **nonmonetary contribution** is *made* by the contributor and *received* by the candidate or committee on the **earlier** of the following:

- The date funds were expended by the contributor for the goods or services;
- The date the committee or an agent of the committee obtained possession or control of the goods or services;
- The date the 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 “Employee Time” under Section I, Valuing Nonmonetary Contributions.)

A committee may solicit a contribution of **cryptocurrency** as a monetary contribution, subject to specific requirements. Contributions received in cryptocurrency are subject to any applicable limits and may not be accepted from foreign principals, 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. Committees must ensure that lobbyist contributions

that would otherwise be prohibited are not made or received through the payment processor.

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

- Guarantee a loan.
- Furnish security for a loan.

- Endorse a loan.
- Cosign a loan.
- Make and deliver a post-dated check.
- Establish a line of credit at a bank or other commercial lending institution for a candidate or committee.

A pledge card is not considered an enforceable promise to make a contribution. “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.

## C. Contribution Exceptions

There are many exceptions to the definition of “contribution.” In addition to the most common exceptions listed below, Chapter 8 discusses certain types of political communications that are not considered contributions.

**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. “Volunteer personal services” does not include any tangible items. Donated goods are contributions.

If an employer donates employee services to a committee, and any employee spends more than 10 percent of their compensated time in a calendar month performing campaign activities for one or more campaigns, the employer has made a nonmonetary contribution to the committee. (See “Employee Time” in Section G, Valuing Nonmonetary Contributions.)

**Home/Office Fundraisers:** If a person, other than a lobbyist (or a cohabitant of a lobbyist) or lobbying firm, holds a fundraiser or other campaign event for a candidate or committee 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.

If a fundraiser will exceed \$500, all payments are reportable nonmonetary contributions, including the reasonable rental value of the home/office for the duration of the fundraiser. If the costs of the home/office fundraiser do not otherwise exceed \$500, the reasonable rental value of the space is not factored in.

**Note:** The home/office fundraiser exception does not apply to a state lobbyist or to a cohabitant of a 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.

**Ex 4.2** – Jim Yee holds a fundraiser in Jim's home for a committee. Jim spends \$250 on decorations, food, and drinks for the event. Jim's neighbor brings some door prizes with a fair market value of \$50. Since the total cost of the event is \$500 or less, Jim's \$250 is not reportable. However, Jim's neighbor has made a nonmonetary contribution of \$50.

**Ex 4.3** – Shannon sponsors an event after work in Shannon’s business’ downtown office to raise contributions for a committee. Shannon spends \$450 to have the event catered. Shannon’s friend supplies a flower arrangement centerpiece worth \$125. Since the total cost of the event now exceeds \$500, both Shannon’s contribution of \$450 and Shannon’s friend’s \$125 flower arrangement are reportable by the committee.

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

**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 an expenditure.

When a general purpose committee blogs or posts communications that expressly advocate a candidate or measure, the advertisement is subject to disclosure requirements. Depending upon the communication and the cost to prepare the communication, a contribution may be reportable.

**Ex 4.4** – A general purpose committee may establish a social media account (e.g., Facebook, X [formerly known as Twitter], Tumblr) to engage in campaign activity, such as posts or tweets to support candidates and ballot measures. See Chapter 9 for information about required disclosure for advertisements.

**Administrative Expenses – Sponsored Committees:** Payments made by a sponsoring organization for the “establishment and administration” of its sponsored committee are not considered contributions but must be reported.

“Establishment and administration” of a sponsored committee means the cost of office space, phones, salaries, utilities, supplies, legal and accounting fees, and other expenses incurred in setting up and running a sponsored committee. In addition, bank fees (including fees for monthly services, purchasing/printing checks, cashier’s checks and money orders, overdraft, stop payments) and third party vendor fees, such as internet account fees and merchant account fees, are considered payments for the establishment and administration of its sponsored committee, so long as they are not incurred for fundraising activities.

Although the establishment and administration costs are not contributions from the sponsor to the committee, the committee must report them on Schedule C (Nonmonetary Contributions Received) of its campaign disclosure reports (Form 460).

