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**M-98-06**

Issued: December 28, 1998

Revised: December 23, 2021

**MEMORANDUM**

TO: Interested Persons  
FROM: William C. Campbell  
SUBJECT: Reporting of Year-End Contributions

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At the end of each year, OCPF receives questions regarding the accurate reporting of contributions<sup>1</sup> made near the end or beginning of a calendar year. How should a committee determine the appropriate date of a contribution's "receipt," for purposes of the campaign finance law? This question typically occurs when a contributor mails or delivers a contribution by check, or makes a credit card contribution, late in the calendar year and the recipient committee deposits or receives the contribution early in the new year.

This memorandum explains how candidates and treasurers should disclose these contributions. The approach described in this Memorandum seeks to provide the best possible answer for determining contributors' intent while at the same time ensuring effective administration of, and compliance with, the campaign finance law.

**I. The Basic Rule**

The general rule, which applies to contributions made during most of the calendar year, is that if a contribution is made by check, a candidate or committee is considered to have received the contribution when the contribution is actually delivered to, taken possession of or acquired by the candidate or political committee, e.g., the committee's treasurer or other authorized agent of the committee. A credit card contribution is generally deemed made and received for purposes of disclosure and compliance with the limits of the campaign finance law on the day that the contribution is received into the committee's bank account. See 970 CMR 1.09(5)(b) and M-04-01.

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<sup>1</sup> A "contribution" is defined by the campaign finance law as any "gift, subscription, loan, advance, deposit of money, or thing of value, except a loan of money to a candidate by a national or state bank made . . . in the ordinary course of business . . ." given "for the purpose of influencing the nomination or election" of a candidate "or for the purpose of promoting or opposing a [ballot question]." See M.G.L. c. 55, § 1.

An exception to the basic rule applies, however, to credit card (or debit card) contributions that are made in December, but not actually received into a committee's account until the next calendar year. If a contributor **authorizes a credit card contribution** in December, the contribution is deemed to be "received" for purposes of the campaign finance law in December. The contribution by credit card was authorized in December and there is a paper trail documenting the authorization, even if the funds may not actually be in the committee's account until January.

The manner in which year-end contributions are reported depends in part on whether the committee discloses activity in the depository system or the non-depository system.

(a) **Non-depository committees**: Local party committees, ballot question committees, and some municipal candidate committees file campaign finance reports in the non-depository system. For these committees, credit card contributions authorized by the contributor in December, but received in the next calendar year must be reflected in the year-end report, even if the funds are not received into the committee's bank account until January. Contributions made by check are reported in the reporting period in which they are actually received by the committee, even if the funds are not deposited until January. For their records, committee treasurers are advised to note on a photocopy of a contribution check that is received late in the year the actual date the contribution was received.

(b) **Depository committees**: Depository candidates and committees<sup>2</sup> must account for all contributions received during the preceding calendar year on their year-end report. Credit card contributions authorized prior to the end of the calendar year that are not yet deposited as of December 31 should be noted in the year-end report as "receipts in transit," a data entry field located on the year-end report's summary page. Credit card contributions authorized late in one year, and counted in that year for contribution limitation purposes, may actually be deposited and disclosed in deposit reports filed early in the subsequent year. It is important to note that when the deposit report is filed to disclose these contributions, the committee must check the "Received in Previous Year?" box on the deposit report.

Checks written to a depository committee and in possession of the committee in December are considered received in December, even if not deposited until January. The committee must note, on the deposit report filed in January for the items deposited at that time, that the contributions were received in the previous calendar year. In addition, like credit card contributions authorized prior to the end of the previous calendar year, these contributions must be aggregated and reported in the year-end report under the category "receipts in transit."

Finally, PACs that file with OCPF are within the depository system. Payroll deductions authorized in December 2021 by contributors to such PACs may be received in January 2022. In that instance, the contributions received are considered 2022 contributions and must be disclosed in the PAC's deposit reports.

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<sup>2</sup> Depository candidates include candidates for statewide office, State Senate and House of Representatives, county candidates, mayoral candidates, candidates for city council in cities with a population of 65,000 or more (currently Boston, Cambridge, Lowell, Springfield, Worcester, New Bedford, Brockton, Quincy, Lynn, Fall River, Newton, Lawrence, Somerville, Framingham, Haverhill, Malden and Waltham), and governor's council candidates. In addition, PACs that file reports with OCPF (other than independent expenditure PACs), and state party committees, also file within the depository system. Such candidates and committees must deposit contributions within seven days after receipt. See M.G.L. c. 55, § 19.

