



Election Handbook for Candidates, Their Official Agents and Auditors

EC 20190 (11/05)

November 14, 2005

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1 Introduction

1.1 Purpose and scope of the handbook

This handbook is designed to help candidates and their official agents comply with the *Canada Elections Act*. It is addressed primarily to the official agent, who should use it as a tool in administering the candidate's campaign. It does not take precedence over the legislation, and you should read it in conjunction with the Act. The handbook has ten main sections:

1. Introduction
2. Roles and responsibilities
3. Nominations – procedures and fees
4. Contributions and other cash inflows
5. Electoral campaign expenses
6. Campaign reporting requirements
7. Closing out the campaign
8. Compliance and enforcement
9. Transitional provisions for the 2004 political financing amendments
10. Index

1.2 Questions about this handbook

You should direct any questions about this handbook to the Office of the Chief Electoral Officer, more commonly known as Elections Canada. You can reach us by telephone at 1 800 486-6563, by fax at (613) 990-2530, by e-mail through our Web site at www.elections.ca, or by mail to the Office of the Chief Electoral Officer, 257 Slater Street, Ottawa, Ontario K1A 0M6.



Candidates and official agents often require more technical information than the general public. Please identify yourself when you communicate with us, so that we can promptly direct you to the appropriate specialist.



Please bring all alleged violations of the *Canada Elections Act* to the attention of the Commissioner of Canada Elections, in writing, by mail to 257 Slater Street, Ottawa, Ontario K1A 0M6 or by fax at (613) 990-4877. The Commissioner is responsible for compliance with and enforcement of the Act. He or she assesses each case in relation to the law.


1.3 Additional reference material


You should read this handbook in conjunction with the accompanying material provided in the candidate's election kit provided to the candidate. Numerous situations introduced here are illustrated with examples in the additional reference material.

1.4 Symbols used here

Throughout this handbook, we refer to the documents that comprise the *Supplement to the Election Handbook for Candidates, Their Official Agents and Auditors* (EC 20151) with a  symbol. For example, here is what a reference to the *Candidate's Electoral Campaign Return – Specimen* (EC 20120-A)  in the *Supplement* might look like:

 To see how to record the payment of the nomination deposit at the start of the candidate's campaign, see the *Candidate's Electoral Campaign Return – Specimen* (EC 20120-A) , p. 13, transaction 8-13.

We refer to documents that you can download from our Web site (www.elections.ca) with a  symbol. For example:

The *Election Handbook for Candidates, Their Official Agents and Auditors* (EC 20190)  referred to in the preceding paragraph is available on the main Elections Canada Web site.

2 Roles and responsibilities

2.1 Candidate

The provisions outlined here apply to all candidates in general elections and by-elections, unless otherwise specified.

Definition

A candidate is a person whose nomination as a candidate at an election has been confirmed by the local returning officer within 48 hours of nomination papers being filed for the person. Once confirmed, a candidate remains a candidate in that election until the candidate's official agent complies with the financial reporting requirements of the Act, including the possible payment of any unpaid claims, filing any amended return, and disposing of any surplus of electoral funds.

[2(1) "candidate", 65, 71(1)]

For the purposes of the financial provisions, a candidate is also deemed to be a candidate from the time he or she accepts a contribution or incurs an electoral campaign expense.

[82, 365]

Eligibility

Any Canadian citizen who is at least 18 years of age on election day – called "polling day" in the Act – may be a candidate, unless specifically disqualified under the Act. A candidate need not reside in or be registered on the list of electors for the electoral district in which he or she seeks election. A candidate can be a candidate in only one electoral district during any election.

[65]

Leave of absence

If a potential candidate is an employee of an employer to whom Part III of the *Canada Labour Code* applies, and the employee applies for leave of absence to be a candidate, the employer must grant the employee leave of absence, with or without pay, to seek nomination as a candidate and to be a candidate for the period during the election period that he or she requested.

[80]

Part III of the *Canada Labour Code* generally applies to every employer in an undertaking performing an activity under federal jurisdiction, such as banks, air transport and radio and television broadcasting, and interprovincial and international services such as railways, highway transport, and shipping and shipping services.

