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MEMORANDUM

TO: Interested Persons
FROM: Michael J. Sullivan, Director *MJS*
SUBJECT: Political Committee Automobile Leases

This memorandum provides guidelines for political committees which lease, or may be considering the lease, of an automobile.¹ The following guidelines are provided to help candidates² and political committees comply with the campaign finance law's record keeping requirements and restrictions on personal use. As discussed below, a political committee may make expenditures for campaign, legislative, or constituent service travel, including the lease of an automobile, but *only if the expenditure is "not otherwise paid, provided or reimbursed by the commonwealth or any other governmental body."* See M.G.L. c. 55, § 6.

1. Legislator's expense allowance - The law defining compensation for members of the General Court, as amended by Chapter 1 of the Acts of 2017, includes provisions allowing for compensation of members for certain services or expenses. One part of the law contains a monetary allowance for members' travel to and from the state house, stating that "each member of the general court shall annually receive an amount for expenses to be paid as follows: (i) for members whose primary residence is located at a distance that is equal to or less than 50 miles from the state house, \$15,000; and (ii) for members whose primary residence is located at a distance that is greater than 50 miles from the state house, \$20,000." See Section 9C of Chapter 1 of the Acts of 2017 (which eliminated the *per diem* and replaced it with the allowance).

2. When may a legislator's political committee lease an automobile? - A political committee organized on behalf of a member of the General Court who *accepts the allowance* in Section 9C may make expenses relating to (a) travel relating to campaigning for votes and fundraising, i.e., "campaign travel," or (b) travel, *other than commuting to/from the state house*, related to providing legislative or constituent services, including traveling to or from a district office or to attend meetings or events relating to legislation or issues of interest to constituents, i.e. "constituent travel." If the committee reasonably expects that reimbursable travel (as noted above, reimbursable travel excludes travel

¹ For guidance regarding expenditures for the use of personally owned automobiles, see M-97-02.

² The term "candidate" includes not only persons seeking office, but also incumbents.



to/from the state house) will be greater than fifty percent (50%) of the aggregate annual mileage, the political committee may lease a vehicle in the name of the committee.

If, however, a legislator *forgoes the allowance*, the legislator's committee may pay for the lease of an automobile which is used for commuting to/from the state house. Specifically, if the legislator forgoes the allowance, the legislator's committee may lease an automobile that will be used more than 50% of the time *for a combination of campaign, constituent and commuting travel*.³

3. How to avoid personal use of campaign funds - A political committee may not make expenditures for personal travel. Persons who use an automobile leased by a committee must reimburse the committee for personal travel through one of the options described below. This will ensure that the committee's expenditures are not made for a candidate's or any other person's personal use.

Regardless of which option is used, the committee should record the leased automobile's odometer reading each month and determine the total miles traveled. The committee should be reimbursed by the candidate, or other person using the automobile, within 30 days of any personal travel. The committee should pay all costs associated with use of the automobile, including the cost of maintenance and repair, insurance and gas; subject to the conditions set forth in this memorandum.⁴

(a) Mileage Option - Under this option, the candidate would reimburse the political committee for all personal travel based upon the standard mileage rate set by the Internal Revenue Service. In 2017, the rate is 53.5 cents.

Example: The political committee records odometer readings on January 1st (1,000 miles) and February 1st (2,500). The candidate provides the committee with records documenting campaign travel of 1,250 miles. Therefore, 250 miles are personal travel. The candidate would reimburse the committee \$133.75 (250 miles x 53.5 cents per mile).

(b) Percentage Option - Under this option, the candidate would reimburse the committee a percentage of the total cost based on the percent of total miles used for personal travel. The miles for personal travel are divided by the total miles traveled during the month. The result is then multiplied by the committee's total monthly cost for that month. The following example will clarify how the formula works:

Example: A political committee organized on behalf of a member of the General Court records odometer readings on May 1st (35,000 miles) and June 1st (37,500 miles) or 2,500 miles in total for May. The total cost for the leased automobile in May is \$1,000, broken down as follows: \$250 (insurance), \$325 (lease payments), \$125 (gas) and \$300 (repairs and maintenance).

³ The guidance in this memorandum, in addition to applying to members of the General Court, also applies to travel by or on behalf of elected officials other than members of the General Court, if they are not otherwise reimbursed for such travel.

⁴ Parking fees and tolls incurred while undertaking personal travel may not, however, be reimbursed by the committee.

The candidate provides the committee with records documenting 2,000 miles of campaign travel. Therefore, 500 miles (or 20% of the total mileage) are considered personal travel. The candidate would reimburse the committee \$200, the amount equal to the total miles of personal travel divided by total miles of travel multiplied by total monthly cost i.e. or $(500/2500) \times \$1,000 = \200 .

A candidate may not alternate between the mileage or percentage option on a monthly basis. Once a candidate selects a particular option, the candidate should use the option consistently for at least 6 months.

4. Recordkeeping - The key to ensuring that a political committee does not inadvertently make expenditures for personal travel in connection with a leased automobile is good record keeping. Political committees leasing automobiles must maintain a copy of the lease and the following information and records:

- (a) monthly and annual odometer readings for the automobile (the committee should consider using a mileage tracking app that may be loaded into a smart phone or tablet, to automatically calculate and log all travel to be reimbursed);
- (b) the amount of each expense, date the expense was incurred, a description of the purpose of the operating expense, and a receipted bill;
- (c) records documenting travel for which reimbursement is claimed, which include the date of travel, the purpose and destination of the travel and the distance traveled; and
- (d) the amount of any parking and tolls for which reimbursement is claimed, accompanied by a receipt or other documentation, such as a printout showing EZ Pass charges.

To the extent this information is not recorded by a committee, travel must be considered primarily personal. Candidates and political committees must preserve all records relative to such expenditures for a period of six years from the date of the relevant election.

For further information and guidance with respect to this memorandum, please contact OCPF at (617) 979-8300.