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Joint Legislative Ethics Committee

Advisory Opinion 2014-003

Issued: May 29, 2014

Syllabus by the Committee:

A complimentary ticket to a non-political fundraiser where the source of the ticket is a third party is a gift pursuant to R.C. 102.02(A)(7); the value of which is the portion of the ticket price that is not a tax-deductible charitable donation.

Jurisdiction and Authority:

The Joint Legislative Ethics Committee ("JLEC" or "the Committee") is the ethics advisory body to the General Assembly and to its individual members, candidates, and employees.¹ The Committee has the authority to render a publicly sought Advisory Opinion on an issue that relates to a special set of circumstances involving ethics, conflicts of interest, and financial disclosure under R.C. Chapter 102, or Sections 2921.42 or 2921.43.² Where the Committee issues a publicly sought Advisory Opinion, the person to whom the Opinion was directed, and those whom are similarly situated, may reasonably rely on the Opinion and shall be immune from criminal prosecution, civil suits, or actions for removal from office or employment for a violation of R.C. Chapter 102, or Sections 2921.42 or 2921.43, based on the facts and circumstances covered by the opinion.³

¹ R.C. 101.34(A)(8).

² R.C. 102.08(A).

³ R.C. 102.08(C).

Background & Issue Presented:

Ohio R.C. 102.02 requires each Member, and certain staff, of the Ohio General Assembly to file an annual financial disclosure statement with the Joint Legislative Ethics Committee. Within this statement, the filer must disclose:

[T]he source of each gift of over seventy-five dollars, or of each gift of over twenty-five dollars received by a member of the general assembly from a legislative agent, received by the person in the person's own name or by any other person for the person's use or benefit[.]⁴

A gift is anything of value.⁵ Consequently, a Member or employee who accepts a complimentary ticket to an event has received a gift.⁶ Generally, the value of a ticket to an event is the face value.⁷

On May 25, 2000, the Committee released JLEC Advisory Opinion 2000-002, regarding the acceptance and reporting of tickets to both political and non-political fundraisers. The Committee concluded:

- (1) A ticket to a political fundraiser given to a member or employee of the General Assembly by a person other than the candidate on whose behalf the fundraiser is being held is a gift pursuant to R.C. 102.02(A)(7);
- (2) a ticket to a political fundraiser given to member or employee of the General Assembly by the candidate on whose behalf the fundraiser is being held is not a gift pursuant to R.C. 102.02(A)(7);
- (3) a ticket to a political fundraiser given to a member or employee of the General Assembly by their caucus is not a gift pursuant to R.C. 102.02(A)(7);
- (4) a ticket to a non-political fundraiser where the source is a third party is a gift pursuant to R.C. 102.02(A)(7); and
- (5) a ticket to a non-political fundraiser where the source is the entity holding the event is not a gift pursuant to R.C. 102.02(A)(7).⁸

⁴ R.C. 102.02(A)(7).

⁵ See 2000 JLEC Advisory Op. 00-002. See also, R.C. 102.01(G) and 1.03(a gift is a thing of value, which includes money, goods, and every other thing of value).

⁶ See 1995 JLEC Advisory Op. 95-004 at 1-2. See also, 1995 JLEC Advisory Op. 95-011.

⁷ Id.

⁸ 2000 JLEC Advisory Op. 00-002 at 1.

A non-political fundraiser is one held by a non-profit charitable organization. A third party is any individual or entity not holding the fundraiser.⁹ Of particular importance is the method used in JLEC Advisory Opinion 2000-002, to value a ticket to non-political-fundraiser where the source of the ticket is a third party for purposes of R.C. 102.02(A)(7):

Where a third party is the giver of a ticket to a non-political fundraiser, these tickets do not differ from any other thing of value that a member or employee may receive. *** [T]he value of the ticket is the face value.¹⁰

This Advisory Opinion addresses the following question: Pursuant to R.C. 102.02(A)(7), what is the value of a complimentary ticket to a non-political fundraiser where the source of the ticket is a third party? For the reasons stated below, a complimentary ticket to a non-political fundraiser where the source of the ticket is a third party is a gift pursuant to R.C. 102.02(A)(7); the value of which is the portion of the ticket price that is not a tax-deductible charitable donation.

Consideration of the Issue:

This opinion focuses specifically on reexamining the method for valuing a complimentary ticket to a non-political fundraiser where the source of the ticket is a third party and reviews the financial disclosure reporting obligations incurred upon acceptance. This opinion does not alter any other finding of JLEC Advisory Opinion 2000-002.

I. How to Value a Ticket to a Non-political Fundraiser from a Third Party:

Previously, the Committee held the value of a ticket to a non-political fundraiser where the source of the ticket is a third party is the face value of the ticket.¹¹ However, the face value of a ticket to a non-political fundraiser represents both the value of the benefit received by the purchaser and a charitable donation. This dual nature

⁹ Id.

¹⁰ Id.

¹¹ 2000 JLEC Advisory Op. 00-002 at 5.

necessitates the Committee reexamine the reportable gift value of a ticket to a non-political fundraiser under R.C. 102.02(A)(7).

Where an individual receives something of value in exchange for a charitable donation, the Internal Revenue Service (IRS) provides that only the portion of the donation that exceeds the benefit received by the purchaser is tax-deductible.¹² The Committee finds the IRS process for determining the value of the charitable donation to be a more accurate method for identifying the reportable benefit provided to the Member or employee. Therefore, only the portion of the complimentary ticket to a non-political fundraiser that is not a tax-deductible charitable donation is a reportable gift pursuant to R.C. 102.02(A)(7).

Example: A Member receives a complimentary ticket to a charitable fundraiser from a third party. The cost to purchase the ticket is \$200 (\$110 is tax-deductible). The Member has received a gift valued at \$90 from the third party.

II. Financial Disclosure Reporting Requirements:

Members and employees are prohibited from accepting more than seventy-five dollars, aggregate fair market value per calendar year, in gifts from a legislative agent.¹³ A Member or employee who accepts any gift(s) with an aggregate fair market value per calendar year of more than seventy-five dollars [twenty-five dollars if from a legislative agent] must disclose the source of the gift(s) on the Member's or employee's financial disclosure statement.¹⁴ As a reportable gift, the non tax-deductible portion of a complimentary ticket to a non-political fundraiser provided by a third party accrues toward the Member's or employee's acceptance and reporting thresholds.

Conclusion:

The Committee finds and Members and employees are so advised:

¹² See Internal Revenue Service - Publication 526 Contributions From Which You Benefit - Example 1, http://www.irs.gov/publications/p526/ar02.html#en_US_2012_publink1000229650 (2012).

¹³ See R.C. 102.031(C)(3).

¹⁴ See R.C. 102.02(A)(7).

A complimentary ticket to a non-political fundraiser where the source of the ticket is a third party is a gift pursuant to R.C. 102.02(A)(7); the value of which is the portion of the ticket price that is not a tax-deductible charitable donation.

This advisory opinion is based on the facts presented. It is limited to questions arising under Chapter 102. and R.C. 2921.42 and 2921.43, and does not purport to interpret other laws or rules.