Responsibilities and obligations

Election expenses

The candidate and the candidate's official agent should budget the campaign carefully, because election expenses are subject to limitations. In general, the candidate is responsible for all debts relating to the campaign that remain at the end of the campaign. There is one exception: if the candidate is entitled to a reimbursement of election expenses and personal expenses, and the initial reimbursement exceeds 60% of paid election and personal expenses, the official agent is personally responsible for remitting the overpayment.

[440, 446, 464]

Personal expenses

The candidate must submit a *Candidate's Statement of Personal Expenses* (EC 20220) and supporting vouchers to the official agent within three months of election day, even if no expense is incurred. This statement must include all personal expenses, and expenses of representatives present at a polling station, paid by the candidate and not reimbursed by the official agent.

[409, 409.1, 451(2.1), 456(1), 464]

Blackout period for election advertising

The Act specifically prohibits the transmission to the public in an electoral district of any election advertising by any means on election day before the close of all the polling stations in the electoral district.

[323(1)]

This prohibition does not apply to:

- the transmission of a notice of an event that the leader of a registered party intends to attend, or an invitation to meet or hear the leader of a registered party
[323(2)]
- the transmission of a message that was previously transmitted to the public on the Internet and that was not changed during the blackout period, and
[324(a)]
- the distribution on election day of pamphlets or the posting of messages on signs, posters or banners.
[166, 324(b)]

The Act prohibits anyone from:

- knowingly using a means of transmission of the Government of Canada to conduct election advertising, or to cause it to be conducted
[321(1)]
- broadcasting outside Canada any election advertising concerning an election
[330(1), 330(2)]

- in an electoral district on election day before the close of all of the polling stations in that electoral district, transmitting the results of an election survey that have not previously been transmitted to the public, and [328]
- transmitting the result or purported result of the vote in an electoral district to the public in another electoral district before the close of all polling stations in that other electoral district. [329]

2.2 Official agent

The candidate must appoint an official agent – who will act as the treasurer of the campaign – before any election expense can be paid or contributions received. The candidate may need to appoint the agent before the candidate's nomination, and even before the issue of the writ.

[83(1)]

The official agent is responsible for administering the candidate's financial transactions for the candidate's electoral campaign, and for reporting on those transactions in accordance with the Act.

[436]

The candidate should notify election workers and supporters about the appointment at once. If the official agent resigns, dies, becomes incapable of performing the tasks or has his or her appointment revoked, the candidate must appoint someone else immediately. The candidate must immediately notify the Chief Electoral Officer in writing of the new appointment, stating the name and personal address of the new official agent. The candidate must also provide a declaration from the new official agent, indicating the agent's acceptance of the appointment. A candidate may have only one official agent at a time.

[83, 86, 87, 88]

Qualifications and eligibility

To act as official agent of a candidate, a person must be capable of entering into contracts in the province or territory in which the candidate is seeking election. Beyond this minimum qualification, the official agent should be a person capable of managing finances. Managing finances for an electoral campaign is challenging: among other things, it involves recording contributions, authorizing every electoral campaign expense, managing the petty cash account, preparing the *Candidate's Electoral Campaign Return* (EC 20120) ²⁶ and other forms, and disposing of the surplus. It is essential that the official agent be dedicated to his or her role, and be willing to spend the necessary time to fulfill all of an agent's obligations.

[84]


The following persons are not eligible to be the official agent of a candidate:

- an election officer or a member of the staff of a returning officer
- an undischarged bankrupt

- an auditor appointed as required by the Act
 - a person who is not qualified as an elector, or
 - a person who does not have the capacity to enter into contracts in the province in which the person ordinarily resides.
- [84]

Responsibilities and obligations

Acceptance of appointment

The official agent must accept the appointment in writing on the declaration included with the candidate's nomination papers. Failing this, the nomination of the candidate will not be accepted by the returning officer. *The Official Agent's Checklist* (EC 20153)  outlines this responsibility and many of the others outlined below.

[86]

Campaign bank account

The official agent must open a separate bank account for the sole purpose of the candidate's electoral campaign in a Canadian financial institution as defined in section 2 of the *Bank Act*, or in an authorized foreign bank as defined in section 2 that is not affected by subsection 524(2) of the *Bank Act*.

[437(1)]

A Canadian financial institution is one that is incorporated or formed by or under an Act of Parliament or a provincial legislature. The *Bank Act's* definition of a foreign bank is complex; for details, consult that Act.

The account must name the account holder as follows: "*(name of official agent)*, official agent". For example: "Roland Jones, official agent".

