

Opinion Withdrawn – Wisconsin Ethics Commission – 12/06/2016

Summary:

A corporation sponsoring a nonresident separate segregated fund must register with the Elections Board pursuant to §11.38(1)(a)2., Wis. Stats., and file semi-annual reports disclosing its administrative and solicitation expenses with respect to Wisconsin related campaign finance activities of the separate segregated fund. A corporation may not spend more than \$500 annually for solicitation of contributions to its separate segregated fund for Wisconsin related campaign finance activity. (Issued to Mr. James R. Klauser, September 23, 1982)

This opinion was reviewed by the Government Accountability Board pursuant to 2007 Wisconsin Act 1 and was reaffirmed on October 6, 2008.

Opinion:

You have asked the State Elections Board to issue a formal opinion pursuant to §5.05(6), Stats. The question you ask of the Board is whether the registration and reporting requirements of §11.38(1)(a)2., Stats., apply to a corporation sponsoring a nonresident separate segregated fund (PAC), when the PAC is permitted to file federal campaign finance reports in lieu of Wisconsin reports pursuant to §11.06(3), Stats. You state that the committee qualifies for the reporting exemption for a nonresident political committee under §11.06(3), Stats., because it is organized under the provisions of the Federal Election Campaign Act and its activity in Wisconsin is limited to \$10,000 or less in a calendar year. The committee does not make contributions to candidates for state or local office in excess of one percent of the disbursement level set out in §11.31(1), Stats., and modified by GAB 1.44, Wis. Adm. Code.

Foreign or domestic corporations which establish and administer a separate segregated fund (PAC) and solicit contributions from individuals to the fund to be utilized for the purpose of supporting or opposing candidates for state or local office in Wisconsin are required to register with the State Elections Board and file semi-annual reports disclosing their administrative and solicitation expenses on behalf of the political action committee. §11.38(1)(a)2, Stats. A corporation may not expend more than \$500 annually to solicit contributions to its separate segregated fund. §11.38(1)(a)2., Stats. A corporation which sponsors a nonresident political action committee may not spend more than \$500 annually to solicit contributions to be utilized for Wisconsin campaign finance activity by the political action committee. El. Bd. Op. 75-8.

The reporting exemption set out in §11.06(3), Stats., applies to the reports required to be filed by the nonresident political action committee. It does not apply to corporations sponsoring a separate segregated fund even though the PAC may qualify for the exemption. The exemption permits the PAC to file copies of its federal reports at the time those are due rather than filing Wisconsin campaign finance report forms at the times set out in §11.20, Stats. This eliminates the administrative burden on a nonresident PAC to prepare separate reports for its Wisconsin activity.

It is the opinion of the Board that a nonresident PAC could comply with the reporting requirements of §§11.06, 11.20, Stats., by only reporting Wisconsin related campaign finance activity, including contributions designated for use in Wisconsin, disbursements relating to Wisconsin candidates and incurred obligations relating to Wisconsin candidates. El. Bd. Op. 74-7, 75-3.

Section 11.06(3), Stats., does not provide any exemption for the corporation sponsoring the nonresident political action committee. The provisions of §11.38(1)(a)2., Stats., regarding corporate registration and reporting of administrative and solicitation expenses on behalf of the corporation's separate segregated fund apply to both foreign and domestic corporations. The administrative burdens associated with determining the allocation of administrative and solicitation expenses for Wisconsin campaign finance activity may preclude or limit participation of out of state corporations and their nonresident PACS in Wisconsin politics. This is a policy consideration for legislative determination.

A corporation which sponsors a nonresident political action committee must register with the Elections Board on Form EB-11 and file semi-annual reports disclosing its administrative and solicitation expenses on behalf of its nonresident political action committee with respect to Wisconsin campaign finance activity on Form EB-12. The nonresident political action committee sponsored by the corporation must register pursuant to §11.05(1), Stats., but it may file copies of its federal reports in lieu of preparing special Wisconsin report forms (EB-2), pursuant to §11.06(3), Stats.