

ARE YOU A COMMITTEE?

This manual provides important information on campaign disclosure rules for major donor committees.

A. What is a Major Donor Committee?

A major donor committee is an individual or entity (e.g., corporation, firm, business, or proprietorship) that makes one or more contributions to state or local candidates, ballot measure committees, or other committees (including political parties and PACs) totaling \$10,000 or more in a calendar year. A major donor committee does not receive contributions but instead uses its own funds to make contributions.

Ex 1.1 – In April, the Alpha Corporation made contributions totaling \$8,000 to various state and local candidates. In September of the same year, the corporation made another \$3,000 contribution to a State Senator’s legal defense fund. With the \$3,000 contribution, the corporation qualified as a major donor committee.

This year, the CDI Corporation made a \$35,000 contribution to a ballot measure committee. The corporation qualified as a major donor committee.

Last year, Marge used her personal funds to make contributions totaling \$10,000 to two state candidates and local ballot measure committees and candidates. She qualified as a major donor and had reporting obligations. This year, Marge made contributions totaling only \$8,000 to candidates and committees. Marge did not qualify as a major donor, and thus did not incur reporting obligations.

Multi-Purpose Organizations (Including Nonprofit Organizations)

A nonprofit or other multi-purpose organization that makes political expenditures in California may also qualify as a major donor committee. The following information summarizes the committee qualification rules for such organizations.

Quick Tip

If an individual or entity makes independent expenditures of \$1,000 or more in a calendar year, the individual or entity may qualify as an “independent expenditure committee.” (An “independent expenditure” is a payment for a communication that expressly advocates support of or opposition to a clearly identified candidate or ballot measure, but is not made at the behest of the affected candidate or a committee formed to support or oppose the measure.) See Campaign Disclosure Manual 6 for Independent Expenditure Committees for guidance.

Quick Tip

If contributions totaling \$2,000 or more are received in a calendar year for the purpose of making contributions or independent expenditures in connection with California candidates or ballot measures, a recipient committee has been formed. When two or more individuals or entities make separate payments totaling \$2,000 or more for a single product or service used to make contributions or independent expenditures (e.g., a newspaper ad or a mailing), they also may qualify as a recipient committee.

Major Donor Reporting:

General Treasury Funds. A nonprofit or other multi-purpose organization that receives donations or other payments (e.g., membership dues) for purposes other than making political expenditures in California but nevertheless does, at times, make expenditures and contributions in California will qualify as a major donor committee if the organization makes contributions in a calendar year which total between \$10,000 and \$50,000. An organization that makes political expenditures of more than \$50,000 in a 12-month period or more than \$100,000 in four consecutive calendar years will qualify as a recipient committee.

Non-Donor Funds. A nonprofit or other multi-purpose organization that uses only non-donor funds for expenditures and contributions in California will qualify as a major donor committee in each calendar year that the organization's political payments total \$10,000 or more. Examples of non-donor income include interest payments and sales revenue.

A multipurpose organization, including a major donor, that makes contributions or expenditures using nondonor funds must describe the source of those nondonor funds on the organization's campaign report or statement, including both the type of nondonor funds used (as defined in Section 84222(c)(5)(B), and the source of the nondonor funds, such as the name of the entity where an income producing investment is held, or the type of goods sold. (Regulation 18422(c)(4).)

A multi-purpose organization that qualifies as a major donor committee is subject to the same campaign disclosure provisions reviewed in this manual as a business entity, including the filing of a Form 497 (24-Hour/10-Day Contribution Report) and Form 461 (Major Donor Report), as well as the advertisement disclosure requirements.

Recipient Committee Reporting:

A multi-purpose organization will qualify as a recipient committee under the following circumstances:

Quick Tip

An organization or corporation may qualify as a major donor committee because another organization made contributions and expenditures in California and determined that the corporation or organization was a funding source for its political expenditures. In such cases, a major donor notice must be sent to the organization that was a funding source.