[437(2)]

All of the candidate's financial transactions for the campaign that involve the payment or receipt of money are to be paid from, or deposited to, the account by the official agent. Cheques must be made payable to the official agent.

[437(3)]

After the election or the withdrawal or death of the candidate, the official agent must close the account once any unpaid claim or surplus of electoral funds has been dealt with in accordance with the Act.

[437(4)]

On closing the bank account, the official agent must provide the Chief Electoral Officer with the final statement of the account.

[437(5)]

Books and records

Both the candidate and the official agent are responsible for budget control and for making sure that the election expenses limit is respected.

[443(1)]

The official agent must maintain all books and records of contributions and expenses. This includes:

- obtaining the class of contributor for all monetary and non-monetary contributions or loans. If the amount of the contribution exceeds \$25, obtain the name of the contributor, and if it exceeds \$200, obtain both the name and address of the contributor
[451(2)]
- recording a non-monetary contribution as both a contribution and as an expense
[406, 407]
- where a contribution is received from a numbered company, obtaining the name of the chief executive officer or the president of that company
[451(2)]
- where a contribution is received from an unincorporated association as defined in subsection 405.3(3), obtaining the name and address of the individual responsible for the association, the name and address of each individual whose money forms part of the contribution, the amount of money provided by each individual that is included in the contribution, and the date on which it was provided, and
[451(2)]
- issuing, accounting for and controlling all receipts, and returning unused official tax receipts to the returning officer within one month after election day.
[438(3), 478]

Once the candidate's nomination is confirmed, the official agent can pick up at the office of the returning officer the necessary copies of the books, records and forms supplied by Elections Canada. Some of these forms are also available from the Elections Canada Web site.

[478(3)]

Payment of expenses

The official agent is the only person authorized under the Act to pay or to authorize the payment of election expenses. The only exceptions are the candidate's personal expenses paid by the candidate, and the expenses paid out of a petty cash fund by persons authorized in writing by the official agent.

[411(1), 438(4)]

Petty cash account

The official agent can authorize persons to pay expenses up to a maximum amount out of a petty cash account. The official agent must clearly authorize in writing who can make payments out of the petty cash account, and how much these payments can total. Any authorized person must keep all invoices and documents related to these expenses so that the auditor can later examine them.

[411]

Receipt of contributions

The official agent must receive all contributions to the campaign. This means that all money given to a canvasser or to the candidate must be turned over to the official agent for deposit in the account. Neither the candidate nor any campaign worker may keep any part of that money to pay expenses.

[438(2)]

Non-monetary contributions, such as the donation or loan of goods and services, must also be made through the official agent. This is important because the donated goods and services are electoral campaign expenses that may be subject to the election expenses limit.

[406, 407, 438(2)]

Issuing receipts

The Act requires that the official agent issue a receipt for all monetary and non-monetary contributions in excess of \$25.

[404.4, 438(3)]

Monetary contributions received during an election period

Receipts valid for income tax purposes may only be issued by the official agent for monetary contributions received in the period beginning on the day the nomination of the candidate is confirmed by the returning officer, and ending on the day which is 30 days after election day, so long as the contributions received after election day were in transit on election day.

Returns

The official agent must record all financial information for the preparation of the *Candidate's Electoral Campaign Return* (EC 20120) ²⁶, and for examination by the candidate's auditor.

[451, 453(1)]

2.3 Auditor

At the same time as the candidate appoints an official agent, the candidate must appoint an auditor who is qualified under the Act. A candidate can have only one auditor at a time.

[83(2), 88]

Eligibility of the auditor

Only the following are eligible to be an auditor for a candidate:

[83(2), 85(1)]

- a person who is a member in good standing of a corporation, an association or an institute of professional accountants (C.A., C.G.A. or C.M.A.), or
- a partnership of which every partner is a member in good standing of a corporation, an association or an institute of professional accountants.

Ineligible persons

The following persons are not eligible to act as a candidate's auditor:

[85(2)]

- an election officer or a member of the staff of a returning officer
- candidates and their official agents
- the chief agent or a registered agent of a registered party or an eligible party
- electoral district agents of registered associations
- leadership contestants and their leadership campaign agents
- nomination contestants and their financial agents, or
- financial agents of registered third parties.

