



FEDERAL ELECTION COMMISSION
Washington, DC 20463

November 4, 1977

AO 1977-46

Honorable Guy Vander Jagt
U.S. House of Representatives
Washington, D.C. 20515

Attention: Mr. James M. Sparling, Jr.

Dear Mr. Vander Jagt:

This refers to your letter of September 15, 1977, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to your receipt of honoraria in 1977 for speeches made in 1976.

Your letter states that in 1976 you did not earn the maximum permissible amount of honoraria under 2 U.S.C. 441i. You did, however, give three speeches in January and February, 1977. You ask whether the honoraria received in 1977 for speeches made in 1976 may be regarded as 1976 rather than 1977 honoraria.

The 1976 Amendments to the Act increased from \$15,000 to \$25,000 the calendar year limitation on the aggregate amount of honoraria which may be accepted by a Federal officeholder. The 1976 Amendments did not change the relevant statutory language limiting the acceptance, rather than the receipt, of honoraria, which the Commission characterized in Advisory Opinion 1975-89 as reflecting an accrual approach to the honoraria limits instead of a cash receipt approach. Thus, the Commission held that acquiring the right to receive an honorarium, not merely the actual receipt of the proceeds, determines the year the honorarium is accepted for purposes of 2 U.S.C. 441i. The Commission further concluded that an honorarium is considered as accepted in the calendar year of the appearance to which the honorarium relates where there is justification for a reasonable expectation that the honorarium will be paid in due course, even though in a subsequent year. Since the speeches for which you received honoraria in 1977 were made in 1976, the honoraria are deemed to have been accepted in 1976, and are chargeable against the 1976 calendar year limitation.

The matter of filing disclosure statements reflecting 1976 honoraria received in 1977 is a matter for consideration by the House Ethics Committee, rather than the Commission, since 2 U.S.C. 441i does not prescribe any reporting requirements for the acceptance or receipt of honoraria. In addition, it is not appropriate for the Commission to render an opinion concerning

the income tax ramifications of the described transactions since those issues are within the jurisdiction of the Internal Revenue Service.

This response constitutes an advisory opinion concerning the application of a general rule of law stated in the Act, or prescribed as a Commission regulation, to the specific factual situation set forth in your request. See 2 U.S.C. 437f.

Sincerely yours,

(signed)
Thomas E. Harris
Chairman for the
Federal Election Commission

Enclosure