Other payments made by a sponsoring organization, such as the cost of raising funds for the committee and the cost of reviewing a communication to determine the advertisement disclosure requirements, are contributions to the committee. These payments are subject to regular reporting and contribution limits for committees that make contributions to state candidates.

In addition, if the sponsoring organization provides services to a candidate or a committee other than its sponsored committee, those payments are contributions to the candidate or committee, which must be reported by the sponsoring organization. The sponsoring organization may file its own reports to disclose the contributions or, in most circumstances, the contributions are disclosed on the sponsored committee’s campaign statements.

**Ex 4.5** – The members of an association make regular dues payments to the association, a portion of which is earmarked to be used by the association’s sponsored committee for contributions to candidates. The association collects and transmits the earmarked dues payments to the committee and provides the committee with office space, staff, and accounting services. The committee discloses the earmarked member dues as monetary contributions on Schedule A of its campaign reports and the administrative services from the association as a nonmonetary contribution on Schedule C of the Form 460.

During an election year, the association sends a mailing to its members to raise funds for the upcoming state elections. The sponsored committee must disclose the payment made by the association for the mailing on Schedule C as a nonmonetary contribution from the association, and because the committee makes contributions to state candidates, contributions to the committee are limited to \$9,100 (2023-2024 limit) from a single source in a calendar year, including contributions made to the committee by the sponsoring organization.

**Member Communications:** Payments made by an organization (including a political party) or its sponsored committee for a communication that supports or opposes a candidate or ballot measure are not contributions or expenditures as long as the communication is made only to the organization’s members, employees, or shareholders, or to 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. Payments made by a recipient committee for member communications must be disclosed as regular expenditures on the committee’s campaign disclosure statements (Form 450 or 460). See Chapter 8 for special rules that apply to political parties.

**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 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) to disclose the payment within 30 days. Behested payments solicited by state elected officials are posted on the FPPC's website.

**Ex 4.6** – At the request of a county supervisor, the Committee for Educated Children donates \$5,000 to a school for the purpose of purchasing library books. Although the payment is not considered a gift or a contribution, the supervisor must file a Form 803 to report the behested payment within 30 days.

## **D. Aggregating Contributions**

Contributions made by certain individuals and entities must be added together to determine the total amount that will be treated as received from a single contributor.

The following contributions are aggregated:

- Contributions made from an individual's personal funds and from an entity's funds they direct and control.

- Contributions made by two or more entities that are directed and controlled by a majority of the same persons.
- Contributions made by entities that are majority owned by any person. Contributions made by the majority owner and all other entities majority owned by that person are aggregated unless the entities act independently in their decisions to make contributions.

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

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

**Ex 4.7** – Global Corporation has a board of directors and the Corporation has a sponsored general purpose recipient committee with a separate board of directors. (No director serves on both boards.) Global Corporation may make a contribution up to the limit to an Assembly candidate for the primary election and the sponsored PAC may also make a contribution up to the limit to the same candidate for the primary election.

**Ex 4.8** – A union has a small contributor committee and another committee that makes contributions to state candidates. The contributions of both committees are approved by a single board of directors. If the small contributor committee makes a \$18,200 contribution to a Lt. Governor candidate’s general election (2023-2024 contribution limit for a small contributor committee), the other committee may not make a contribution to the candidate for the same election.

**Ex 4.9** – Sally Perez Jones contributed \$98 from personal funds and another \$98 from the funds of their business, Flowers by Sally, to the Committee to Advance Public Education. Because contributions from an individual and their business, or from any other account they direct and control, are considered from a single contributor, the committee must itemize both contributions and report a cumulative amount received of \$196 on its campaign statement.

**Ex 4.10** – William owns two separate corporations. William makes political contributions from personal funds and directs and controls the contributions of the corporations. William made a contribution of \$2,100 from personal funds and contributions of \$3,500 from the funds of both corporations to the Committee to Advance Public Education. Because William directed and controlled all of these contributions, they are considered to have been made by a single contributor. The committee must itemize each contribution and show a cumulative amount received of \$9,100. If the committee makes contributions to state candidates, it may not receive any additional contributions from William or William’s corporations for the rest of the calendar year unless the contributions are placed in a separate “restricted use” account. The limit for 2023-2024 is \$9,100 for purposes of making contributions to state candidates.

