

MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN • SECRETARY OF STATE

STATE TREASURY BUILDING



5-84-CI

LANSING  
MICHIGAN 48918

October 12, 1984

Karen Bush Schneider  
Foster, Swift, Collins & Coey, P.C.  
313 South Washington Square  
Lansing, Michigan 48933

Dear Ms. Schneider:

You have requested an interpretative statement under the Campaign Finance Act (the "Act"), 1976 PA 388, as amended. Specifically, your question is:

"May a corporation which has established and administers a separate segregated fund utilize corporate monies to pay taxes due on interest earned by the fund as a result of its placement in an interest bearing account or certificates of deposit."

Separate segregated funds are governed by section 55 of the Act, MCL 169.255. Subsection (1) of section 55 states:

"Sec. 55. (1) A corporation or joint stock company formed under the laws of this or another state or foreign country may make an expenditure for the establishment and administration and solicitation of contributions to a separate segregated fund to be used for political purposes. A fund established under this section shall be limited to making contributions to, and expenditures on behalf of, candidate committees, ballot question committees, political party committees, and independent committees."

The Department advised Mr. James Barrett in a declaratory ruling dated October 26, 1983, that:

"A corporation may pay for the cost of office space, phones, salaries, utilities, supplies, legal and accounting fees, fundraising and other expenses incurred in setting up and running a separate segregated fund established by the corporation."

That declaratory ruling also stated the corporation may pay the travel expenses of the officers and directors of its separate segregated fund.

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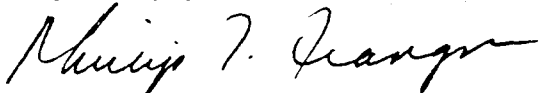
From these examples of what expenses of a separate segregated fund are establishment, administration, and solicitation expenses which may be paid by its corporate creator, it seems clear bank service charges are administration expenses. Your question is whether this "expenditure for administration" category extends to the payment of income taxes incurred because money in a bank account or certificate of deposit earned interest.

The Federal Election Commission (FEC) has issued an advisory opinion on the question. This opinion concluded that the tax on income generated by a separate segregated fund was not an allowable use of corporate treasury funds. That opinion issued June 3, 1977, to the Texaco Employees Political Involvement Committee states in relevant part:

"The Commission concludes that taxes incurred by TEPIC on its earned interest income are not 'administration' expenses within the meaning of 2 U.S.C. §441b(b)(2)(C) and §114.1(b). A tax obligation on income generated by the depositing in an interest-bearing account of unused contributions to a separate segregated fund is not incurred in the pursuit of voluntary contributions, the maintenance of those contributions, or the utilization of those contributions for 'political purposes.' Rather, the tax is incurred as a result of the production of income to TEPIC; these costs are clearly distinguishable from costs incurred in 'setting up and running' TEPIC as a separate segregated fund. Accordingly, TEPIC's tax liability may not be paid with treasury funds of Texaco."

The reasoning of the FEC on this issue is also applicable to the Act. To permit corporate payment of these committee expenses would amount to an exchange of corporate funds for funds generated by the separate segregated fund's activity. This response is informational only and does not constitute a declaratory ruling.

Very truly yours,



Phillip T. Frangos  
Director  
Office of Hearings and Legislation

PTF/cw