

easily be attributed to the campaign without raising allocation issues.

6. Entertainment. Paragraph (g)(1)(i)(F) states that the use of campaign funds to pay for admission to a sporting event, concert, theater or other form of entertainment is personal use, unless the admission is part of a specific campaign or officeholder activity.

Several commenters urged the Commission to impose limits on the use of campaign funds for admission to these kinds of events. One suggested that these uses be prohibited unless they are part of a *bona fide* fundraising event, and said the Commission should require explicit solicitation of contributions in order to ensure that fundraising takes place. Another commenter recommended that the rule only allow the use of campaign funds if guests are present, and then only for the guests' admissions. A third commenter would require the candidate to show that the event was overwhelmingly campaign related in order to eliminate borderline cases. A fourth argued that these uses should only be allowed when the event is integral to campaign activity, and not when it is merely an event at which those present occasionally discuss campaign related subjects.

Other commenters took a different view. One commenter argued that meeting and mingling with supporters is a legitimate campaign activity, and that the expenses associated with that activity are a legitimate campaign expense. This commenter urged the Commission to allow the use of campaign funds for these purposes so long as the event takes place within the candidate's district. Another commenter said that the rules should allow committees to buy tickets for these events and give them to campaign workers, volunteers, and constituents.

The final rules require that the purchase of tickets be part of a particular campaign event or officeholder activity and not a leisure outing at which the discussion occasionally focuses on the campaign or official functions. This is not intended to include traditional campaign activity, such as attendance at county picnics, organizational conventions, or other community or civic occasions. This approach recognizes that these activities can be campaign or officeholder related. Moreover, the rules do not require an explicit solicitation of contributions or make distinctions based on who participates in the activity, since this would be a significant intrusion into how candidates and officeholders conduct campaign business.

7. Dues, Fees and Gratuities.

Paragraph (g)(1)(i)(G) of the final rules provides that using campaign funds to pay dues, fees or gratuities to a country club, health club, recreational facility or other nonpolitical organization is personal use. Under this rule, membership dues, greens fees, court fees or other payments for access to these clubs are personal use, as are payments to caddies or professionals who provide services at the club, regardless of whether they are club employees or independent contractors. However, this rule contains an exception that allows a candidate holding a fundraising event on club premises to use campaign funds to pay the cost of the event. In this situation, the payments would be expenditures rather than personal use.

The Commission received a mix of comments on this provision. One commenter supported the rule, but urged the Commission to make it stronger by narrowing the exception for fundraising events. Another commenter took a different view, saying that a candidate's greens fees for golf with supporters or potential supporters is a legitimate campaign expense and should be allowed.

Once again, the rule charts a middle course. Playing a round of golf or going to a health club is often a social outing where the benefits received are inherently personal. Consequently, the use of campaign funds to pay for these activities will generally be personal use.

However, the rule is not so broad as to limit legitimate campaign related or officeholder related activity. The costs of a fundraising event held on club premises are no different under the FECA than the costs of a fundraiser held at another location, so the rule contains and exception that indicates that payments for these costs are not personal use. However, this exception does not cover payments made to maintain unlimited access to such a facility, even if access is maintained to facilitate fundraising activity. The exception is limited to payments for the costs of a specific fundraising event.

The rule also allows a candidate or officeholder to use campaign funds to pay membership dues in an organization that may have political interests. This would include community or civic organizations that a candidate or officeholder joins in his or her district in order to maintain political contacts with constituents or the business community. Even though these organizations are not considered political organizations under 26 U.S.C. § 527, they will be considered to have

political aspects for the purposes of this rule.

8. Salary Payments to the Candidate's Family Members. The final rules also clarify the Commission's policy regarding the payment of a salary to members of the candidate's family. Under paragraph (g)(1)(i)(H), salary payments to a member of the candidate's family are personal use, unless the family member is providing *bona fide* services to the campaign. If a family member provides *bona fide* services to the campaign, any salary payment in excess of the fair market value of the services provided is personal use. This rule is consistent with the Commission's current policy, as set out in Advisory Opinion 1992-4.

Several commenters urged the Commission to take a stricter approach. Two suggested that the Commission prohibit salary payments for any member of the candidate's household unit, because the salary could be used to pay the living expenses of the candidate. Other commenters urged the Commission to prohibit salary payments unless the family member was hired to perform services that he or she previously provided in a professional capacity outside the campaign. Some commenters expressed concern that the fair market value standard could be abused.

In contrast, a number of commenters urged the Commission to allow these payments. Two commenters questioned why family members should be treated any differently from other employees who provide legitimate services to the campaign. One commenter said the test should be whether the family member is actually working for the campaign. If so, salary payments should be allowed.

The Commission agrees with those commenters that argue that family members should be treated the same as other members of the campaign staff. So long as the family member is providing *bona fide* services to the campaign, salary payments to that family member should not be considered personal use. However, the Commission believes these payments should be limited to the fair market value of the services provided. Consequently, the final rules treat salary payments in excess of that amount as personal use.

9. Additional Issues. Both the Notice of Proposed Rulemaking and the Request for Additional Comments proposed to treat the use of campaign funds to pay the candidate a salary as personal use. This rule would have the effect of prohibiting candidate salaries, and would resolve an issue raised in Advisory Opinion 1992-1. The