



INFORMATION SHEET 4

CONTRIBUTIONS BY UNINCORPORATED ASSOCIATIONS UNDER THE *CANADA ELECTIONS ACT*

DISCLAIMER

These information sheets set out Elections Canada's current interpretation of the *Canada Elections Act* and are issued to assist the public in understanding the Act. The views expressed in information sheets are not law and are not intended to replace the official text of the Act. How the Act applies to any particular case will depend on the individual circumstances of that case. Elections Canada reserves the right to reconsider any interpretations expressed in information sheets, either generally or in light of the actual circumstances of any case, and in accordance with continuing legislative and judicial developments.

CONTENTS

What Is an Unincorporated Association?	3
Prohibition on Unincorporated Associations Making Contributions	3
Exception for Contributions from Money Given to Association for That Purpose.....	4
Caps on Contributions by Unincorporated Associations to Political Entities Associated with a Registered Party	4
Two Elections in One Year	5
Nomination Contestant Not Endorsed by Registered Party	5
Caps on Contributions to Candidates Who Are Not of Registered Parties.....	5
Determining Whether Candidate Is, or Is Not, of a Registered Party	6
Inflation Adjustment	6
Tracing Contributions Back to Source	6
No Transfers to Registered Party.....	7
Procedure for Unincorporated Associations to Make Contributions	7
Reporting the Contributions Made by Unincorporated Associations	8

What Is an Unincorporated Association?

1. An unincorporated association is any grouping that is not incorporated, other than a trade union, of two or more individuals or entities that have come together for some purpose – including a political purpose.
2. A single trade union does not qualify as an unincorporated association for the purposes of the *Canada Elections Act*.¹
3. The unincorporated association includes all of its branches, chapters or any other divisions.²
4. An unincorporated association does not have to register with the Chief Electoral Officer.

Prohibition on Unincorporated Associations Making Contributions

5. Because an unincorporated association is not an individual, under the *Canada Elections Act* it may not make contributions to registered parties, registered associations, leadership or nomination contestants of registered parties or to any candidate out of its own money, goods or services.³ This includes making contributions from the association's general revenues.

¹ S. 405.3(3), *Canada Elections Act*.

² See s. 405.3(3): “In this section, ‘association’ means an unincorporated organization – other than a trade union – together with all of its branches, chapters or any other divisions.”
See also the dictionary definition of “organization”:

The Canadian Oxford Dictionary: “n. ... 1 the act or an instance of organizing; the state of being organized. 2 an organized body, esp. a business, government department, charity, etc. 3 systematic arrangement; tidiness. ...”

Webster’s Universal College Dictionary: “n. 1. the act or process of organizing. 2. the state or manner of being organized. 3. something that is organized. 4. organic structure; composition. ... 5. a group of persons organized for some end or work; association. 6 the administrative personnel or apparatus of a business. 7. the functionaries of a political party along with the offices, committees, etc., that they fill. – *adj* 8. of or pertaining to an organization. 9 conforming completely to the standards, rules, or demands of an organization, esp. that of one’s employer: *an organization man*. ...”

“Trade union” is not defined for the purposes of s. 405.3. However, a definition of “trade union” for the purposes of s. 404.1 is found in s. 404.1(2), to which reference may be made as an interpretative tool.

404.1(2) The following definitions apply in this section.

“trade union means any organization of employees – the purposes of which include the regulation of relations between employers and employees – together with all of its branches or locals.”

³ S. 404(1), *Canada Elections Act*.

Exception for Contributions from Money Given to Association for That Purpose

6. However, an unincorporated association may make limited monetary contributions* (not goods and services) from money given to the association by individuals for the purpose of making contributions.⁴
7. The association may only make contributions to registered associations and nomination contestants of registered parties and to candidates.⁵ It may not make contributions to registered parties or to the leadership contestants of registered parties.

Caps on Contributions by Unincorporated Associations to Political Entities Associated with a Registered Party

8. The contributions which the association makes to the registered associations, nomination contestants and candidates of a particular registered party may not exceed \$1,000* in total in a calendar year.⁶
9. Associations may make contributions to the registered associations, nomination contestants and candidates of a particular registered party in excess of the \$1,000* cap in two limited circumstances.
10. These exceptions operate independently of each other.

⁴ S. 405.3(2), *Canada Elections Act*.

⁵ S. 405.3(2)(a), *Canada Elections Act*.

⁶ S. 405.3(2)(b)(i), *Canada Elections Act*.

As s. 405.3(1) is currently worded, there is no prohibition against any entity making contributions to parties that are not registered, or their associations, from property given by others. The prohibition in s. 405.3(1) is only against making those types of contributions to registered parties, registered associations, any candidate, or leadership or nomination contestant. (Unregistered associations of registered parties cannot, in any event, accept contributions by virtue of s. 403.01.)

