

WAC 390-16-207 In-kind contributions—Explanation and reporting.

(1) An in-kind contribution must be reported on the C-4 report. An in-kind contribution, as that term is used in the act and these rules, occurs when a person provides goods, services or anything of value, other than money or its equivalent, to a candidate or political committee free-of-charge or for less than fair market value, unless the item or service given is not a contribution according to RCW 42.17A.005 or WAC 390-17-405.

An in-kind contribution includes an expenditure that:

- Supports or opposes a candidate or a ballot measure;
- Meets the definition of contribution in RCW 42.17A.005 or WAC 390-05-210;
- Is an electioneering communication that is a contribution as provided in RCW 42.17A.310; and
- Is other than a monetary contribution made directly to a candidate or political committee.

For example, an in-kind contribution occurs when a person, after collaborating with a candidate or a candidate's agent, purchases space in a newspaper for political advertising supporting that candidate or opposing that candidate's opponent.

(2) According to RCW 42.17A.430 and WAC 390-16-238, a candidate may not use his or her campaign funds to make a contribution, including an in-kind contribution, to another candidate or a political committee. However, under RCW 42.17A.430, a candidate may use surplus funds as defined in RCW 42.17A.005 to make a contribution to a political party or caucus political committee.

(3) Valuing in-kind contributions.

(a) For purposes of determining the value of goods or services provided as in-kind contributions, refer to WAC 390-05-235 Definition—Fair market value.

(b) If an expenditure that constitutes an in-kind contribution is made, the value of the in-kind contribution to a particular candidate or political committee is the portion of the expense that benefits the candidate or political committee.

(4) In-kind contributions to recipients who have limits under RCW 42.17A.405 or 42.17A.410.

(a) If a candidate receives in-kind contributions from any person valued at more than twenty-five dollars in the aggregate for an election, the contribution is reportable by the giver and the recipient pursuant to chapter 42.17A RCW and is subject to the applicable contribution limit provided in RCW 42.17A.405 or 42.17A.410.

(b) If a bona fide political party or legislative caucus committee receives in-kind contributions from any person valued at more than twenty-five dollars in the aggregate during a calendar year, the contribution is reportable by the giver and the recipient pursuant to chapter 42.17A RCW and is subject to the applicable contribution limit provided in RCW 42.17A.405.

(c) If an elected official against whom recall charges have been filed or a political committee supporting the recall of an elected official receives in-kind contributions from any person valued at more than twenty-five dollars in the aggregate during a recall campaign, the contribution is reportable by the giver and the recipient pursuant to chapter 42.17A RCW and is subject to the applicable contribution limits provided in RCW 42.17A.405 or 42.17A.410.

(5) Political committees that make in-kind contributions. Except as provided for in subsection (5) of this section, a political committee that makes in-kind contributions to a candidate or political committee totaling more than fifty dollars in the aggregate during a reporting period must identify the recipient and the amount of the contribution as part of its C-4 report covering that period.

If the in-kind contribution is in the form of an expenditure that has been obligated, but not yet paid, the identity of the recipient candidate or political committee, along with a good faith estimate of the value of the contribution, must be disclosed in part 3 of Schedule B, in addition to the other information required by the C-4 report. When the expense is paid, the recipient's name and the amount of the contribution must be disclosed on Schedule A, in addition to the other information required by the C-4 report.

If a political committee provides equipment, property or anything else of value owned, leased or controlled by it to a candidate or political committee, the contributing committee must attach a statement to its C-4 report showing the name of the candidate or political committee to whom the contribution was made and the date, description and fair market value of the in-kind contribution.

(6) Reporting by recipients. Except as provided in subsection (5) of this section, in-kind contributions from one source are not reportable by the recipient candidate or political committee until the aggregate value of all in-kind contributions received from that source during a reporting period is more than fifty dollars. If this threshold is met, the in-kind contributions must be reported in part 1 of Schedule B to the C-4 report covering that reporting period.

(7) Application of RCW 42.17A.420—Last-minute contributions.

(a) If an expenditure that constitutes an in-kind contribution is made no later than twenty-two days before a general election and written notice of the in-kind contribution is in the possession of the recipient candidate committee or political committee twenty-two or more days before that general election, the contribution is not subject to the respective five thousand dollars or fifty thousand dollars maximum amounts specified in RCW 42.17A.420.

(b) If an in-kind contribution is in the form of personal services donated to a campaign for the duration of the twenty-one days before a general election, and if written notice of the value of this donation is in the possession of the recipient candidate or political committee twenty-two or more days before the election, that in-kind contribution is not subject to the respective five thousand dollars or fifty thousand dollars maximum amounts specified in RCW 42.17A.420.

[Statutory Authority: RCW 42.17A.110(1) and 2018 c 304. WSR 18-24-074, § 390-16-207, filed 11/30/18, effective 12/31/18. Statutory Authority: RCW 42.17A.110. WSR 12-03-002, § 390-16-207, filed 1/4/12, effective 2/4/12. Statutory Authority: RCW 42.17.370. WSR 09-01-068, § 390-16-207, filed 12/12/08, effective 1/12/09. Statutory Authority: RCW 42.17.370 and 42.17.562. WSR 06-11-132, § 390-16-207, filed 5/23/06, effective 6/23/06. Statutory Authority: RCW 42.17.370(1). WSR 04-12-054, § 390-16-207, filed 5/28/04, effective 6/28/04; WSR 98-12-034, § 390-16-207, filed 5/28/98, effective 6/28/98. Statutory Authority: RCW 42.17.390. WSR 94-11-016, § 390-16-207, filed 5/5/94, effective 6/5/94. Statutory Authority: RCW 42.17.370. WSR 93-22-002, § 390-16-207, filed 10/20/93, effective 11/20/93; WSR 93-16-064, § 390-16-207, filed 7/30/93, effective 8/30/93. Statutory Authority: RCW

42.17.370(1). WSR 86-04-071 (Order 86-01), § 390-16-207, filed 2/5/86; WSR 82-14-016 (Order 82-04), § 390-16-207, filed 6/28/82; Order 79, § 390-16-207, filed 6/25/76.]