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OFFICE OF CAMPAIGN & POLITICAL FINANCE

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TO: Interested Persons  
FROM: OCPF  
SUBJECT: Receipt of PAC Contributions through Transmittal Accounts

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OCPF is occasionally asked if labor organizations or other groups<sup>1</sup> may receive a single check or electronic payment from a payroll processing service to be used for multiple purposes, e.g., whether an association may use payroll deductions to allow members to pay membership dues and also to make contributions to a PAC. Another example involves use of payroll deductions to fund an association's state PAC, while at the same time also raising funds for a federal PAC affiliated with the association.<sup>2</sup>

The campaign finance law allows associations to process PAC contributions as part of a single check or electronic payment used also to fund other accounts, subject to the restrictions described below.

### Discussion

#### 1. Authorization Cards

An association must identify, to all potential contributors, all entities for which the association is soliciting. In addition, members must have the option to contribute, and an affirmative action must be taken to contribute; the contribution may not be made without affirmative action by the contributor. If a potential contributor does not sign an authorization card defining the intended recipients and the amount to be given to each recipient, the contribution may not be automatically taken from a contributor's paycheck. *See* M.G.L. c. 55, § 9A (requiring PACs to use authorization cards when raising funds from individual contributors by direct transfer of funds).

***Authorization cards must define specifically what percentage or amount of each payroll deduction is intended for a state PAC.*** An authorization card does not comply with that requirement if it allows the association to deduct funds in an aggregate amount for the purpose of supporting federal and state candidates or authorizes the association to use its discretion in dividing the funds between the state and federal PACs. For example, a contributor must authorize a payroll deduction with a specific percentage or amount intended for an association's Massachusetts PAC and a different percentage or amount for the association's federal PAC.

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<sup>1</sup> Organizations and groups raising money through transmittal accounts are referred to in this Memorandum collectively as "associations."

<sup>2</sup> For purposes of this Memorandum the term "PAC" without reference to it being a "federal" PAC refers to a Massachusetts PAC.

## 2. Transmittal Accounts

It is important that associations not receive and deposit PAC contributions into the association's general fund, as such receipt would automatically cause the association itself to be considered a political committee, requiring compliance with the contribution limits and filing obligations that exist for committees. *See* 970 CMR 1.22(3), stating that an association that receives money to make contributions to candidates is a political committee. Contributions solicited by an association for its PAC must be received and deposited by the PAC into the PAC account and may not be deposited into the account of the general fund of the association. Similarly, contributions for multiple entities including a PAC, must initially be deposited into a separate transmittal account prior to distribution to the PAC and any other intended recipients. *See* AO-02-36.

For example, if a contributor authorizes a payroll deduction with a specific amount intended for an association's Massachusetts PAC and a different amount for the association's federal PAC, the funds deducted from payroll must first be deposited into a transmittal account prior to allocation between and transfer to the Massachusetts PAC and federal PAC. After allocation, i.e., determination of the amount to be received by each PAC, the funds allocated for the state PAC must be kept separate and distinct from funds received for the federal PAC. After the association has allocated the funds held in the transmittal account to the Massachusetts PAC and the federal PAC, those funds must be promptly transferred to the respective accounts for each PAC.

It is important to note that the funds intended for the state PAC must be transferred promptly to the PAC's account. ***Specifically, distribution from the transmittal account to the state PAC account must occur within seven days of when the funds are received into the transmittal account.*** *See* M.G.L. c. 55, § 19(b)(1), which requires all depository committees to deposit contributions "in the form received within 7 days of receipt."

## 3. Recordkeeping and Disclosure Requirements

PACs organized to support or oppose candidates that file with OCPF are required to electronically file detailed deposit reports with OCPF to disclose contributor information for all contributions deposited. *For purposes of disclosure, the "deposit" of contributions received via a transmittal account occurs on the date when the transfer takes place from the transmittal account to the depository account.*

An association using a transmittal account must maintain all records required by section 2 of chapter 55, identifying contributions received on behalf of the PAC. ***In addition, the association must provide a detailed account of contributors to the PAC's treasurer within three business days of receipt into the depository account.*** *See* M.G.L. c. 55, § 23, which requires persons who receive money on behalf of a political committee to give the treasurer of the committee a detailed account of the contributions within three business days after receipt.

PACs must also file deposit reports by the fifth day of each month, to include "(i) a list of all contributions of more than \$50 deposited as of the last day of the preceding month and since the last statement, including an alphabetical list of names and addresses of each person making a contribution of more than \$50 during the calendar year; (ii) for a person who has made a contribution in an amount or with a value of \$200 or more in any calendar year, the occupation and employer of the contributor and the information for each contribution of less than \$200 if the aggregate of all contributions received from the contributor within any calendar year is \$200 or

more; and (iii) a summary of all contributions of \$50 or less deposited that are not itemized on the report.” M.G.L. c. 55, § 19(b)(2).

This memorandum is issued solely within the context of the Massachusetts campaign finance law. If an association’s fundraising efforts involve a federal PAC, the association should contact the Federal Election Commission for additional guidance.

For further information and guidance with respect to the campaign finance law, please contact OCPF at (617) 979-8300.