

FEC Confirms Permissibility of Federal PAC Payroll Deductions From New York Employees

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The Federal Election Commission (FEC) recently issued Advisory Opinion 2014-4 confirming that a federal corporate political action committee (PAC) may collect contributions by payroll deduction from restricted-class employees in New York State. Prior to the FEC's decision, New York labor law had cast doubt on the permissibility of this practice.

Enterprise Holdings, Inc.—the parent company of the Enterprise, Alamo, and National car rental services—asked the FEC to confirm that federal law preempts New York State labor law with respect to contributions by payroll deductions to its federally registered separate segregated fund (Enterprise PAC). The FEC's regulations expressly permit federal corporate PACs to receive contributions in such manner. However, the New York State Department of Labor regulations prohibit using payroll deductions for PAC contributions. With a few exceptions, the state's labor statute generally prohibits payroll deductions from New York State employees, while acknowledging ambiguously that payroll deductions are permissible when made “in accordance with the provisions of any law or any rule or regulation issued by any governmental agency.”

Enterprise PAC, which does not make any contributions to New York state or local candidates or PACs, was unable to obtain confirmation from the New York State Attorney General's Office or the New York State Department of Labor because those agencies do not issue opinions in response to requests from the general public. However, Enterprise's FEC advisory opinion request prompted the state Department of Labor to submit a comment to the FEC clarifying that the state will not apply its payroll deduction restrictions to federal PACs.

Based on New York State's representations, the FEC's advisory opinion concluded that the “use of payroll deductions to process voluntary contributions to Enterprise is permissible under [the Federal Election Campaign Act] and Commission regulations.” Three of the FEC's commissioners issued an additional statement concluding that the federal law would preempt the New York state law if state regulators were to interpret it to apply to federal PACs.

Enterprise Holdings was represented by Wiley Rein in the FEC advisory opinion request.