**Ex 4.11** – Southwest TeleCom has a greater than 50 percent ownership interest in American TeleCom. Each entity, entirely on its own, and with separate decisionmaking bodies, makes a contribution of \$1,000 to the Committee to Advance Public Education. The committee is not required to aggregate these contributions because Southwest TeleCom and American TeleCom acted completely independently in their decisions to make the contributions.

There are special rules for “major donors” (generally these are individuals and business entities that make contributions totaling \$10,000 or more in a calendar year) when they make contributions that are subject to aggregation. The major donor must notify each committee to which it makes a contribution of the name under which the major donor is filing its report (Form 461). The recipient of the contribution must identify the name of the “filer” and the name of the contributor, if that is different than the name of the filer.

**Ex 4.12** – Temple Construction is a subsidiary of Temple Enterprises. Your committee receives a contribution from Temple Construction. Temple Construction is required to notify you that its contribution is reported on a campaign statement filed under the name of Temple Enterprises. Your committee must identify both names on its report and, if you receive contributions from both entities, the contributions must be aggregated for purposes of state contribution limits and for reporting cumulative amounts.

If more than one affiliated committee receives contributions from the same donor, the contributions received by the committees are not aggregated.

**Ex 4.13** – State Firefighters United has two general purpose committees: one committee makes contributions to state candidates and the other committee makes contributions to support state and local ballot measures. Leah Perry made a contribution of \$200 to each committee. Each committee reports the contributions from Leah on Schedule A, in the column titled Cumulative to Date – Calendar Year, as \$200.

If a general purpose committee has more than one bank account (see Chapter 5), contributions from a single source are aggregated.

**Ex 4.14** – The State Firefighters United committee has two bank accounts; one is used to make contributions to state candidates and the other is used only for administrative expenses. Bill Woods made two contributions to that committee; \$2,500 for the state candidate account and \$500 for the administrative account. When the committee reports the contributions on Schedule A, \$3,000 is the amount reported in the column titled Cumulative to Date – Calendar Year.

## E. Reporting the Intermediary of a Contribution

An intermediary is a person or entity that makes a contribution on behalf of another person and has been or will be reimbursed for the contribution. For each contribution of \$100 or more from an intermediary, the name, address, and, if applicable, the occupation and employer information must be disclosed for both the true source of the contribution and the intermediary. 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** – Kenny made a \$100 contribution from personal funds to support the Committee to Advance the Arts, with the understanding that they would be reimbursed by their employer, Gary's Guitars. Kenny must tell the committee that they are acting as an intermediary on behalf of their employer. The committee must itemize the contribution from Gary's Guitars and list Kenny as an intermediary.

**Ex 4.16** – A trade association’s general purpose committee collected \$200 from each of its members after sending a solicitation stating that the funds would be used to make a contribution to a local candidate. The PAC made a single contribution to the local candidate in the total amount of money the committee received from its members. The committee receiving the contribution must report each of the members as contributors, with the committee as an intermediary.

**Ex 4.17** – The California Automobile Insurers Association’s (CAIA) sponsored general purpose committee received a \$5,000 check from one of its members. The member stated in an email to the committee’s treasurer that they would like the funds to be contributed to the Yes on Proposition 42 Committee. The treasurer must inform the ballot measure committee that the member was the true source of the funds and the CAIA committee is acting as the intermediary. The ballot measure committee must report both the true source of the funds and the intermediary.

Committee treasurers are required to check information regarding the true source of a contribution if a person of reasonable prudence would question it based on all available information. If there is reason to question the source of a contribution (e.g., 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 contacted to determine if they are acting as an intermediary for the true source of the contribution.

**QUICK TIP:** When a general purpose committee makes a payment to another general purpose committee, whether or not the receiving committee is considered an intermediary depends on the facts of the situation. Contact the FPPC with questions.

**Failure to disclose the true source of a contribution is often referred to in media reports as campaign money laundering and is one of the most serious violations of the Political Reform Act.**

## F. 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 pursuant to this subdivision, but in no case shall the same contribution be disclosed more than one time to avoid disclosure of additional contributors who earmarked their funds.