Quick Tip

The FPPC website has up-to-date information on reporting requirements for multi-purpose organizations.

Quick Tip

A federal or out-of-state political action committee does not file major donor reports. Such committees qualify as recipient committees when \$2,000 or more in a calendar year is used for expenditures and contributions in California.

- The organization solicits and receives payments from donors totaling at least \$2,000 for the purpose of making contributions or expenditures in California.
- The organization accepts payments from donors totaling at least \$2,000 subject to a condition, agreement, or understanding with the donor that all or a portion of the payments may be used for making contributions or expenditures in California.
- The organization has existing funds from a donor and a subsequent agreement or understanding is reached with the donor that all or a portion of the funds may be used to make contributions or expenditures totaling at least \$2,000 in California.
- The organization makes contributions or expenditures in California totaling more than \$50,000 in a period of 12 months, or more than \$100,000 in a period of four consecutive calendar years.
- A federal or out-of-state political committee makes contributions or expenditures in California totaling at least \$2,000 in a calendar year.

Affiliated and Non-Affiliated Persons

There are certain situations when payments made by two or more persons are aggregated and the persons are treated as a single contributor for reporting purposes and for purposes of contribution limits.

Affiliated individuals and entities will qualify as a single committee if, together, their independent expenditures total \$2,000 or more, or their contributions total \$10,000 or more, in a calendar year. In addition, a major donor committee that files campaign statements disclosing contributions made by affiliates must notify the recipients of its contributions of the name used on the major donor campaign statement under the “Name of Filer.” (See Chapter 4.)

There is an exception for payments made by individuals listed on the same joint checking account. A contribution is attributed, in full, to the individual who signs the check. (See Chapter 2.)

Ex 1.2 – A trade association of city businesses raises money for charitable events in the community. One year, the association makes a \$45,000 contribution to a committee formed to support a city ballot measure. The association had not raised the money for political purposes and did not reach an agreement with donors that their payments may be used for political purposes. Therefore, the association does not qualify as a recipient committee required to report donors; however, it qualifies as a major donor committee and must file the Form 461 to report the contribution. If the contribution was made in the 90 days before the election, or on the date of the election, the Form 497 must also be filed.

Quick Tip

Under the Act, the term “person” includes an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, committee, and association.

The following payments are aggregated:

- Contributions or independent expenditures made from an individual's personal funds and from funds of any entity he or she directs and controls.
- Contributions or independent expenditures made by two or more entities whose contributions or independent expenditures are directed and controlled by a majority of the same persons.
- Contributions or independent expenditures made by entities that are majority owned by any person. Contributions and independent expenditures 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 or independent expenditures.

The following are basic examples to provide general guidance. Every case is unique and we encourage you to contact the FPPC for advice.

Ex 1.3 – In May, Ellen Gomez made contributions from her personal funds totaling \$6,000 to candidates for county and state offices. In June, she made a \$3,000 independent expenditure from her wholly owned business to oppose a ballot measure and qualified as an independent expenditure committee. Because Ms. Gomez directed and controlled all of the payments, she and her business qualify as a single independent expenditure committee and must disclose her personal contributions as well as the independent expenditures made from her business. (Refer to FPPC Campaign Disclosure Manual 6 for Independent Expenditure Committees.)

Ex 1.4 – Judy and Bill Copren are listed on a joint checking account. During a calendar year, Judy signed several checks totaling \$6,000 to various local candidates. Bill also signed several checks totaling \$7,000. Judy and Bill do not qualify as a major donor committee. Each individual's contributions are treated separately for purposes of qualifying as a major donor committee.

In addition, Judy and Bill are partners in four limited partnerships. Contributions made from each of the limited partnerships must be approved by both Judy and Bill. The four limited partnerships qualify as a single major donor when contributions of \$10,000 or more are made in a calendar year. (Note: the partnership major donor statement would not list Judy and Bill's personal contributions because neither Judy nor Bill can direct and control the contributions separately.)