Two Elections in One Year

11. If two elections are held in the same electoral district in the same calendar year, an association that has made a lawful contribution to the registered association, a nomination contestant or the candidate of a registered party in that electoral district before polling day of the first election may make additional contributions, not exceeding \$1,000* in total, to the registered association, a nomination contestant or the candidate of the same registered party in that district during the second election period.⁷
12. An association may take advantage of this exception only once per registered party in any calendar year.⁸

Nomination Contestant Not Endorsed by Registered Party

13. Also, if an association made a lawful contribution to a nomination contestant, who was not endorsed by the registered party as its candidate, the association may make additional contributions to the candidate who did receive the party's endorsement, after that candidate is endorsed, provided that those contributions are made in the same calendar year as the contribution to the original nomination contestant.⁹
14. The association may take advantage of this exception in only one election and in only one electoral district in any calendar year.¹⁰

Caps on Contributions to Candidates Who Are Not of Registered Parties

15. In any single election, an unincorporated association may not give more than \$1,000 to a candidate who is not a candidate of a registered party. It may give up to \$1,000* to each and every individual candidate it chooses to support – but it may not give more than \$1,000* to any individual candidate for any particular election.¹¹

⁷ S. 405.3(2.1), *Canada Elections Act*.

⁸ S. 405.3(2.2), *Canada Elections Act*.

⁹ S. 405.3(2.3), *Canada Elections Act*.

¹⁰ S. 405.3(2.4), *Canada Elections Act*.

¹¹ S. 405.3(2)(b)(ii), *Canada Elections Act*.

Determining Whether Candidate Is, or Is Not, of a Registered Party

16. In determining whether a candidate is a candidate of a particular registered party or is a candidate who is not of a registered party, the association may rely on how that person presents himself or herself. So long as fraud is not involved, a contribution to a person who presents himself or herself as a particular type of candidate is deemed to be a contribution to the person in that capacity.¹²

Inflation Adjustment

17. All contribution caps will be indexed for inflation. The Chief Electoral Officer will publish the contribution caps each year in the *Canada Gazette*.¹³

Tracing Contributions Back to Source

18. Any contributions made by an unincorporated association will, in addition to counting towards the contribution limit of the association, also be counted against the limit of the donor who gave the money to the association.¹⁴
19. An individual who, knowing that an unincorporated association has passed along money he or she gave it for a contribution, wilfully exceeds his or her contribution limit by failing to take that money into account in making further contributions has committed an offence.¹⁵ An individual who inadvertently exceeds the limit because he or she is not aware that an unincorporated association passed along money given to it for that purpose does not wilfully exceed the limit.

¹² S. 405(3), *Canada Elections Act*.

¹³ S. 405.1, *Canada Elections Act*.

¹⁴ See s. 405.3(6). It will be counted for the year, or electoral cycle as the case may be, in which the association passed along the contribution – not the year in which the original contributor gave the money to the association. The presumption against retroactive application would operate, so that s. 405.3(6) would not attribute those contributions retroactively back to the year in which the individual originally provided the money to the association.

¹⁵ S. 497(3)(f.13), *Canada Elections Act*.

No Transfers to Registered Party

20. A registered electoral district association, candidate, or nomination contestant of a registered party that receives a contribution from an unincorporated association may not subsequently transfer that contribution to their registered party.¹⁶
21. It is an offence to wilfully breach this prohibition.¹⁷
22. This prohibition does not apply to disposals of a surplus as required by the Act.¹⁸

Procedure for Unincorporated Associations to Make Contributions

23. An unincorporated association that makes a contribution under the exception in s. 405.3(2) to a registered association, a candidate or a nomination contestant must give the recipient, along with the contribution:
- 23.1 a statement of:
- 23.1.1 the name and address of the individual who is responsible for the association
 - 23.1.2 the total amount of the contribution that the association is giving
 - 23.1.3 the name and address of each individual whose money forms part of the contribution, the amount of money from the individual that is included in the contribution, and the date on which the individual gave the contribution to the association;¹⁹ and

¹⁶ S. 404.2(4), *Canada Elections Act*.

¹⁷ S. 126, *Criminal Code* (general offence of contravening an Act of Parliament).

¹⁸ S. 473 (candidate), s. 478.41 (nomination contestant), *Canada Elections Act*.

¹⁹ S. 405.3(2)(c), *Canada Elections Act*.

- 23.2 a declaration from the individual who is responsible for the association that the information in the statement is complete and accurate²⁰

Reporting the Contributions Made by Unincorporated Associations

24. Unincorporated associations do not have to report to the Chief Electoral Officer the receipt of money given to them for the purpose of making contributions.
25. However, the registered association, candidate or nomination contestant that receives contributions from the unincorporated association must report in the appropriate financial return:
- 25.1 the name and address of the unincorporated association, the amount of its contribution and the date on which the contribution was received; and
- 25.2 the name and address of each individual whose money formed part of that contribution, the amount of money from that individual included in the contribution from the unincorporated association, and the date on which that amount was originally given to the unincorporated association²¹
26. The registered association, candidate or nomination contestant must also include with the return the statement of original contributors, and the declaration, which the unincorporated association was required to provide when it made its contribution.

²⁰ See s. 405.3(4). It is an offence for an individual responsible for an association to knowingly make a false or misleading declaration (s. 497(3)(f.18), *Canada Elections Act*).

²¹ Ss. 403.35(2)(b.1), 403.35(1)(d) (reporting by registered electoral district association); 451(2)(g.1), 451(2.1) (reporting by candidate); 478.23(2)(e.1), 478.23(3) (reporting by nomination contestant), *Canada Elections Act*.