



Donating Campaign Funds to Non-Profits Under the Political Reform Act

Officeholders and those leaving office have the opportunity, under the state's political reform laws, to donate campaign funds to charitable organizations such as the Institute for Local Government. The Institute for Local Government is the 501(c)(3) research affiliate of the League of California Cities and the California State Association of Counties.

The Institute's mission is to serve as a source of independent research and information for California's local officials. The Institute's program areas include: 1) Climate Change, 2) Collaborative Governance Initiative, 3) Communities for Healthy Kids, 4) Healthy Communities, 4) Intergovernmental Dispute Resolution, 5) Land Use and Environment, 6) Local Government 101, and 7) Public Service Ethics.

Rules Regarding Use of Campaign Funds for Charitable Purposes

As a general matter, campaign funds [1] may be donated to a nonprofit corporation if

- The organization is bona fide charitable, educational, civic, religious, or similar tax exempt, nonprofit organization.
- The donation is reasonably related to a political, legislative, or governmental purpose. [2]
- The donation will not have a material financial effect [3] on the candidate, the candidate's immediate family or those closely involved in the campaign's finances. [4]

These same factors also apply to surplus campaign funds; campaign funds become "surplus" when the candidate does not prevail at the polls, leaves office [5] or dies. [6]

1. Qualifying Tax Exempt Organization.

Campaign funds may be donated to any "bona fide charitable, education, civic, religious or similar tax-exempt organization." For all practical purposes, this means that the organization receiving the donation must meet the requirements of state tax law, which provides an exemption from state taxes for:

Corporations . . . organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes . . . no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided in section 23704.5) and which does not participate in, or intervene . . . in any political campaign on behalf of . . . any candidate for public office. [7]

This language tracks the exemption from federal taxes provided to organizations qualifying under federal tax laws. [8] As a result, any organization qualifying as a

501(c)(3) organization is eligible to receive donations of campaign and surplus campaign funds. [9]

The Institute for Local Government is a tax exempt organization under state and federal law.

2. *Qualifying Purpose*

The Institute's work in support of both ethical and well-informed decision-making by local officials constitutes the requisite "reasonable relationship" to a political, legislative or governmental purpose. [10] This conclusion is further buttressed by the active involvement of city officials in the Institute's decision-making processes.

Given its mission of developing resources to assist local officials in their service to their communities, the Institute believes that contributions to the Institute is reasonably related to a governmental purpose. [11]

Conclusion: Add to Your Legacy Today

A donation of campaign funds to the Institute enables the Institute to continue its work in service to California's local officials. Such a contribution demonstrates an individual's commitment to good government at the local level. It also becomes part of that individual's overall legacy in public service.

Contributions will be acknowledged on the Institute's webpage and larger contributions (\$1,000 or over) will receive special acknowledgement.

[1] The "personal use" provisions of the Political Reform Act govern the use of both campaign funds and surplus campaign funds. *See* Cal. Gov't Code §§ 89510 *et seq.* Campaign funds include "any contributions, cash, cash equivalents, and other assets received or possessed" by a campaign committee. Cal. Gov't Code § 89511(b)(1).

[2] *See also* Cal. Gov't Code § 89512 (an expenditure of campaign funds must be reasonably related to a legislative or governmental purpose, unless the expenditure confers a substantial personal benefit, in which case such expenditures must be directly related to a political, legislative or governmental purpose). "Substantial personal benefit" means a campaign expenditure which results in a direct personal benefit with a value of more than \$200. Cal. Gov't Code § 89511(b)(3). *See also* Livingston Advice Letter, No. A-00-280 (January 31, 2001) (officeholder could not purchase 37 copies of a book he wrote and donate them to schools on theory of insufficient direct relationship to political, legislative or governmental purpose). These sections apply to ballot measure committees disposing of leftover campaign funds. *See* Mathys Informal Advice Letter, No. I-00-068 (April 27, 2000).

[3] Although the Commission has not defined the term "material financial effect" in the context of campaign funds, it has by analogy applied an analysis that is similar to that used in the Act's regulation of conflicts of interest. *See Glazier Advice Letter*, No. A-96-290 (*citing Spillane Advice Letter*, No. A.-95-071).

[4] *See* Cal. Gov't Code § 89515. In its entirety, Section 89515 provides

Campaign funds may be used to make donations or loans to bona fide charitable, educational, civic, religious, or similar tax exempt, nonprofit organizations, where no substantial part of the proceeds will have a material financial effect of the candidate, elected officer, campaign treasurer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or member

of his or her immediate family, and where the donation or loan bears a reasonable relation to a political legislative or governmental purpose.

[5] *See* Cal. Gov't Code § 89519. By contrast, funds remaining in the accounts of office holders are not considered surplus campaign funds, but merely unused campaign funds. *See O'Neil Advice Letter*, No. A-98-268 (n. 2) (December 3, 1998).

[6] 2 Cal. Code Regs. § 18951.

[7] Cal. Rev. and Tax. Code § 23701d.

[8] 26 U.S.C. § 501(c)(3).

[9] Note that section 89519 also includes the term "civic," which does not appear in either Section 23701f of the California Revenue and Taxation Code or Section 501(c)(3) of the Internal Revenue Code.

[10] *See, e.g., Glazier Advice Letter*, No. A-96-290 (November 7, 1996) (finding that the city's involvement in the activity in question caused it to fall within the Political Reform Act's requirements).

[11] Federal tax law subjects campaign committees to federal income taxes to the extent that they receive income or distribute money for unrelated purposes, all of which are specifically defined. An exception exists for contributions made to organizations that meet the following two requirements:

- i. The organization must be exempt from taxation under Section 501(a) of the Internal Revenue Code, which includes all 501(c)(3) and (c)(4) organizations.
- ii. The organization must normally receive more than one-third of its support in each taxable year from gifts, grants, contributions, membership fees and gross receipts from admissions, sales or merchandise and other described sources .

See 26 U.S.C. § 527 (political organizations).

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