

## REGISTRATION

**Question 1:** *If a lobbying firm has multiple lobbyists working for the same client, does the firm file a single registration form covering all of the lobbyists?*

**Answer:** Yes.

Consider the following example. ABC is a lobbying partnership, firm, or corporation. XYZ is a corporation that is employing ABC's lobbyists. If 6 lobbyists work for ABC and 3 of those lobbyists are retained to represent XYZ, ABC and its 3 lobbyists working for XYZ must report the relationship between XYZ and ABC's 3 lobbyists by registering using the "Lobbyist Registration Form." All 3 lobbyists will use a single form to report their lobbying relationship with XYZ. ABC must fill out the form as follows:

- a. Enter the Lobbyist's names in boxes 1, 2, and 3 on page 1.
- b. In the "Character of Employment" section, circle choice "c" to report that this is a contract between a client and a lobbying firm.
- c. Complete the remaining sections of the registration form. This includes reporting the names of the 3 individual lobbyists who work for ABC but who will not be representing XYX in the section called "Registered lobbyists employees by the partnership, firm, or corporation who are not representing this client."
- d. The registration fee is \$50 for each person lobbying for XYZ, or, in this case, \$150.
- e. Each of the 3 individual lobbyists representing XYZ must be identified on the registration form. Each must, after reading RSA Chapter 15, sign the registration form on page 3 acknowledging that they have read RSA Chapter 15.
- f. Each year the Lobbyist/firm must register by December 1 or after that date but before engaging in any lobbying.

The new registration law simplifies the registration process for lobbying partnerships, firms, or corporations. Instead of each individual lobbyist registering in person at the Secretary of State's office, all associated lobbyists can file a single registration form for each client the partnership, firm, or corporation represents. Similarly, the new law simplifies the reporting of income and expenses by requiring only a single report for each client. Associated lobbyists working for the same client will no longer file separate reports; rather, they will file a single report for each client on which they will report the collective income and expenses for all of the lobbyists.

## INCOME AND EXPENSE REPORTING

**Question 2:** *If multiple registered lobbyists from within the same lobbying firm represent a client, will the firm file one income and expense report rather than multiple reports for each individual lobbyist?*

**Answer:** Yes.

Each of the lobbyists representing the client will need to sign the income and expense report, swearing to or affirming the truth and completeness of the report. The head of the firm or the lead

lobbyist for the client should sign the report form, while the lobbyists representing the client should sign the separate signature pages. These pages allow the lobbyists to report the Addendums to which they are also swearing or affirming.

**Question 3:** *Addendum A, Section IV (d) requires disclosure “of any fees that are due, but have not yet been paid.” Does this require disclosure of fees due but not paid for that reporting period (i.e., month), or for the outstanding balance due for the remainder of the year?*

**Answer:** **Fees due or potentially due during the reporting period must be reported. Fees that the client has agreed to pay, but which are not under any circumstance due until some future date, are not reported until they are actually or potentially due.**

Any fee due during the reporting period (i.e., the month prior to which the report is due) must be reported. Consider the following two examples:

- **Example 1:** A contract between ABC and XYZ requires XYZ to pay ABC \$500 per month. The report is being filed in August and, therefore, the reporting period is July. If the amount due in July has not been paid, \$500 should be entered on Addendum A, section IV (d).
- **Example 2:** A contract between ABC and XYZ requires XYZ to pay ABC \$500 in August. Since that amount was not due in July, that amount is not subject to the report filed in August. Thus, on the report filed in September, the \$500 must be reported as either income received or, if not yet received, as income due.

*Note on Contingent Fees:* The purpose of RSA Chapter 15 is to ensure satisfaction of the public’s right to know about the fees lobbyist are paid or promised to influence public officials. Should ABC enter into an agreement with XYZ that is contingent upon ABC’s success in achieving some goal, such as passage of particular legislation or the awarding of a particular contract, for the purposes of Addendum A, IV (d), the contingent fee amount must be reported for any reporting period during which ABC or its lobbyists are lobbying on the issue and potentially could cause the fee to be due by achieving the contingency.