In addition to being disqualified as a candidate's auditor, none of these individuals can participate in any other capacity in an audit, or in the preparation of an audit report, if he or she is a partner or an employee of the auditor or the firm with which the auditor is associated.

[453(5)]

If the auditor ceases to hold office for any reason or ceases to be qualified or eligible, or the appointment is revoked, the candidate must appoint a new auditor at once. The candidate must immediately notify the Chief Electoral Officer in writing of the new appointment, giving the name and permanent address of the new auditor and providing a statement from the new auditor stating his or her acceptance of the appointment.

[86, 87]

Right of access

The auditor must have access, at any reasonable time, to all documents of the candidate, and may require the candidate or the candidate's official agent to provide any information or explanation that is necessary to enable the auditor to prepare the audit report.

[453(4)]

Responsibilities and obligations

To fulfill the role of auditor, the individual selected by the candidate must:

- provide a statement accepting the nomination, which is filed along with the nomination papers of the candidate
[67(4)(b), 86]
- examine the books, records, invoices, bank statements and negotiated cheques, and perform the tests and verification necessary to permit the completion of the auditor's report, and
[453(1)]
- prepare a report to the official agent stating whether the return accurately presents the financial transactions contained in the books and records of the candidate. The auditor must also complete a *Checklist for Audits* (EC 20011)
~
[453]

Auditor's fees

The Act provides for a subsidy, equal to the lesser of \$1,500 or 3% of the candidate's election expenses to a minimum of \$250, to be paid out of public funds directly to the auditor. If the subsidy paid to the auditor by the Receiver General is less than the total fee charged by the auditor, the candidate is responsible to pay the excess.



[467]

3 Nominations – procedures and fees


3.1 Nomination deposit

When a prospective candidate's nomination paper is completed, he or she must make a sworn declaration consenting to the nomination in the presence of a witness who is an elector and who files the nomination paper. At the same time as the witness files the nomination paper and other documents with the returning officer, he or she must submit a deposit of \$1,000 in Canadian funds, or by money order or cheque payable to the Receiver General for Canada.

[67(4)]





 Transaction 8-13 in the *Candidate's Electoral Campaign Return – Specimen* (EC 20120-A)  shows how to account for the payment of the nomination deposit if the deposit is paid from the campaign bank account.

Each candidate is entitled to a full refund of his or her nomination deposit, if:

- within one month after election day, the candidate returns any unused copies of receipts valid for income tax purposes to the returning officer, and
- within four months after election day, the official agent provides the Chief Electoral Officer with the *Candidate's Electoral Campaign Return* (EC 20120) , along with the official agent's and candidate's declarations, any statement and declaration provided to the official agent under paragraph 405.3(2)(c) and subsection 405.3(4) of the Act, and all documents supporting the expenses set out in the return, including bank statements, deposit slips and cancelled cheques.

[451(4), 468]

3.2 Withdrawal

The official agent of a candidate who withdraws from the election must still submit the *Candidate's Electoral Campaign Return* (EC 20120)  and related documentation and declarations, together with the auditor's report and *Checklist for Audits* (EC 20011) . If the candidate received no contribution nor incurred any expense, the official agent must submit a return marked *NIL*, the *Candidate's Statement of Personal Expenses* (EC 20220) , the auditor's report and the *Checklist for Audits* (EC 20011) .

[451(1)]

3.3 Death of a candidate

If a candidate endorsed by a registered party dies during the period beginning at 2:00 p.m. on the fifth day before the close of nominations and ending at the close of the polls on election day, the election in the electoral district is postponed. The closing day for nominations in that electoral district is then moved to the second Monday following the date of the candidate's death.

[77(1)]

When an officially nominated candidate dies before the date specified for submitting the *Candidate's Electoral Campaign Return* (EC 20120) ⁴, the official agent still has the responsibility of complying with the Act. However, the official agent will not be required to file the candidate's declaration and statement of personal expenses with the electoral campaign return.

[451(1), 451(6), 456(2)]

4 Contributions and other cash inflows

4.1 Contributions

A contribution means a monetary contribution or a non-monetary contribution.
[2(1) "contribution"]

It is illegal for anyone (including a company or other organization) to solicit or accept a contribution on behalf of a candidate if any part of the contribution would be transferred to a person or entity other than the registered party, a candidate, leadership contestant or electoral district association. It is also illegal for anyone to collude with someone else (including a company or other organization) to circumvent this prohibition.