## **G. Reporting Earmarked Contributions from Another Committee**

A committee that makes a contribution to another committee earmarked for 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.

## H. Reporting Various Types of Contributions

**Electronic Receipt of Contributions:** Contributions may be made or received by credit card, wire transfer, via the Internet, cell phone text message, telephone, debit account transaction, or similar electronic payment options:

- 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.

**Ex 4.18** – Your committee holds a fundraiser and charges \$100 per person. After the event, you determine that your committee spent \$25 per person to pay for the caterer, hall rental, entertainment, invitations, etc. Report on Schedule A of the Form 460 each contributor’s name, address, occupation, employer, and the full \$100 per ticket as a contribution. Do not subtract \$25 from each ticket sold. The expenses will be reported on Schedule E of the Form 460.

**Ex 4.19** – 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. And, itemize \$500, the part of Gloria’s payment that 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.

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

**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 person pays \$100 or more, the payment is itemized.

However, when someone pays more than fair market value for an item, 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 is reported as a monetary contribution. Both must be itemized at \$100 or more.

Committee treasurers are required to check information regarding the true source of a contribution if a person of reasonable prudence would question it based on all available information. If there is reason to question the source of a contribution (e.g., 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 contacted to determine if they are acting as an intermediary for the true source of the contribution.

**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. Contact your county's district attorney for further information.)

**Joint Checking 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 that 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.

**Business Accounts:** 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.

**Text Contributions:** For a contribution made by a text message, the contributor is the person who is subscribed to the cell phone number that texted in the contribution.

**Ex 4.20** – Linda and Jerry Nelson have a joint checking account. From this account, Linda signed a \$100 check payable to Californians Against Drug Abuse. The committee identifies Linda Nelson as the contributor of the full \$100.

**Minor Children:** A contribution made by a child under the age of 18 is presumed to be a contribution from their parent or guardian unless the facts show that the child actually chose to make the contribution.

## I. 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.

### Fair Market Value

When a nonmonetary contribution is made or received, the fair market value of the goods or service 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 activities. To determine the contribution amount, allocate the gross compensation 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.

**Private Air Transportation:** A person that provides members of a committee or a candidate with a flight in a private airplane is making a nonmonetary contribution. The value is determined by using one of the following methods: the commercial rate, if available, to the destination or the charter rate divided by the number of passengers on the flight.

**Ex 4.21** – The owner of an electronics store donates an iPad valued at \$550 to a committee for sale at an upcoming auction. Although the cost to the owner is less than \$550, the nonmonetary contribution is reported at the fair market value amount of \$550 (the amount it would cost a member of the public to purchase the iPad).

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

**Joint Fundraisers:** If a committee pays for a fundraising event for multiple candidates, the fair market value of the contribution for each candidate may be allocated based on the amount of expenditures and the number of candidates at the event.

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

**Ex 4.22** – Your general purpose committee donates the services of one of its employees to two ballot measure campaigns during the month before the election. The employee spends 9 percent of their compensated time working for one ballot measure campaign and 7 percent of their compensated time working for the other ballot measure campaign. Even though they did not spend 10 percent or more of their compensated time on a single campaign, more than 10 percent (16 percent) of their compensated time in a calendar month was spent on campaign activities, so each ballot measure committee must report a nonmonetary contribution from your committee. The value reported by the first ballot measure committee is 9 percent of their gross salary and the value reported by the second committee is 7 percent of their gross salary.

**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.

**Ex 4.23** – Your committee treasurer knows the owner of Janns' Printing Shop and gets the owner to give your committee a 50 percent discount on the printing of a fundraising invitation that normally would cost \$1,200. Your committee has received a nonmonetary contribution of \$600 from Janns' Printing Shop.

**Cryptocurrency:** 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 monetary 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.

**Ex 4.24** - Your 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 A: The committee would report the receipt of the \$1,000 as a monetary contribution. The committee would disclose the date received as October 15 and report all the required contributor information.
- Schedule E: The committee would report the processing fee of \$20 as an expenditure.

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.