## **II. Examples**

### **(a) NON-DEPOSITORY COMMITTEES**

(1) A contributor writes a check to a candidate for \$100 on December 31, 2021. The contributor hand delivers the check to the candidate's treasurer on the same day. The treasurer does not deposit the contribution until January 2, 2022. The contribution is deemed to have been received on December 31, 2021, the date the contribution was delivered to and acquired by the committee's treasurer, even though the treasurer did not deposit the check until 2022.<sup>3</sup> The contribution should be reported as received in 2021 and should be itemized in the 2021 year-end report. For purposes of determining compliance with contribution limits, this is a 2021 contribution.

(2) A town committee writes a check for \$250 on December 20, 2021 to a candidate committee. The check is **hand delivered to the candidate on January 2, 2022**. The candidate committee should report the receipt of the contribution in its 2022 report. This is a 2022 contribution, which counts towards the contributor's 2022 limit.

(3) A contributor **authorizes a credit card contribution on December 28, 2021**. The vendor notifies the committee of the contribution on December 28 **and the contribution is electronically credited to the committee's account** on January 4, 2022. Because the contributor authorized the contribution in 2021, the contribution is considered made and received in 2021 and counts toward the contributor's 2021 limit.

(4) A contributor **authorizes a credit card contribution on December 29, 2021**. The vendor immediately notifies the committee of the contribution **and the vendor sends the committee a check** by mail that includes the amount contributed. The check is received in January, 2022 but the contribution is considered made and received in 2021 and counts toward the contributor's 2021 individual limit.

### **(b) DEPOSITORY COMMITTEES**

(1) A contributor writes a check to a depository candidate on December 31, 2021, **and hand delivers it that day**. This is deemed to be a 2021 contribution and should be reported as such. If the candidate does not deposit it until January, it should be noted on the deposit report (by checking the "Received in Previous Year?" box) to indicate that this was a "2021 Contribution." Contributions authorized in 2021, but not deposited as of December 31, 2021, should be aggregated by the committee and reported by the committee in the 2021 year-end report under the category "receipts in transit."

(2) A contributor writes a check to a depository candidate's committee on December 31, 2021, and puts the check in the mail. The candidate **receives the check on January 3, 2022**. This is deemed to be a 2022 contribution.

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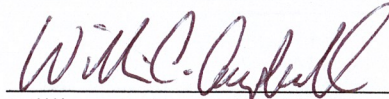
<sup>3</sup> If a contributor "post dates" a contribution, the contribution is not deemed to have been made and received until the day the check is actually negotiable. For example, a check that is post dated January 5, 2022 but delivered prior to the new year is a 2022 contribution since the check cannot be negotiated until 2022.

(3) An individual **authorizes a credit card contribution on December 31, 2021**. The vendor notifies the committee of the contribution and the committee receives credit for the contribution in the committee account on January 4, 2022. Since the contribution was authorized in 2021 and there is a paper trail documenting the authorization, it is deemed to be a 2021 contribution, and it should be noted on the deposit report by checking the "Received in Previous Year?" box. The total contributions authorized in 2021 but not deposited as of December 31, 2021, are reported in the committee's 2021 year-end report under the category "receipts in transit" as of December 31.

(4) A contributor **authorizes a credit card contribution on December 28, 2021**. The credit card processor notifies the committee of the contribution and sends the committee a check by mail that includes the amount contributed. The check is received on January 4, 2022, and deposited on January 5. The contribution is reported as deposited in the January 5, 2022 deposit report, but the contribution counts towards the contributor's 2021 limit and should be noted on the deposit report (by checking the "Received in Previous Year?" box). The total contributions authorized in 2021 but not deposited by December 31, 2021, are reported in the 2021 year-end report as "receipts in transit" as of December 31.

Depository committees must deposit contributions **within seven days of receipt**. For example, if a committee receives a check from a contributor on December 23, 2021, the check must be deposited no later than December 30, 2021. Similarly, a check received on December 28, 2021, must be deposited no later than January 4, 2022. The check would be considered a 2021 contribution and would be reported in the 2021 year-end report as a "receipt in transit" as of December 31. A check received on December 26, 2021, must be deposited by January 2, 2022. However, since January 2 is a Sunday and most banks are closed, OCPF has determined that contributions received on December 26, 2021, but deposited no later than January 3, 2021, will meet the 7-day requirement.

This memorandum is not intended to cover every situation regarding the reporting of year-end contributions. For further information or guidance, therefore, please contact OCPF.

  
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William C. Campbell, Director