



## **Information Sheet 23**

# **Contributions Through Partnerships**

**June 7, 2005**

### **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.

### **Contributions by a Partnership Itself**

1. There is no provision in the *Canada Elections Act* that allows a partnership to make contributions of its own funds.
2. Section 404 of the Act provides that only individuals (specifically, citizens and permanent residents of Canada) may make contributions to federal registered parties, registered electoral district associations, candidates, nomination contestants and leadership contestants.
3. Section 404.1 provides an exception to this general rule by allowing certain corporations and trade unions to make contributions in limited circumstances. Section 405.3 provides a further exception stating that in limited circumstances unincorporated associations may make contributions.
4. A partnership is not an individual or a corporation; however, a partnership that is an unincorporated association may make contributions, to the limited extent that the Act permits unincorporated associations to make contributions.
5. An unincorporated association can be understood broadly as 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. Thus, partnerships will constitute unincorporated associations for the purposes of the *Canada Elections Act*.
6. Unincorporated associations can only make contributions in accordance with the rules set out in section 405.3. For a discussion as to the limited extent to which unincorporated associations, including partnerships, may make contributions as associations, see Information Sheet 4: “Contributions by Unincorporated Associations Under the *Canada Elections Act*.”

### **Monetary Contributions from Individual Partners**

7. An individual who is a partner in a partnership may make contributions out of funds drawn from his or her interest in the partnership. The person could either make a contribution out of his or her personal bank account, or he or she could direct the responsible official in the firm to make a special draw on his or her partnership interest to make the contribution.
8. Any such contribution must be voluntary on the part of the individual partner, and must not be the result of a requirement or direction of the partnership, for example, flowing from a partnership vote.

9. The draw and contribution could be done at the individual partner's request through the firm's normal bookkeeping practices, whereby a cheque would be drawn on the partnership account as directed by the partner and recorded as part of that person's draw. When sent to the intended political recipient, the cheque must be accompanied by an explanatory note setting out the name and address of the contributor on whose instructions the contribution is being forwarded.
10. In such a case, the partner, and not the firm, is the contributor, and the amount of the contribution counts towards the partner's contribution limits. The firm is simply acting as a "delivery service" for the contribution. See Information Sheet 10: "Making Contributions Using Money, Property or Services Given to One by Others for that Purpose."

### **Non-monetary Contributions from Individual Partners**

11. The above approach cannot be adopted by an individual partner to provide goods and services at less than market value where those goods or services are those of the partnership and not solely those of the individual partner – for example, the provision of partnership meeting rooms to a political entity during a campaign. In the absence of any means for the use of a good or service to be counted directly against the individual draw of a particular partner, provision of the good or service would constitute an unlawful contribution from the partnership. (See the discussion below respecting non-monetary contributions by partnerships.)
12. A partner wishing to contribute partnership goods or services to a regulated political entity could purchase the goods or services from the partnership in a market-value commercial transaction and then contribute the purchased goods or services to the political entity as a non-monetary contribution from the individual partner. Alternatively, the partner could contribute funds to the political entity, which the entity could use to purchase the goods or services from the partnership or any other provider.

### **Non-monetary Contributions by the Partnership**

13. As section 405.3 does not permit unincorporated associations to make non-monetary contributions, a partnership cannot make non-monetary contributions to any political entity regulated by the *Canada Elections Act*. (See Information Sheet 4: "Contributions by Unincorporated Associations Under the *Canada Elections Act*.") For that reason, the partnership could not allow political entities to use the firm's resources (boardrooms, telephones, etc.) for free or for less than commercial value.
14. Thus, even if the partnership is an unincorporated association as described above, the partnership could not make non-monetary contributions under section 405.3, because that provision permits associations to make only limited forms of monetary contributions.

**Provision of Services by a Partner**

15. The provision of services for which a partner usually charges (for example, the provision of legal services by a partner in a law firm), for free or for less than commercial value, would not fall within the definition of “volunteer labour” in subsection 2(1) of the *Canada Elections Act*.<sup>1</sup> The partner is self-employed, and this is the same type of service for which he or she normally charges.
16. In these circumstances, the commercial value of any such services provided would constitute a non-monetary contribution from the partner to the political entity for which the service is performed.
17. A partner can provide services for which he or she does not normally charge. If such services meet the definition of “volunteer labour,” they will not constitute contributions and will not need to be reported as such.

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<sup>1</sup> Subsection 2(1): “ ‘volunteer labour’ means any service provided free of charge by a person outside their working hours, but does not include such a service provided by a person who is self-employed if the service is one that is normally charged for by that person.”