**Question 4:** *Addendum C, line III, requires the disclosure of the client’s name for each political contribution made. While my firm and I personally make political contributions, none are made on behalf of any client. Should we leave this line blank?*

**Answer:** **Yes. The Addendum, however, must be attached to a separate “Statement of Income and Expenses” filed on behalf of the lobbyist, partnership, firm, or corporation.**

If the partnership, firm, or corporation, a lobbyist working for the firm, or a family member of a lobbyist working for the firm makes a political contribution that is not associated with a particular client, the lobbyist, partnership, firm or corporation must file a separate Statement of Income and Expenses. Addendum C would be attached to that separate Statement of Income and Expenses.

In section III of the Statement of Income and Expenses, the person or entity filling out the Statement must check the second check box, labeled “All reportable transactions by the lobbyist (including the lobbyist’s family), or the lobbying firm listed below which are unrelated to any particular client.” Addendum A, B, or C filed with the Statement should then leave blank the sections asking for the client’s name.

**Question 5:** *How many reports are due each month?*

**Answer: One for each client and, if the lobbyist or firm made expenditures that are not attributable to any particular client, one report for the lobbyist or firm.**

To minimize the complexity of the reporting system, a single set of forms is being used for a variety of circumstances. If a lobbyist or lobbying firm has 5 clients, each month a minimum of 5 Statements of Income and Expenses must be filed. It is, however, expected that most months the lobbyist or firm will file a sixth statement disclosing expenses, honorarium or expense reimbursements, or political contributions made by the lobbyist, the lobbyist's family, or the firm which are not associated with any particular client. These reports may require addendum A, B, or C, however it is expected that most monthly filings will not require all three.

The duty to report is assigned to the lobbyist, not the client. A client is never required to file a report.

**Question 6:** *My lobbying firm lobbies for a few clients in New Hampshire but also manages other business for the client. Most of the retainers are not attributed to New Hampshire work. Do we have to disclose the entire management retainer simply because they are also a New Hampshire lobbying client?*

**Answer: A lobbyist or lobbying firm is required to report “[a]ll fees received from any lobbying client that are related, directly or indirectly, to lobbying, such as public advocacy, government relations, or public relations services including research, monitoring legislation, and related legal work.” RSA 15:6, I (a).**

Consider the following example. ABC is a lobbying firm. D is a multi-state business association. D contracts with ABC to lobby for D's interests in New Hampshire. D also contracts with ABC to manage publication of D's national magazine and its annual convention. Provided the subjects of the lobbying in New Hampshire are no more than a *de minimis* element of the magazine and the annual convention, the fees for managing publication of the magazine, and the fees for organizing and conducting the annual convention are not “related, directly or indirectly, to lobbying.” Thus, the fees for those purposes need not be reported.

In contrast, if a regular and substantial part of the magazine is focused on the legislation or contracts that are the subjects of the lobbying in New Hampshire, the magazine includes lists of New Hampshire legislators and recommendations from the professional lobbyist on how to most effectively influence those legislators, or similar government or public relations materials, then the fees for managing publication “are related, directly or indirectly, to lobbying”, and they must be reported.

**Question 7:** *Let's say an individual works for a corporation. Seventy-five percent of the individual's job is to lobby for the corporation and 25% involves other matters. How should the individual report his or her income for lobbying if the corporation pays the individual a single salary?*

**Answer: Report the amount of income that is directly or indirectly related to lobbying.**

A lobbyist/lobbying firm must report “all fees received from any lobbying client that are related, directly or indirectly, to lobbying such as public advocacy, government relations, or public relations services including research, monitoring legislation, and related legal work.” RSA 15:6, I (a). Therefore, if an employee of a corporation or non-profit organization is employed to lobby for the entity 75% of their work time and to manage some unrelated function for the entity 25% of the time, the lobbyist should report as lobbying income 75% of their total income from their employer. If this income is paid weekly, bi-weekly, or monthly as opposed to an annual payment, the lobbyist would divide the amount which is 75% of total income by 12 and report the result as his or her monthly income.

**Question 8:** *Section I of the 2006 Statement of Income and Expenses form appears to allow each employee of the firm who is registered as a lobbyist for a particular client to file one joint form for the particular client. If this is the case, will each such employee of the firm be required to execute the form?*

**Answer:** Yes.

The form has a single space for a lobbyist to swear or affirm the truth and completeness of the Statement. A separate signature page is available from the Secretary of State's Office. Other lobbyists who represent the client should sign this separate signature page, swearing to or affirming the truth and completeness of the Statement and Addendums. The signature page has a section in which the lobbyist will identify which Addendum(s) he or she is affirming.