[405.21]

Eligible contributors

Only an individual who is a Canadian citizen, or a permanent resident of Canada as defined in subsection 2(1) of the *Immigration and Refugee Protection Act*, can make a contribution to a candidate. Nevertheless under certain circumstances, corporations and trade unions as defined by subsection 404.1(2), and associations as defined by subsection 405.3(3) of the *Canada Elections Act* may also make limited contributions to a candidate, so long as they meet eligibility requirements.
[404(1), 404.1]

Subsection 2(1) of the *Immigration and Refugee Protection Act* defines a permanent resident as "a person who has acquired permanent resident status and has not subsequently lost that status under section 46". Section 46 itemizes categories of persons under the *Immigration and Refugee Protection Act* and the *Citizenship Act*. For details, consult those Acts.

A candidate must not normally receive an indirect contribution – one that comes from the money, property or services of another person or entity (including companies, unions and associations), if that other person or entity gave it to the contributor to make a contribution to the candidate. Nevertheless under certain circumstances, an unincorporated association as defined in subsection 405.3(3) of the Act is allowed to make limited contributions to a candidate that come from money provided by an individual who is a Canadian citizen or permanent resident of Canada.

[404(1), 405.3]

For example, if an employer provides money to an employee for the purpose of making a contribution to a candidate, the contribution must be in the name of the employer and not in the name of the employee.


This prohibition also precludes a candidate's campaign from directly contributing money, goods or services to another candidate's campaign, but does not preclude a candidate from contributing funds to another candidate, as an individual.

[405.3]

Identification of contributors

The official agent must report all contributions to the candidate in the *Candidate's Electoral Campaign Return* (EC 20120) [✓] by the following classes of contributors:
[451(2)(~~h~~)]

- individuals
- corporations
- trade unions, and
- associations as defined by subsection 405.3(3) of the Act.

 Transactions 1-3 through 1-6 in the *Candidate's Electoral Campaign Return – Specimen* (EC 20120-A) [✓] show how to treat contributions from each of the classes of contributors.

The candidate's return must include the name and address of any contributor who makes an aggregated loan, advance, deposit, contribution or gift to the candidate in excess of \$200, and the amount and date on which each contribution was received.
[451(2)(~~h~~)]

In the case of an aggregated loan, advance, deposit, contribution or gift by a numbered company in excess of \$200, the official agent must include the name of the chief executive officer or president of that company.
[451(2)(~~h~~.1)]

In the case of a contribution made by an association as defined by subsection 405.3(3) of the Act, the association representative must provide to the official agent a completed *Details of a Contribution from an Association as Defined by Subsection 405.3(3)* form (EC 20160) [✓]. The information provided by the association representative is reported in part 2e of the *Candidate's Electoral Campaign Return* (EC 20120) [✓].
[405.3(2)(~~c~~), 405.3(3)]

Acceptance of a contribution

A monetary contribution is deemed to be accepted when it comes into the hands of the official agent. For a non-monetary contribution, the contribution is deemed to be accepted when the official agent authorizes the use of the property or service.
[437(3), 438(2)]

Monetary contributions

A monetary contribution is an amount of money that is not repayable.
[2(1) "monetary contribution"]

Monetary contributions received during an election period

Receipts valid for income tax purposes may only be issued by the official agent for monetary contributions received in the period beginning on the day the nomination of the candidate is confirmed by the returning officer, and ending on the day that is 30 days after election day, so long as the contributions received after election day were in transit on election day.

[404.4, 438(3)]


Monetary contributions received outside of an election period

Outside an election period, only a registered agent of a registered party or a registered association, if authorized, may issue receipts valid for income tax purposes for monetary contributions to the registered party or registered association.

[477, 478]

For further information about issuing receipts valid for income tax purposes, see the information circular published by the Canada Customs and Revenue Agency. The circular is included in the candidate's election kit distributed by returning officers to candidates whose nominations have been confirmed.

Fund-raising activities

A fund-raising activity is a function – such as a dinner or cocktail party – held by selling tickets for the primary purpose of soliciting contributions for a candidate. The amount of the contribution is the difference between the price of the ticket and the fair market value of what the ticket entitles the purchaser to obtain. To help account for fund-raising activities, please refer to the *Fund-raising Activity Control Sheet* (EC 20155) , included in section F of the *Supplement to the Election Handbook for Candidates, Their Official Agents and Auditors* (EC 20151).

