

**32 KAR 2:180. Extension of credit to candidates, campaign committees, or political issues committee.**

RELATES TO: KRS 121.180(7)

STATUTORY AUTHORITY: KRS 121.120(1)(g)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 121.180(7) provides that if the final statement of a candidate, campaign committee, or political issues committee shows an unexpended balance or outstanding debt, the entity shall continue to file supplemental reports until all debts have been settled and any outstanding balance depleted. Except for debts incurred in campaigns prior to January, 1989, only candidates may contribute after an election to defray outstanding debts. As a result, obligations owed by a candidate are of necessity assumed by the candidate personally. Regardless of whether an outstanding debt is the result of a pre-1989 campaign or subsequent election, the failure to settle a debt may result in a contribution, and often an illegal corporate contribution, or a contribution in excess of the contribution limit in effect at the time of the election. It is necessary to promulgate this administrative regulation to establish the criteria on which the registry shall determine if an outstanding debt has been converted to a contribution.

Section 1. Scope. This administrative regulation shall apply only to debts incurred for elections held subsequent to November, 1993.

Section 2. Extensions of credit to candidates, campaign committees, or political issues committees.

(1) For purposes of this section, an "unsatisfied extension of credit" means an outstanding debt which has not been satisfied within a reasonable time after the date of an election and which has not been assumed by a candidate personally.

(2) An unsatisfied extension of credit through deferred billing or payment for goods and services rendered to a candidate, campaign committee, or political issues committee shall be construed as a campaign contribution if:

(a) The transaction was entered into with no reasonable expectation of repayment;

(b) The transaction is based upon terms and conditions not available to other customers served by the creditor;

(c) The transaction is not a transaction between two (2) unrelated parties bargaining at arm's length; or

(d) The transaction constitutes a significant deviation from the creditor's regular commercial practices.

(3) An extension of credit through deferred billing or payment for goods and services rendered to a candidate, campaign committee, or political issues committee, may be considered a campaign contribution if:

(a) The creditor abandons efforts to enforce or collect the debt on grounds that are not commercially reasonable;

(b) The creditor abandons, forgives, or cancels the debt under conditions not generally available to other customers of the creditor;

(c) The creditor abandons, cancels or forgives the debt for no reasonable business purpose; or

(d) In the case of a creditor who is an individual or unincorporated entity, if any of the conditions in this subsection are determined to exist, and the amount of the debt forgiven, abandoned, or cancelled, when added to other monetary or in-kind contributions made by the creditor exceed the contribution limits in effect at the time of the extension of credit.

(4) An extension of credit through deferred billing or payment for goods and services rendered by a creditor to a candidate or campaign committee or the cancellation, forgiveness, or abandonment of such a debt may be determined by the registry to be a

campaign contribution if a totality of the evidence indicates that the transaction is not commercially reasonable. The mere passage of time shall not be determinative, nor shall the finding that a transaction was merely unwise. In making the determination, the registry shall consider:

- (a) Whether owners or controllers of the creditor are contributors to or political supporters of the candidate;
- (b) Whether the amount of credit extended exceeds the amount of credit extended to nonpolitical customers of the creditor; and
- (c) Whether the terms under which the credit was extended are substantially different than the terms and conditions generally applied in transactions between the creditor and its nonpolitical customers.

(20 Ky.R. 1721; eff. 6-2-1994; Crt eff. 9-27-2019.)