Quick Tip

If any combination of individuals or entities described on this page qualifies as a single committee, a single campaign statement must be filed reflecting the name of each individual's or entity's payment. (See Chapter 2 for specific instructions on which name is identified as the name of the filer.)

Quick Tip

Contributions from a joint checking account may be allocated according to a written document (signed by both individuals) that accompanies the contribution.

Ex 1.5 – Pace Computers contributed a total of \$9,000 to support various legislative candidates. Under the direction of Pace Computers, Global Software, Inc., a company in which Pace Computers has a greater than 50 percent ownership interest, contributes \$7,000 to support local candidates. Because Global Software, Inc. did not act independently, the companies qualify as a single major donor committee.

\$5,000 Notification to Potential Major Donors

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, a major donor notice must be sent within two weeks of receiving contributions totaling \$5,000 or more; however, 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 sent within one week.

The notice language must be substantially similar to the language below:

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 and review the available campaign materials.

24-Hour Reports

Major donors that trigger reporting obligations must also file a 24-Hour/10-Day Contribution Report (Form 497) if they 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*
- 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 a state special election.*

Ex 1.6 – Southwest Telecom has a greater than 50 percent ownership interest in American Telecom. Each entity, entirely on its own and with separate decision-making bodies, makes a contribution of \$5,000 to a ballot measure committee. Because Southwest Telecom and American Telecom acted completely independently in their decisions to make the contributions, they do not qualify as a major donor.

Electronic Filing

State major donor committees that make contributions of \$25,000 or more must file electronically with the Secretary of State. State major donor committees that are required to file the Form 497 (24-Hour/10-Day Contribution Report) must file this form electronically even if the \$25,000 threshold has not been met. For more information on the electronic filing requirements for state committees, contact the Political Reform Division at 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.

Quick Tip

If you receive a major donor notice, you may need to file an FPPC report!

B. Other Types of Payments

Local Agency Formation Commission (LAFCO) Proposals

Payments made in connection with Local Agency Formation Commission (LAFCO) proposals may be reportable contributions or independent expenditures. These questions are very fact specific, so contact the FPPC for guidance.

Quick Tip

Laws outside the Act generally prohibit the use of public moneys for campaign activities by a governmental agency.

CalPERS/CalSTRS Candidates

Contributions that an individual or business entity makes to support or oppose candidates seeking certain elective offices, including the California Public Employees' Retirement System or the California Teachers' Retirement System board positions, count toward qualification as a major donor committee.

Government Agency Communications

A state or local government agency making payments for campaign activities may become a committee subject to reporting if the payments qualify as contributions or independent expenditures. For example, if governmental employees spend more than 10 percent of their time on campaign activities, a contribution or independent expenditure is made. See Regulation 18420 for more information.

Payments made for certain communications sent by a government agency may also be considered contributions or independent expenditures. See Regulation 18420.1 for more information.

Answering Your Questions

A. Will a candidate or the spouse of a candidate become a major donor by contributing \$10,000 to the candidate's campaign?

If the contributions are made from community funds, neither the candidate nor the spouse will qualify as a major donor. However, if the candidate's spouse makes contributions from legally separate funds, the spouse will become a major donor. The donor is the individual who signs the check. (Spouse includes registered domestic partner.)

B. A legislator made a \$40,000 personal contribution to a state ballot measure committee. Does the legislator file as a major donor committee?

Yes.

C. May corporations make political contributions in California?

Yes. The Act does not prohibit in-state or out-of-state corporations from making contributions. There are restrictions for foreign corporations as described in Chapter 2.

D. Must contributions totaling \$10,000 or more be made to a single candidate, committee, or measure in order for the contributor to become a major donor?

No. If a contributor makes contributions totaling \$10,000 or more to any combination of California state and local candidates, committees, or measures in a calendar year, the contributor meets the definition of major donor.

E. An entity has qualified and filed as a major donor committee in the past three consecutive years, but will not qualify this year. Is it necessary for this entity to terminate its status as a committee to avoid having to file this year?

