

# CALTRAVEL POLITICAL ACTION COMMITTEE

## QUICK FACTS

### What is a PAC?

A PAC is a separate segregated bank account, exempt from income tax for the purpose of supporting or opposing candidates for elective public office. Segregating the PAC funds from CalTravel's general fund protects CalTravel from possible tax liability, protects its tax exempt status, and prevents intrusive disclosure of deposits and payments from its general fund for purposes other than political.

### Who can give (and cannot give) to the CalTravel PAC?

#### **Who can't give:**

- Public Agencies
- Foreign nationals – companies and individuals
- 501(c)(3) organizations
- Lobbyists, if the lobbyist participates in the PAC's decision to make contributions to candidates
- Businesses and their "key personnel" that seek or have contracts to manage public retirement funds

#### **Who can give:**

- Individuals (including those with a green card)
- Businesses (including US subsidiaries of foreign businesses) such as corporations, partnerships, LLCs\*, sole proprietors
- Associations, subject to tax considerations
- Other PACs

\*LLCs – new FPPC Form 409 required starting in 2022 to disclose 10%+ owners and capital contributors of \$10,000 or more

#### **Nonprofits that receive public funding but aren't public agencies:**

- may contribute to the PAC from non-public funding sources
- recommend segregating public funds from non-public funds, and pay for any PAC or campaign activity solely from the non-public funds account; required if entity qualifies as a "publicly funded nonprofit" – *see reporting discussion below*
- consult a tax advisor regarding Internal Revenue Code section 527(f) and 6033(e) taxes

### What can PAC dollars be used for?

- Contributions to state and local candidates
- Contributions to political parties
- Contributions to other PACs
- Contributions to caucuses, charities, civic organizations
- Independent expenditures
- Polling, Research
- PAC's fundraising and administrative costs

#### **Ballot measures and other non-candidate related**

**expenditures:** because CalTravel PAC is tax exempt under Section 527, that means it doesn't pay income tax on its revenue provided it operates primarily to support or oppose *candidates* – ballot measures are not candidates, and certain charitable and civic donations may also be difficult to tie to any "candidate" nexus. Such expenditures can be made but should be nominal compared to overall spending by the PAC. If "issue" type expenditures need to become a larger focus, a dedicated "issues committee" should be set up.

## **How much can individuals and organizations donate to the PAC in one year?**

The PAC may accept unlimited contributions per donor, but thresholds that may apply from the donor's perspective based on tax or campaign finance considerations. Contributions to the PAC are not tax deductible by the donor as a charitable donation or as an ordinary business expense.

\$9,100 per donor per calendar year can be used for any lawful purpose from the PAC's "all purpose" bank account. Anything in excess of \$9,100 per donor per calendar year must be placed in a separate "restricted use" bank account, and cannot be used for state candidate contributions and contributions to the "all purpose" bank accounts of other PACs, but can be used for everything else. This amount adjusts each January in odd numbered years.

**"In-kind contributions"** – donations of goods or services, including items donated for the PAC's annual auction, food and beverage and other costs for PAC fundraising events.

- Must report "true source" of the contribution – who donated the item for the PAC's use?
- Report "fair market value" of the item – what would it cost for the general public to purchase?
- Auctions: the winning bidder is reported as a "miscellaneous increase to cash" for the amount up to fair market value, and the amount over fair market value is a "contribution"

## **What reporting requirements are there for PAC donations?**

### **By the PAC:**

- Contributions under \$100 are not itemized – cumulatively per calendar year per donor
- Contributions \$100 or more per donor per calendar year – name, street address, amount, date, for individuals: occupation and employer; for LLCs: name of individual responsible officer or who approves LLC's contributions
- Intermediary if a contribution is received through someone else, like an association
- Notice to donors of \$5,000 or more regarding "major donor committee" rules

### **By the donor:**

- Provide accurate information to the recipient – "true source" of the funds, "intermediary" situation
- Individuals, businesses, nonprofits – Major Donor Committee: contributions total \$10,000 or more in a calendar year
- Nonprofit qualifying as "multipurpose organization": more than \$50,000 in 12 months or \$100,000 in 4 consecutive calendar years (in addition to the "publicly funded nonprofit" rule)

### **Publicly Funded Nonprofit Organization: required to register and report like a PAC if:**

- A nonprofit tax exempt other than a 501(c)(3)
- Receives more than 20% of its annual gross revenue is from local agencies
- In a quarter, makes contributions or expenditures totaling \$50,000 or more related to statewide candidates or ballot measures or \$2,500 or more related to local candidates or ballot measures **or** in a 2-year period, makes contributions or expenditures totaling \$100,000 or more related to statewide candidates and ballot measures or \$10,000 or more related to local candidates or ballot measures

*See AB 2318 in 2016 – Government Code 54964.5 and 84222.5; see also FPPC Adv. I-18-101*