



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

March 1, 1977

Re: AOR 1977-3

Honorable Ted Stevens  
United States Senate  
Washington, D.C. 20510

Dear Senator Stevens:

This is in response to your letter of January 17, 1977, requesting an advisory opinion regarding the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the establishment of an office account.

The letter states your understanding that:

it is permissible for a Senator seeking reelection in 1978 and also holding an official Senate Leadership position, to establish a leader's office account from contributed funds for the purpose of paying the costs of travel and transportation, expenses of meetings held in his office or in locations out of the Capitol, and accommodations expense in conjunction with and in furtherance of his duties as a Senate leader only, and not for purposes of his own reelection. . . . [These costs would also include] . . . office supplies, and extra stationery . . .

Your understanding is correct. It is legally permissible for you to establish and operate an office account for these purposes pursuant to 2 U.S.C. 439a. Additional duties which may be required of you as an "official Senate leader" are nonetheless the duties of a holder of Federal office since those duties would not arise but for the fact that you are a holder of "Federal office." The ordinary and necessary expenses incurred in connection with those leadership duties may be defrayed from amounts contributed to your office account for the purpose of supporting your activities as a holder of Federal office. As noted in your letter, the receipts and disbursements of an office account would be subject to the disclosure requirements of 113.4 of the Commission's proposed regulations, but would not be subject to the Act's contribution limitations unless made for the purpose of influencing a Federal election. See 113.5 of the proposed regulations.

Your letter further requests an opinion as to whether a Senate leader could use such an office account to pay the costs of attending the "political function" of another Senator provided

that money from the account was not" specifically . . . used for . . . [either the leader's] or any other Senator's reelection . . ." The test of whether any office account expenditure is a "contribution" under the Act and subject to limitations, is whether it is made for the purpose of influencing the nomination or election of a person to Federal office. Accordingly, the factual context of each "political function" will determine whether the activity relates to influencing the nomination or election of another Senator. As set forth in §113.5 of the proposed regulations, expenditures from an office account for such a purpose would be contributions in-kind subject to the limitations of 2 U.S.C. §441a and would have to be made from an office account which did not contain any corporation or labor organization treasury funds.

The legislative history of 2 U.S.C. 439a makes it clear that this section does not affect any House or Senate rules limiting the use of funds received as campaign contributions. S. Rep. No. 1237, 93d Cong., 2d Sess. 98 (1974). In particular, we direct your attention to Rules XLII and XLIV of the Standing Rules of the Senate.

The Commission expresses no opinion as to the Federal tax ramifications of the described activity since those issues are within the jurisdiction of the Internal Revenue Service. See, for example, 26 U.S.C. 527.

This response relates to your opinion request but may be regarded as informational only and not as an advisory opinion since it is based in part on proposed regulations of the Commission. These proposed regulations were formally adopted by the Commission and serve as interpretative rules of the Commission as to the meaning of the pertinent statutory language. The proposed rules were originally transmitted to the Congress on August 3, 1976, and resubmitted on January 11, 1977. See 2 U.S.C. 438(c). For your information I enclose a copy of a Commission policy statement regarding those rules.

Sincerely yours,

(signed)  
Vernon W. Thomson  
Chairman for the  
Federal Election Commission

Enclosures