No. Major donor committees terminate automatically at the end of the calendar year and are under no obligation to file anything in a year in which they do not engage in enough activity to qualify as a committee.

F. If an individual makes a \$6,000 contribution in the current year and, also in the current year, forgives a \$5,000 campaign loan made in the previous calendar year, will that individual become a major donor?

Yes.

G. Will an individual qualify as a major donor by making a \$6,000 loan and forgiving that same \$6,000 loan in the same calendar year if the individual has made no other contributions to California committees?

No. However, if the loan is forgiven in a subsequent calendar year, the forgiveness counts toward qualification as a major donor for that year.

H. If a person makes a \$1,000 contribution during the 90 days before an election, and, including that contribution, has not qualified as a major donor committee, is a 24-hour/10-day Contribution Report required?

No. The person has no filing obligations until qualifying as a major donor committee.

I. A major donor's only contribution is a \$10,000 contribution to a superior court judge candidate. Where does the major donor file?

The major donor files as a county major donor committee with the County Registrar of Voters.

J. If a Member of Congress contributes \$10,000 to a statewide ballot measure from the congressional committee, is reporting required?

Yes. The congressional campaign committee must file a Form 461 as a state major donor committee.

K. Our trade association has never before made a political expenditure. However, this year the association made a single contribution of \$45,000 to a committee primarily formed to support a county ballot measure. Is our association required to register as a recipient committee?

No. Since the contribution was not more than \$50,000, the association does not qualify as a recipient committee so long as the funds were not raised for California political purposes and there was no agreement with the donors that their payments may be used for California political purposes. The association does, however, qualify as a major donor committee and must file the applicable campaign reports and meet the specified filing deadlines.

L. Our organization provides a variety of services to its members, including insurance coverage which results in income to the organization. The organization makes its political expenditures from the income producing account (non-donor funds), not from its membership dues account. Is our organization required to register as a recipient committee?

No. Since non-donor funds are used, the organization does not qualify as a recipient committee. If the organization makes contributions of \$10,000 or more, or independent expenditures of \$1,000 or more, in a single calendar year, the organization will qualify as a major donor committee or an independent expenditure committee, respectively. The committee must then file the applicable campaign reports and meet the specified filing deadlines.

M. Our association receives its funds exclusively from its members. The members do not designate their funds for California political purposes. This year, the association made a \$55,000 contribution to a committee primarily formed to support a county ballot measure. The association will not make additional political expenditures this calendar year. Is our association required to register as a major donor committee or a recipient committee?

The association must file the Form 410 as a recipient committee. Because its only contribution was to a county ballot measure committee, it must register as a county primarily formed ballot measure committee. In Part 4 of the Form 410, the committee will note that it is a calendar year filer (“CY”) and describe the organization’s mission or significant activities (a reference to its IRS tax form is permissible). The association must also file all applicable campaign reports and meet the specified filing deadlines. Unless the association elects to remain registered as a recipient committee, the committee will automatically terminate at the end of the calendar year.

Authority

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

Government Code Sections

- 82013 Committee.
- 82015 Contribution.
- 82015.5 Contribution; Aggregation.
- 82031 Independent Expenditure.
- 84105 Notification to Contributors.
- 85310 Communications Identifying State Candidates.
- 85312 Communications to Members of an Organization.

Title 2 Regulations

- 18215 Contribution.
- 18225.4 Independent Expenditures; When Aggregated.
- 18225.7 Made at the Behest of.
- 18228 Inclusion of Registered Domestic Partners.
- 18420 Reporting of Campaign Contributions and Expenditures of State or Local Government Agencies.
- 18420.1 Payments by State or Local Agencies for a Campaign Related Communication.
- 18422 Nonprofit and Multipurpose Organization Political Activity Transparency.
- 18427.1 Notification to Contributors of \$5,000 or More.
- 18428 Reporting of Contributions and Independent Expenditures Required to be Aggregated.