## J. Valuing Mailings, Telephone Banks, Polls

**Multiple Candidates/Measures:** If a communication 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.

**Political and Non-Political Material:** The cost of a communication containing both express advocacy in support of or opposition to a candidate or ballot measure, as well as non-political material, may be prorated. Costs directly associated with the political message are reportable as nonmonetary contributions, including, for example, compensation paid to employees who spend more than 10 percent 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.

**Bulk Rate Permits:** Except for the use of a nonprofit sponsor's bulk rate by its sponsored committee, use of another organization's bulk rate permit is a nonmonetary contribution from the organization. If the candidate or committee using the permit pays the actual postage costs incurred, 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 candidate or committee does not have such a permit, the amount it would have cost to pay for the mailing using regular mail or the cost of the bulk rate mailing plus the cost of a permit should be reported as a nonmonetary contribution.

A sponsored committee's use of its sponsor's nonprofit postal permit is not a contribution from the sponsor to the committee since the committee could obtain the same permit at no cost. (See Chapter 1 for the definition of "sponsored committee.")

**Ex 4.25** – A PAC produces and mails a one-page flyer urging voters to vote for Proposition 310 and to vote for two statewide candidates. Half of the flyer is devoted to supporting Proposition 310 and the other half equally supports the candidates. The PAC coordinates the mailing with the committee primarily formed to support Proposition 310, but does not coordinate with either candidate's committee. The total cost of producing and mailing the flyer is \$14,000. The PAC has made a nonmonetary contribution to the committee supporting Proposition 310 valued at \$7,000, and has made independent expenditures of \$3,500 apiece supporting the two candidates.

**Phone Banks:** Businesses and other entities will sometimes allow a committee to use their phones to call prospective voters during non-business hours. The fair market value of the use of the phones is calculated to determine the amount reported as a nonmonetary contribution. One method to determine the fair market value is to contact organizations that provide phones banks as a business.

**Ex 4.26** – A local association of realtors is holding a golf tournament, which will be featured as a networking and marketing event for its members. The association sends invitations, which include an option for attendees to donate an additional sum earmarked for the association’s sponsored committee. Because the invitations include non-political material as well as political material (i.e., the portion of the invitation that solicits contributions for the association’s sponsored committee), the costs may be prorated. Costs directly associated with the political message are reportable by the committee, including the pro rata costs of paper, envelopes, and postage. The allocation may be based on the comparative amount of space devoted to political versus non-political material.

**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. Standards used by the Federal Election Commission (11 CFR 106.4) may be used for valuing polling or survey data, as to the aging of poll results and the amount of a contribution attributable to each candidate or committee that receives the poll results. 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.

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 or committee, the nonmonetary contribution is the prorated portion of the total value of the survey. In other words, the value of the nonmonetary contribution is based on the value of the information the committee receives. If the benefiting committee used 50 percent of the poll, the nonmonetary contribution value would be 50 percent of the total poll cost.

When two or more committees equally share the costs of a poll, before the results are known, the payments do not result in nonmonetary contributions among the committees. Committees are encouraged to contact the FPPC with specific facts for assistance.

**Ex 4.27** – A committee provided phone banking services. The services included the use of phone banking software, the cost of the call list, the cost of voter updates from the registrar, and donated materials and snacks for the volunteers. The calls expressly advocated for a candidate and a measure, both of which will be voted upon by all of the same voters. The message provides equal time to both committees, so the contribution to each committee is valued at one-half of the total cost for the phone bank. Note: If a phone bank makes calls on behalf of several committees with different voting jurisdictions and different messages, the committees must also report the fair market value, which may not be determined simply by dividing the full cost by the number of committees. Contact the FPPC for assistance.

## K. Contributions Between Multipurpose Organizations: Expedited Notice and Filing

A multipurpose organization (including a nonprofit) that identifies another multipurpose organization as a contributor of more than \$50,000 on its campaign report using LIFO must send a notice to the contributing multipurpose organization that the organization may be required to file expedited campaign reports. The notice must include the major donor notification language below (see Section L), as well as the following **additional language**:

*The Political Reform Act requires disclosure of the source of donor funds used for political expenditures and requires funds to be tracked back to the original donors when funds are contributed by one multipurpose organization to another. Your organization was identified as a contributor of more than \$50,000 in funds that our organization used for political expenditures. Therefore, your organization may qualify as a committee under Government Code Section 84222 and Fair Political Practices Commission (FPPC) Regulation 18422, contained in Title 2, Division 6 of the California Code of Regulations, that is required to register with the Secretary of State on FPPC Form 410 and file expedited reports on FPPC Form 460 disclosing donors for such funds within three business days during the 90 days before an election, or within 10 business days at all other times.*

The notice must be sent by email, overnight delivery, or fax within 24 hours during the 90-day period before an election, and within ten business days outside of the 90-day period. The organization must maintain a record of all notices it sends. (Gov. Code Section 84222; Regulation 18422.)

**QUICK TIP:** A major donor notice must be sent to persons listed on a campaign report prepared by a multipurpose organization. For example, if when using the LIFO accounting method to determine reportable sources, a contributor of \$5,000 or more is identified, the organization must send the contributor a major donor notification. In addition, a multipurpose organization that identifies another multipurpose organization as a contributor of more than \$50,000 must send an expedited notice. (See Chapter 15.)

## L. Notification to Contributors of \$5,000 or More

Committees that receive 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, corporate, or general 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. If a contribution of \$10,000 or more is received in the 90 days prior to the election, or on the date of 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.

You do not need to send the notice again for subsequent contributions received from the same contributor in the same calendar year. Additionally, the notice is not required to be sent if the source of the contribution is a candidate, officeholder, or an existing committee because they already are required to file campaign statements.

**QUICK TIP:** A multipurpose organization (including a nonprofit) that identifies another multipurpose organization as a contributor of more than \$50,000 on its campaign report by the “last in, first out” (LIFO) accounting method, must send an expedited notice as described in Section K.

The notice may be tailored as long as it contains language substantially similar to the italicized 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, visit [www.fppc.ca.gov](http://www.fppc.ca.gov) and review the available campaign materials.*

### ***Multipurpose organizations including nonprofits***

*If your organization is a multipurpose organization, 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 to determine your filing requirements. For additional information, visit [www.fppc.ca.gov](http://www.fppc.ca.gov) and review the available campaign materials.*

### ***24-Hour/10-Day Reports***

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

- 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 before 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 state special elections.*

### ***Electronic Filing***

*State committees that make contributions of \$25,000 or more must file electronically with the Secretary of State ([www.sos.ca.gov](http://www.sos.ca.gov)). State committees that are required to file the Form 497 (24-hour Contribution Report) must file this form electronically even if the \$25,000 threshold has not yet been met. For more information on the electronic filing requirements, 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 file campaign statements may result in late filing penalties of \$10/day (state committees may be fined \$20/day if they must file electronically and on paper) and fines of up to \$5,000 per violation.*

### **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](mailto:advice@fppc.ca.gov), or refer to their website: [www.fppc.ca.gov](http://www.fppc.ca.gov)*

## **M. Returning Contributions**

There are several provisions in the Act and FPPC regulations that regulate the return of contributions. The general rule is that a committee may return contributions to its contributors so long as the return is reasonably related to a political, legislative, or governmental purpose.

### **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. Once a contribution is deposited, cashed, or negotiated, it must be disclosed on the next campaign statement, even if it is subsequently returned.

### **Contributions that Exceed the Limits**

Contributions that exceed the contribution limits are not considered accepted if they are not deposited into the committee's bank account and are returned within 14 days of receipt.

For nonmonetary contributions, either the item itself, its monetary value, or the monetary amount by which the value of the nonmonetary contribution exceeds the limits must be returned within 14 days of receipt. Contributions that exceed the contribution limits may, under certain circumstances, be deposited into a general purpose committee's "restricted use" account which may not be used for contributions to state candidates. (See Chapter 5 for more information about "restricted use" bank accounts.)

### **Missing Contributor Information**

A contribution of \$100 or more must be returned within 60 days of receipt if the committee has not obtained the contributor's name, address, and, in the case of a contributor who is an individual, their occupation and employer. (See Chapter 3 for additional information.) Additionally, contributions of \$100 or more from a limited liability company (LLC) must be returned if, within 60 days, the committee's records do not contain the following: the name of the LLC and the full legal name of the LLC's responsible officer (for an LLC that has qualified as an independent expenditure committee or major donor); the name of the LLC's committee and the LLC's principal officer (for an LLC that has qualified as a recipient committee); or, for an LLC that has not qualified as a committee, the name of the LLC and the full legal name of the individual primarily responsible for approving the contribution.