**Question 9:** *Section III of the Statement of Income and Expenses appears to require each employee and the firm to file an Addendum C (Political Contributions) and check the box labeled "All reportable transactions by the lobbyists (including lobbyist's family) or the lobbying firm listed below which are unrelated to any particular client." Neither our firm nor its employees made contributions related to a particular client. Should our firm file a separate Statement of Income and Expenses to report these unrelated expenses?*

**Answer:** Yes.

Any lobbyist/firm expenses, which are unrelated to any particular client, should be reported on a separate Statement of Income and Expenses. Any Addendums necessary to report those expenses should be attached to that Statement of Income and Expenses. It is expected that for several months each year most lobbyists/firms will file Statements of Income and Expenses that report only expenses unrelated to any particular client.

For example, if a firm has 10 lobbying clients, all of whom pay their fee in a single payment, the firm will file only 1 monthly report on its relationship with that client which reports income. If the firm never makes any expenses that are related to that specific client, never makes any political contributions that are related to that specific client, and never makes any expense reimbursements/honorarium payments related to that specific client, then for the other 11 months of the year, the firm will file only the single-sheet monthly Statement showing that no income or expenses related to that client occurred.

The expenditure of the income received from that client will be reported on the Statement of Income and Expenses form where the firm reports expenses that are not related to any particular client. It is expected that the majority of the income and, in some cases, all of the income will be used for salaries, benefits, support staff, and office expenses. No itemization is required for these expenditures. For example, if the client pays the firm \$10,000 and the firm uses all \$10,000 for salaries, benefits, support staff, and office expenses, the Statement will show only a single entry of \$10,000 on line (a) of section V of Addendum A. Lobbyists/firms are not required to disclose how much of this amount is used for any of the listed purposes.

**Question 10:** *Regarding section (a) of Addendum A (Fees and Expenses), can the firm file this Addendum for all employees registered for a particular client?*

**Answer:** Yes; this is required.

In both section IV reporting income and section V reporting expenses, the objective of the Statement form is to have the total income from a client and the total expenses paid from that income reported as a single number. If the firm bills the client based on the hours each lobbyist works, only the

total amount billed (including expenses billed) needs to be reported. The firm is not expected to report any breakdown of which lobbyists within the firm earned the income. Similarly, for expenses, assuming that the income is used to pay the lobbyists, their support staff, and overhead expenses, only a single total should be reported on line (a) of section V. The firm is not expected to provide any breakdown to which lobbyist or for what overhead expenses the money was paid.

**Question 11:** *Is the initial reporting period for line IV (a) only June 2006? If so, is it true that the fees and expenses for the April and May period will be included in line IV (b) even though those fees and expenses have not been reported in an earlier form?*

**Answer:** Yes.

**Question 12:** *We understand that the term “fees” includes reimbursable expenses included in an invoice to the client. Our firm sends the client an invoice which includes the fee as an item and a separate amount for expenses (i.e., postage, delivery charges, travel expenses, registration fees, etc.). Should we aggregate the amounts on the invoice and include that amount on line IV(a)?*

**Answer:** Yes.

The total of all fees received should include the entire amount the client is required to pay the lobbyist or firm that are related directly or indirectly to lobbying for the reporting period. This includes the aggregate amount of retainers, fixed fees, hourly fees, and any expenses that are billed to the client.

**Question 13:** *Section V appears to limit the report to the fees (and reimbursable expenses) invoiced to a client. Our firm takes all payments received as operating income and pays expenses of operation (salaries and benefits for all employees, occupancy costs, insurance, taxes, utilities etc.). The firm does not segregate revenues. Therefore, should all fees reported in line IV(a) be reported in line V(a)?*

**Answer:** It depends. If all income is used to pay salary, benefits, the costs of support staff, and office expenses/overhead, then, yes, all fees reported in line IV(a) should be reported in line V(a).

If some income is used to buy the subjects of lobbying meals, make political contributions, or reimburse the subjects of lobbying for permitted expenses, then those amounts must be reported as itemized expenditures on line (b) or (c). If some income is used as an honorarium or expense reimbursement to the subject of lobbying, that amount must be reported on Addendum B, and, if a political contribution, on Addendum C.

