



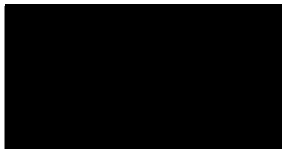
## The Commonwealth of Massachusetts

William Francis Galvin, Secretary of the Commonwealth

Laurie Flynn  
Chief Legal Counsel

September 9, 2020

LAO/20-46



Re: [REDACTED] *Request for Advisory Opinion*

Dear [REDACTED]:

I have received your August 12, 2020 request for an advisory opinion on behalf of [REDACTED] relative to lobbyist disclosure. See G.L. c. 3 § 41. Specifically you inquired whether G.L. c. 3 § 47 requires the employer of a legislative agent to include the name of the payee and amount paid to each payee where the payee is also an employee of the employer providing clerical support to the legislative agent.

If so, where such employee of a legislative agent uses a method authorized under 26 CFR 1.162-28 (allocation of costs to lobbying activities) to estimate the cost of clerical and support staff for the agent's federal tax purposes, may the employer use the same method in its itemized statement under section 47.

With regard to the first question, the answer is clear. G.L. c.3 § 47 requires every employer of a legislative agent to render a complete and detailed itemized statement listing all expenditures incurred or paid separately during the reporting period in connection with its lobbying efforts. Such itemized accounting must include the names of the payees and the amount paid to each. Lobbyist Advisory 98-3 explicitly opined that salaries for support staff incurred by the employer in connection with its lobbying effort must be reported as an operating expense. Where such compensation is included as part of a regular salary or retainer, the statement shall specify the amount of the agent's salary or retainer allocable to the lobbying effort. If no such apportionment is possible, the statement shall indicate such impossibility and disclose the full salary or retainer.

With regard to whether the reporting method described in 26 CFR 1.162-28 will comply with G.L. c. 3 § 47, I find that it may not satisfy the state disclosure requirements. The purpose of 26 CFR 1.162-28 is to allocate costs to lobbying activities for tax purposes. In some instances it allows for the exclusion of the costs of personnel that engage in secretarial, clerical and other support expenses. The purpose of G.L. c. 3 Section 47, on the other hand, is transparency. It requires that when an employee's



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compensation is included as part of a regular salary or retainer, the disclosure must specify the amount of the salary or retainer allocable to the lobbying effort. If no apportionment is possible, the full salary or retainer must be disclosed.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Laurie Flynn".

Laurie Flynn  
Chief Legal Counsel