## 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 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 letter. 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 Section 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. Standard reporting and recordkeeping is required.

- D. If Jan, my next door neighbor, spends \$1,000 on an event to help raise funds for two different ballot measure committees 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 payment for the event will qualify as a nonmonetary contribution. This is true no matter how many committees benefit from the event.

**E. May a nonprofit organization hold a joint fundraiser with a political committee?**

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

**F. Three committees 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 committees receiving contributions from the polling firm because of the discounted fee, and are the committees making contributions to each other?**

If each committee pays only its share of the cost of the poll, the committees are not making contributions to each other. Additionally, if the polling firm provides the discount as part of its standard business policy and does not provide the discount for political purposes, the committees are not receiving contributions from the polling firm.

**G. The sponsoring organization of a general purpose committee produced and sent a communication to its members advocating the committee's position on a ballot measure. Are costs associated with this communication reportable by the committee?**

No. Payments made by an organization for communications that are sent only to the organization's members, employees, or shareholders, or their families, are not contributions to the ballot measure committee endorsed in the communications.

**H. A business donated the use of an employee to work on two ballot measure campaigns. In one month, the employee spent a total of 6 percent of her compensated time working on one measure and 6 percent on the other measure. Since more than 10 percent of her compensated time was not spent on a single campaign, is her compensated time still required to be reported as a nonmonetary contribution from her employer?**

Yes. If an employee spends more than 10 percent of their compensated time working on campaign activity (one or multiple campaigns) in a calendar month, a nonmonetary contribution from the business must be reported. In this situation, each ballot measure committee must report a nonmonetary contribution in the amount of 6 percent of the employee's compensated time. The value of the nonmonetary contribution is based on her gross salary; standard benefits (e.g., retirement and health care) do not need to be counted.

**I. If someone takes a candidate out to dinner to discuss their campaign and pays for the candidate's dinner, is the payment for the meal considered a contribution to the candidate?**

No. Because there is a personal benefit to the candidate, the payment for the meal would be considered a gift to the candidate.

## Authority

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

### Government Code Sections

82015	Contribution.
82015.5	Contribution; Aggregation.
82018	Cumulative Amount.
82025	Expenditure.
82025.5	Fair Market Value.
82027.5	General Purpose Committee.
82036	Late Contribution.
82041.5	Mass Mailing.
82043	Measure.
82047	Person.
82047.6	Principal Officer.
84104	Recordkeeping.
84105	Notification to Contributors.
84211	Contents of Campaign Statements.
84216	Loans.
84300	Cash and In-Kind Contributions; Cash Expenditures.
84301	Contributions Made Under Legal Name.
84302	Contributions by Intermediary or Agent.
84306	Contributions Received by Agents of Candidates or Committees.
85312	Communications to Members of an Organization.
85319	Returning Contributions.
85319.5	Return or Attribution of Excessive Contributions.
85700	Donor Information Requirements; Return of Contributions.
85704	Prohibition on Earmarking.

## Title 2 Regulations

- 18215 Contribution.
- 18215.2 Uncompensated Internet Activity by Individuals that is not a Contribution or Expenditure.
- 18216 Enforceable Promise to Make a Payment.
- 18225.7 Made at the Behest of; Independent Versus Coordinated Expenditures.
- 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.
- 18421.31 Text Message Contributions.
- 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.
- 18431 Reporting of Expenditures by an Agent or Independent Contractor.
- 18432.5 Intermediary and Earmarked Funds Disclosure.
- 18531 Return of Excessive Contributions.
- 18531.7 Payments for Communications – Section 85312.
- 18533 Contributions from Joint Checking Accounts.
- 18534 Required Committee Bank Accounts.
- 18570 Return of Contributions with Insufficient Donor Information.
- 18946.4 Reporting and Valuation of Gifts: Tickets to Nonprofit and Political Fundraisers.