**Question 14:** *Addendum B (Honorariums and Reimbursed Expenses) applies to honorariums or expenses the lobbyist or the firm pays to individuals covered by RSA 15, 15-B, or 664. If we pay an elected official an honorarium for attending a conference, should we report the honorarium amount?*

**Answer:** Yes.

If the honorarium is paid from income from a particular client, these expenses should be reported on an Addendum B to the Statement of Income and Expenses for that client. If the honorarium is paid from income to the firm from all clients and not related to any particular client, the expense would be reported on Addendum B to the Statement of Income and Expenses for the firm which are not related to any particular client.

**Question 15:** *Regarding Addendum C (Political Contributions), may the firm file one report and one Addendum C which identifies all contributions made by the firm and each of its registered lobbyists and their families?*

**Answer:** **Yes.**

If the political contributions are paid from **income** to the lobbyist/firm and are unrelated to any particular client, these Addendum Cs should be attached to a Statement of Income and Expenses filed by the lobbyist/firm for expenses unrelated to any particular client.

If the political contributions are paid from the **private funds** of the lobbyists or a lobbyist's family or from firm funds not derived from lobbying income, these political contributions also should be reported on Addendum C and filed with a Statement of Income and expenses from the lobbyist/firm which reports expenses not related to any particular client.

**Question 16:** *We assume that reportable contributions are contributions made to the holders of offices and candidates for the offices of governor, executive councilor, senator, or representative. Should we also report contributions to federal candidates or officeholders, county candidate or officeholders, municipal candidates or officeholders, and political parties or PAC's?*

**Answer:** **Yes. Political contributions to any person subject to RSA Chapter 664 must be reported. RSA Chapter 664 covers candidates for United States Senate and Representatives to Congress, as well as to candidates for State Office and Political Committees registered with the State.**

Candidates for federal office from New Hampshire are generally not required to file campaign finance statements with the State. However, because they file with the Federal Election Commission, the chapter does afford them the opportunity to agree to the State's voluntary expenditure limits. Therefore, those offices are subject to RSA Chapter 664.

**Question 17:** *I am an attorney/lobbyist who is a member of a law firm that represents several clients for both legal and lobbying purposes. The Lobbyist Registration Form provides for each attorney/lobbyist to be identified on a single form and for each to sign the form. The Statement of Income and Expenses and the associated Addendums, however, only have space for a single lobbyist to sign swearing or affirming to the truth and completeness of the Statement. If several associated lobbyists are supposed to file only a single Statement for each client, who is supposed to sign the Statement of Income and Expenses and the Addendums?*

**Answer:** **All the lobbyists whose income or expenses, honorariums or expense reimbursements, or political contributions are being reported must sign each form either directly or through an attached signature page which can then apply to the Statement and all pertinent Addendums.**

**Question 18:** RSA 21-G:25 provides in part:

I. No person shall serve as a public employee, as defined by RSA 15-B:2, IX, or serve as an appointee or volunteer for any multi-branch commission, committee, board, or similar governmental entity, and simultaneously be a person who has a duty to register as a lobbyist pursuant to RSA 15, or is employed by, or maintains an ownership interest in, any entity which employs a registered lobbyist.

RSA 15-B:2, IX defines a public employee as:

IX. "Public employee" means any person, including but not limited to a classified or non-classified employee or volunteer, who conducts state business on behalf of the governor, any executive branch official, agency, or the general court.

The question posed is: Does RSA 21-G:25, I prohibit an individual from seeking and/or holding any elected office in the executive or legislative branch of state government identified in RSA 15-B:2, III, if that person is employed by, or maintains an ownership interest in, any entity which employs a registered lobbyist.

Answer: **No.** A person holding an elected office in the executive or legislative branch is not a classified or non-classified employee, nor is that elected official a volunteer. A person holding an elected office is an "elected official." RSA 15-B:2, III. Therefore, the restrictions imposed by RSA 21-G:25 cited above would not be imposed on a person based solely on that person either seeking or holding one of the elected state offices in either the legislative or executive branch of State government.

One purpose of the revision of the lobbying law is to simplify the reporting process for lobbyists and for the public. A key component of that simplification is to eliminate the old system wherein each individual lobbyist filed reports, often several, reporting the same relationship between members of a lobbying firm and the same client. The new system provides for a single registration and a single monthly report on income and expenses.

A partnership, firm, or corporation filing Statements of Income and Expense should have one of the registered lobbyists (typically the managing partner or the lead partner for that client) sign the Statement form, and the lobbyists whose income or expenses are being reported on that Statement form or Addendums sign an attached signature page. A single signature page can be used for the Statement form and as many Addendums as are submitted with that Statement form.