

ADVISORY OPINION 1975-69

Retired Loans -- Effect with Respect to Contribution Limitations; Existence of a Written Instrument of Obligation.

This advisory opinion is rendered under 2 U.S.C. §437f, in response to a request for an advisory opinion submitted by Congressman Alvin Baldus and published in the September 22, 1975, Federal Register (40 FR 43664). Interested parties were given an opportunity to submit written comments pertaining to the request, but none were received.

The requesting party seeks an advisory opinion indicating whether if a loan is made to a political committee, and then repaid, it would be considered a contribution. Sections 431(e)(1) and 591(e)(1) of Titles 2 and 18, respectively, United States Code, define a contribution as, among other things, a loan. The Commission's opinion is that when a loan creates a legally enforceable obligation to repay, a contribution remains outstanding only to the extent that the principal remains unpaid. While outstanding, a loan is a contribution which counts against the individual's \$1,000 and \$25,000 contribution limitations. Once it is retired, however, the loan (a contribution by definition) is extinguished and no longer counts against these limitations.

The existence of a written instrument of obligation would have no effect on the foregoing interpretation. However, such an instrument could be determinative of the question whether the transaction was in fact a loan, rather than a gift, and therefore ceased to be a "contribution" when repaid to the lender.

This advisory opinion is issued on an interim basis only pending promulgation by the Commission of rules or regulations or policy statements of general applicability.

Note: Commissioner Thomson voted against adoption of the foregoing opinion. His dissenting views are published as follows: