

State of Minnesota
Campaign Finance & Public Disclosure Board
Suite 190, Centennial Building. 658 Cedar Street. St. Paul, MN 55155-1603

**THE FOLLOWING PUBLICATION DOES NOT IDENTIFY
THE REQUESTER OF THE ADVISORY OPINION, WHICH IS NON-PUBLIC DATA
under Minn. Stat. § 10A.02, subd. 12(b)**

RE: Reporting the use of a personal airplane for campaign purposes.

ADVISORY OPINION 351

SUMMARY

The use of a personal airplane for campaign purposes is either an in kind contribution and in kind expenditure to benefit the campaign or a campaign expenditure that must be paid for with committee funds.

FACTS

As a member of a campaign committee you ask the Campaign Finance and Public Disclosure Board (the Board), for an advisory opinion based on the following facts:

1. A candidate for state legislative office owns an aircraft.
2. The aircraft will be used to transport the candidate to campaign activities in the district.

ISSUE ONE

How does the principal campaign committee of the candidate calculate the cost of using the aircraft for campaign purposes?

OPINION

Determining the “fair market value” of items or services contributed to a campaign, or setting a rate at which the use of an item or service is reimbursed by the campaign, requires both knowledge of the specific item or service and the local conditions that may affect their value. Committees that accept in kind donations are obligated to determine their fair market value. The valuation should be determined at the time the in kind contribution is accepted or before the committee agrees to reimburse the candidate for expenditures that he or she may make. By pre determining the value of an item or service the committee is able to avoid accepting contributions or making expenditures above the applicable limits.

A committee should be prepared to defend the fair market valuation it assigns to items and services if they are scrutinized by either the Board or an election opponent. The use of an airplane is a difficult item to value because variable factors such as maintenance costs and operating life of the equipment have to be included with more evident items, such as the cost of fuel, in order to determine fair market value. The Board lacks the expertise and information needed to provide a fair market value of the use of the airplane by the committee. A possible approach is to use the airplane manufacturer's estimated cost of operation per mile. If that information is not available the committee may wish to contact local aviation companies to find the per mile cost to lease either the same airplane or a comparable model.

ISSUE TWO

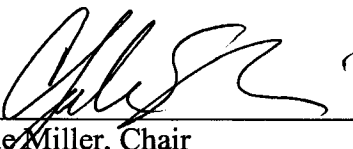
How does the principal campaign committee report the cost of using the aircraft for campaign purposes to the Board?

OPINION

If the candidate is donating the use of the airplane to the committee the cost of the campaign related travel is an in kind contribution to the principal campaign committee that applies to the candidate's overall contribution limit. If the value of the travel is in aggregate over \$100, the in kind contribution(s) must be itemized on periodic Reports of Receipts and Expenditures. Itemization of an in kind contribution must include the date of the contribution, and a description of the item donated to the campaign. If the use of the plane occurs over several dates each flight must be listed separately under the name of the candidate as the contributor. In kind contributions are considered consumed in the same reporting period in which they are received by Minn. Stat. §10A.20, subd. 3, (b). Therefore, the use of the airplane is also a campaign expenditure that counts against the candidate's campaign expenditure limit. The in kind expenditures are itemized for the same amount and purpose as provided in the schedule of receipts.

If the principal campaign committee is reimbursing the candidate for the use of the airplane then the value of the travel is listed on the schedule of campaign expenditures as a third-party reimbursement (Minn. Stat. §10A.20, subd. 13). If the value of the travel meets the \$100 threshold for itemization, the expenditure must list the candidate as the payee, along with a description of the date(s) and purpose of each expense for which the candidate is being reimbursed.

Issued November 19, 2003


Clyde Miller, Chair
Campaign Finance and Public Disclosure Board

Cited Statutes and Rules

10A.20 Campaign Reports

Subd. 3. **Contents of report.**

(a) The report must disclose the amount of liquid assets on hand at the beginning of the reporting period.

(b) The report must disclose the name, address, and employer, or occupation if self-employed, of each individual or association that has made one or more contributions to the reporting entity, including the purchase of tickets for a fund-raising effort, that in aggregate within the year exceed \$100 for legislative or statewide candidates or ballot questions, together with the amount and date of each contribution, and the aggregate amount of contributions within the year from each source so disclosed. A donation in kind must be disclosed at its fair market value. An approved expenditure must be listed as a donation in kind. A donation in kind is considered consumed in the reporting period in which it is received. The names of contributors must be listed in alphabetical order. Contributions from the same contributor must be listed under the same name. When a contribution received from a contributor in a reporting period is added to previously reported unitemized contributions from the same contributor and the aggregate exceeds the disclosure threshold of this paragraph, the name, address, and employer, or occupation if self-employed, of the contributor must then be listed on the report.

Subd. 13. **Third-party reimbursement.** An individual or association filing a report disclosing an expenditure or noncampaign disbursement that must be reported and itemized under subdivision 3, paragraph (g) or (l), that is a reimbursement to a third party must report the purpose of each expenditure or disbursement for which the third party is being reimbursed. An expenditure or disbursement is a reimbursement to a third party if it is for goods or services that were not directly provided by the individual or association to whom the expenditure or disbursement is made. Third-party reimbursements include payments to credit card companies and reimbursement of individuals for expenses they have incurred.