

RPAC FUNDRAISING AND THE LAW

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RPAC AND THE LAW

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Introduction

- RPAC fundraising usually involves a split of any contributions between National RPAC and a state PAC.
- RPAC fundraising subject to federal law where a portion of the contributions made are sent to National RPAC.
- RPAC fundraising is also subject to state law where a portion of the contributions are provided to your state PAC
- National RPAC is regulated by the Federal Election Commission (FEC); State PACs usually regulated by the Secretary of State or Board of Elections.

Introduction

HARD (PERSONAL) FUNDS

vs.

SOFT (NON-PERSONAL/CORPORATE) FUNDS

- Only HARD FUNDS can be contributed to federal PACs and candidates.
- In many states SOFT/CORPORATE FUNDS may be contributed to state PACs and to state and local candidates.

Soft/Corporate Funds

- Corporate funds cannot be contributed to federal candidates.
- Corporate funds may be accepted by NAR's Political Advocacy Fund (PAF).
- PAF monies primarily used for federal Political Advocacy – Opportunity Races: communications to members about federal candidates.
- Corporate funds are credited towards the state's goal (dollar for dollar).
- Corporate funds are not subject to “usual” RPAC fundraising requirements.

Fundraising Fundamentals

1. Who can be solicited?
2. What is a solicitation?
3. Prohibited contributions.
4. Information required for reporting.
5. Time limits for receiving, transmitting, and depositing contributions.
6. Fundraising events and activities.

Solicitations

Who can be solicited?

- REALTORS®
- REALTOR-ASSOCIATES®
- Affiliate members of REALTOR® associations who are individuals
- NAR, State, and Local Association executive and administrative staff
- Immediate Family members (of the above who are over the age of 18)

Individual Affiliate Members

- The association bylaws must establish a bona fide category of membership for individuals as “Affiliates.”
- The individual affiliate is considered a member if:
 - Has a regular obligation to pay a “non-nominal” amount of dues, *or*
 - Has the right to vote for at least one member of the association’s governing body.

Solicitations

What is a Solicitation?

- A communication that encourages readers to support RPAC activities (by making a contribution) or facilitates making a contribution (such as providing an address where contributions may be made).

What is not a Solicitation?

- Informational notices (e.g. amounts contributed, number of contributors, candidates contributed to)

Practical Point: To be on the safe side recognize that almost everything that references RPAC is a solicitation.

Solicitation Notices (Disclaimer)

Required:

- Tax non-deductibility
- Political purpose of RPAC
- Contributions are voluntary
- Right to refuse to contribute
- Guidelines = Suggestion
- Breakdown of federal and state contribution percentages
- Federal portion applies to limits

Potential Additional Requirements:

- State specific language
- Credit card payment disclaimer

Sample Solicitation Notice

Contributions are not deductible for federal income tax purposes. Contributions to RPAC are voluntary and are used for political purposes. The amounts indicated are merely guidelines and you may contribute more or less than the suggested amounts. The National Association of REALTORS® and its state and local associations will not favor or disadvantage any member because of the amount contributed or decision not to contribute. You may refuse to contribute without reprisal. ____% of each contribution is used by your state PAC to support state and local political candidates; ____% is sent to National RPAC to support federal candidates and is charged against your limits under 52 U.S.C. 30116. [Add the state contribution solicitation notice, if any; omit underlined text if no suggested contribution amount is included.]

Credit Card Contributions

Additional Information for credit card contributions:

- Use personal not corporate credit card
- Pay credit card with personal funds
- Cardholder = 18 years old and not a foreign national or federal contractor

Sample

Only personal, not corporate, credit cards may be used, and the charge applied to the account for this contribution must be paid with personal funds of the cardholder making the contribution.

The cardholder further certifies that he/she is 18 years of age and not a foreign national or federal contractor.

Prohibited Contributions

- Corporate Contributions
- Anonymous Contributions
- Cash Contributions exceeding \$100 (check state law)
- Contributions made in the name of others
- Contributions from foreign nationals
- Contributions from members with a federal government contract
- Any amount over the contribution limit

Contributor Information

What contributor information is required?

- Full name
- Mailing address
- Occupation
- Employer
- Amount
- Date of contribution
- NRDS number (supplied by local association)

Contribution Time Limits

- Contributions of \$50 or less must be forwarded to the State PAC within 30 days of receipt
- Contributions of more than \$50 must be forwarded within 10 days of receipt
- Clock starts ticking on the date of receipt
 - Non-dues billing = contributor hands over the funds
 - Dues billing = association receives the contribution

Fundraising Events

- Auctions
- Raffles
- Dances
- Other Events

Solicitable class requirement; Compliance with other laws; One third rule.

The One-Third Rule

- Applies when something of value is provided “in exchange” for an RPAC contribution.
- Applies to federal portion of RPAC contribution.
- Rule intended to prevent “exchange” of corporate funds for contributed hard/personal funds.
- RPAC event must raise three times the aggregate amount of fair market value of the items distributed.
- FMV applies to both purchased and donated items.
- Food, drink, and room rental are excluded.

The One-Third Rule Example

- Association auctions items with FMV of \$1500 in RPAC fundraising auction.
- Association allocates contributed amounts: 50% to state PAC, 50% to federal RPAC.
- Auction raises \$3000; federal RPAC contribution amount is \$1500 (50%).
- Based on the 1/3 Rule, federal RPAC must reimburse association \$250 (FMV of auctioned items is \$750, 1/3 of \$1500 is \$500).

SOCIAL MEDIA

- Limit to solicitable class if it contains a solicitation:
 - Do not include on a publicly available site information about investing in RPAC – how/why to contribute, the benefits of contributing.
 - Do not provide an address to which an investment may be sent.
 - Do not provide a link to your association website page where RPAC investments may be made.
- You may encourage individuals to check the association website for upcoming RPAC events.
- You may make general statements about the value of RPAC or general information about amounts contributed (“Five new Sterling R’s”; “\$15,000 raised for RPAC”).

QUESTIONS?

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