

New FEC Airplane Reimbursement Rules Effective January 2004

January 2004

On December 4, 2003, the Federal Election Commission (FEC) amended its regulations pertaining to reimbursement by federal candidates and committees to corporations or other entities for the use of airplanes owned or leased by them. FEC, *Travel on Behalf of Candidates and Political Committees*, 68 Fed. Reg. 69,583 (Dec. 15, 2003). The amendments made three changes to the regulations. The new regulations will be effective January 14, 2004. The specific changes are summarized below:

1. Timing of Reimbursement

Candidates and other political committees are no longer required to reimburse owners or lessors of airplanes in advance. Candidates and committees now have seven days after the flight began in which to make the proper reimbursement. For travel by means other than airplane, reimbursement must be made within 30 days of receiving the invoice but no later than 60 days after the travel began.

Notwithstanding this change, we recommend that clients continue to seek advance reimbursement from candidates and committees for airplane travel because, among other things, the failure of the candidate or committee to make payment in seven days results in an illegal corporate contribution by the airplane owner/lessor.

2. Rate of Reimbursement

The new rules set out the reimbursement rates, which are as follows:

- In the case of travel between cities served by regularly scheduled first-class commercial airline service, the lowest unrestricted and non-discounted first-class air fare;
- In the case of travel between a city served by regularly scheduled coach commercial airline service, but not served by

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regularly scheduled first-class commercial airline service, and a city served by regularly scheduled coach commercial airline service (with or without first-class commercial airline service), the lowest unrestricted and non-discounted coach airfare; or

- In the case of travel to or from a city not served by regularly scheduled commercial airline service, the normal and usual charter fare or rental charge for a comparable commercial airplane of sufficient size to accommodate all campaign travelers, including members of the news media traveling with the candidate and security personnel, if applicable.

The applicable fares are "walk-up" unrestricted fares publicly available for travel on the actual travel dates or within seven days of the actual travel dates. Reimbursement for trips with multiple stops must be made in accordance with the availability of commercial airline service for each leg of the trip. Finally, every candidate or committee sharing a flight must each pay the first-class or coach fare for each person traveling on its behalf or the appropriate share of the charter rate.

3. Application to Noncommercial Airplanes

The FEC has clarified that reimbursement may be made to any owner or lessor of a private airplane used for candidate or committee travel. The reimbursement provision is no longer limited to airplanes owned or leased by corporations and unions. For example, a candidate now may travel on an airplane owned or leased by an individual and then reimburse that individual pursuant to these regulations.

However, the regulations only apply to airplanes not licensed by the Federal Aviation Administration to operate for compensation or hire under 14 C.F.R. parts 121, 129, or 135. The reimbursement schedule does not apply to flights by candidates or committees on commercial airplanes.