

## What Next? Complying with Post-Election Contribution Rules

November 15, 2022

While attention will shift to the 2024 elections once the November 8 midterm election results are finalized, contributors may still receive solicitations related to the 2022 elections. Those interested in making post-election federal campaign contributions may do so under certain circumstances.

**Georgia run-off.** Runoff elections are considered separate elections under FEC rules. Contributors are therefore permitted to make contributions to the campaigns of Sen. Raphael Warnock (D) and Herschel Walker (R) for the Georgia runoff election on December 6 even if they previously maxed out contributions to the candidates' general election campaigns. An individual may contribute up to \$2,900 and a multicandidate political action committee (PAC) may contribute up to \$5,000 to each candidate.

**Candidate recount funds.** Federal candidates are permitted to establish separate accounts to pay the costs of recounts and other expenses related to contested elections. Much like contributions for runoff elections, donations to recount funds are not aggregated with contributions to a candidate's primary or general election campaigns—meaning that an individual may contribute up to \$2,900 and a multicandidate PAC may contribute up to \$5,000 to each candidate's recount fund even if they previously contributed to that candidate this election cycle.

**National party recount funds.** National party committees such as the Democratic National Committee (DNC) and Republican National Committee (RNC) are also permitted to establish accounts and raise funds specifically for election recounts, contests and other legal proceedings. These recount accounts are subject to separate contribution limits. Accordingly, an individual may contribute up to \$109,500 and a multicandidate PAC may contribute up to \$45,000 per year to these accounts, even if they have previously contributed to a national party committee's principal campaign account.

**Debt retirement.** Federal candidates may accept contributions after the general election if their campaigns have net debt outstanding (i.e., a campaign's unpaid debts exceed its cash on hand). Contributions for debt retirement after an election occurs are only possible if the contributor has not already made the maximum contribution to the candidate for that election. For example, if Jane Doe contributed \$2,500 to Sen.

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Smith's general election campaign before Election Day, she can only contribute an additional \$400 toward the campaign's general election debt retirement after November 8 assuming the campaign has net debt outstanding. Contributions toward a campaign's debt retirement may only be made if the campaign has net debt on the date the contribution is made. Further, any contribution for debt retirement must be designated for the election for which the campaign is retiring debt. If the contribution is not correctly designated, it will be applied toward the limit for the candidate's next election.

The Akin Gump Political Law team will continue to monitor developments to keep clients informed on these and other key issues. We are available to conduct due diligence, pre-clear contributions and advise on other forms of political engagement.

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