

suggested by the commenter. Instead, it will review the facts of a particular case in order to determine whether personal use has occurred. The Commission will make use of the *de minimis* concept by assessing whether the amount of expenses associated with personal activities is significant in relation to the overall vehicle use.

While the comments focused on the use of campaign funds to pay for expenses associated with the candidate's personal vehicle, the rule applies to the use of campaign funds for expenses associated with any vehicle, regardless of whether it is owned or leased by the committee or the candidate. Because the expenses associated with a personal vehicle usually exist irrespective of the candidacy or the officeholder's duties, the use of campaign funds for these expenses will generally be considered personal use.

5. *Mixed Use.* Paragraphs (g)(1)(ii) (C) and (D) also explain the Commission's policy regarding the use of campaign funds for travel and vehicle expenses associated with a mixture of personal and campaign or officeholder related activities.

Under paragraph (c), if a campaign committee uses campaign funds to pay expenses associated with travel that involves both personal activities and campaign or officeholder related activities, the incremental expenses that result from the personal activities are personal use, unless the person(s) benefiting from this use reimburse(s) the campaign within thirty days for the amount of the incremental expenses.

Paragraph (D) contains a similar rule regarding vehicle expenses. However, this rule does not apply to vehicle expenses that are a *de minimis* amount. If the vehicle expenses associated with personal activities exceed a *de minimis* amount, the person(s) using the vehicle for personal activities must reimburse(s) the campaign within thirty days for the entire amount associated with the personal activities. Otherwise, the use of campaign funds for the vehicle expenses is personal use. This approach is consistent with Advisory Opinions 1984-59 and 1992-12.

For example, under paragraph (C), if a Member of Congress travels to Florida to make a speech in his or her official capacity, and stays an extra week there to enjoy a vacation, the Member's campaign committee can pay the Member's transportation costs and the subsistence costs necessary for making the speech. However, if the committee pays the cost of the entire trip, including the expenses incurred during

the extra week of vacation, the Member is required to reimburse the committee for the expenses incurred during this extra week. This includes the hotel and meal expenses for the extra week along with any entertainment expenses incurred during this time that are included in the amount paid by the committee.

Of course, the reimbursement need only cover the incremental costs of the personal activities, that is the increase in the total cost of the trip that is attributable to the extra week of vacation. Thus, if the vacation and the speech take place in the same location, the Member is not required to reimburse the committee for any portion of the airfare, since that expense would have been incurred even if the trip had not been extended. See Advisory Opinion 1993-6.

On the other hand, if the Member travels to one location to make the speech, travels on to another location for the vacation, and then returns to his or her point of origin, the Member is required to reimburse the committee for the increase in transportation costs attributable to the vacation leg of the trip. The increased costs would be calculated by determining the cost of a fictional trip that includes only the campaign and officeholder related stops, that is, a trip that starts at the point of origin, goes to every campaign related or officeholder related stop, and returns to the point of origin. The difference between the transportation costs of this fictional, campaign related trip and the total transportation costs of the trip actually taken is the incremental cost attributable to the personal leg of the trip.

These rules apply to any Federal candidate or officeholder. Thus, challengers are also required to reimburse their committees for any personal travel expenses that are paid with campaign funds.

These principles also apply to vehicle expenses for a trip that involves both campaign or officeholder related activities and personal activities in excess of a *de minimis* amount. If the personal activities are more than a *de minimis* portion of the trip, the person using the vehicle is required to reimburse the committee for the difference between the total vehicle expenses incurred during the trip and the amount that would be incurred on a fictional trip that only includes the campaign or officeholder related stops. Section 106.3(b) of the Commission's regulations sets out a method for allocating campaign and non-campaign related vehicle expenses. Advisory Opinion 1992-34 contains an example

of how this allocation mechanism works.

The Commission notes that if the person benefiting from the use of campaign funds for personal travel or vehicle expenses makes a timely reimbursement under this section, that reimbursement is not a contribution under the Act. However, if a reimbursement required under this section is made by a person other than the person benefiting, it may be a contribution under § 113.1(g)(6). Section 113.1(g)(6) will be discussed further below.

Section 113.1(g)(2) Charitable Donations

Section 113.1(g)(2) indicates that donations of campaign funds to organizations described in section 170(c) of the Internal Revenue Code are not personal use, so long as the candidate does not receive compensation from the recipient organization before it has expended the entire amount donated for purposes unrelated to the candidate's personal benefit. Compensation does not include reimbursements for expenses ordinarily and necessarily incurred on behalf of such organization by the candidate. This provision is based on the approach taken by the Commission in Advisory Opinion 1983-27, and is consistent with subsequent Commission treatment of charitable donations made with campaign funds. See Advisory Opinions 1986-39 and 1993-22. The Commission received no comments on this provision.

Section 113.1(g)(3) Transfers of Campaign Assets

Under § 113.1(g)(3), the sale or other transfer of a campaign asset is not personal use so long as the transfer is for fair market value. This provision seeks to limit indirect conversions of campaign funds to personal use. An indirect conversion occurs when a committee sells an asset for less than the asset's actual value, thereby essentially giving part of the asset to the purchaser at no charge. Section 113.1(g)(3) limits these conversions by requiring these transactions be for fair market value.

Section 113.1(g)(3) also seeks to limit indirect conversions to personal use by ensuring that any depreciation in the value of an asset being transferred is properly allocated between the committee and the purchaser. Many assets such as vehicles and office equipment depreciate dramatically immediately after they are purchased. If a campaign committee purchases an asset, uses it during a campaign season, and then sells it to the candidate at its