[408]

The official agent must issue a receipt for the contribution portion (net proceeds) of the admission price. This amount is a contribution made by the contributor named on the receipt. The official agent must report the contribution under the appropriate class of contributor, and for any amount in excess of \$200 must include the names of persons or organizations, their addresses and the amount of the contribution. In the case of a contribution by a numbered company, the official agent must also include the name of the chief executive officer or president of that company.

[2(1) "contribution", 408, 451(2)]

For example, if the official agent organizes a dinner with a fair market value of \$45 per attendee, and charges \$250 for admission to the function, he or she must issue a receipt for \$205 to each person purchasing a ticket. The official agent must record in the candidate's return the name, address, class and the amount of \$205 as a contribution for each person or organization purchasing a ticket.

Non-monetary contributions

A non-monetary contribution is the commercial value of a service, other than volunteer labour, or of property or the use of property or money to the extent that they are provided without charge or at less than their commercial value.

[2(1) "non-monetary contribution"]

Non-monetary contributions received by the candidate's official agent are also election expenses subject to the election expenses limit, to the extent that the property or service is used directly to promote or oppose a registered party, its leader or a candidate during an election period.

[407(1)]

Use of a capital asset

Candidates and official agents use many capital assets (such as desks, tables, filing cabinets and computers) during an election. The official agent must value the use of a capital asset at the current commercial value, or the cost of renting a similar asset. The official agent must record this amount as a contribution as well as an election expense. The same rules apply for these capital assets as for other types of contributions.

[2(1) "commercial value", 2(2), 407(1)]

Capital assets purchased by the campaign and used during the election, or the proceeds from the sale of them, form part of the campaign surplus; the official agent must deal with them accordingly at the end of the campaign.

Commercial value

The official agent must record goods and services at commercial value. The commercial value is the lowest price paid by anyone for goods or services in an open and competitive market. If the official agent receives a discount not available to other customers (other than normal trade discounts), he or she must disclose the full commercial value, including all appropriate taxes, and must record the amount of the discount as a contribution.

[2(1) "commercial value"]

When goods or services are provided without charge or for less than the commercial value by someone who normally provides them, and the property or service is used directly to promote or oppose a registered party, its leader or a candidate during an election period, the official agent must record the commercial value of the goods or services as an election expense as well as a contribution.

[2(1) "commercial value", 407(1)]

For example, when a printer provides a pamphlet to a candidate at no charge, or an office equipment supplier loans a computer at no charge, the official agent must record the full commercial value both as a contribution and as an election expense.

When a supplier normally provides the same type of goods or services commercially, the commercial value is the lowest amount charged to customers for the same type or quantity of goods or services, including all appropriate taxes.

[2(1) "commercial value"]

If the goods or services are provided free of charge by someone who is not in the business of providing these goods or services, and if the value of the non-monetary contribution exceeds \$200, the official agent must record the commercial value of the goods or services as an election expense and a contribution to the extent that the property or service is used directly to promote or oppose a registered party, its leader or a candidate during an election period.

[2(2), 407(1)]

The commercial value of goods or services with a value of \$200 or less that are provided free of charge by a person who does not supply these goods or services commercially is deemed to be nil – it is neither a contribution nor an expense.

[2(2)]

For example, if a homeowner who is not a contractor supplies construction material worth \$175 left over from the renovation of his or her home, the goods would not be considered an election expense or a contribution.

No official tax receipts

The *Income Tax Act* prohibits issuing receipts valid for income tax purposes for non-monetary contributions.

[*Income Tax Act*]

Miscellaneous contributions

Contributions by the candidate

A candidate is permitted to contribute to his or her own campaign through the official agent.

[404.2]

Any money that is used for a candidate's campaign out of the candidate's own funds is considered to be a contribution.

Unpaid claims

With some exceptions, if an unpaid claim remains wholly or partly unpaid on the day that is 18 months after election day, it is deemed to be a contribution to the candidate made on the day on which the expense was incurred and is subject to the contribution limits.

[450(1)]

Contribution limits

Contribution limits for individuals

Any individual who is a Canadian citizen or permanent resident of Canada may make these contributions:

- up to \$5,000 in total in any calendar year to a particular registered party and its registered associations, nomination contestants and candidates, and
- up to \$5,000 in total to a candidate for a particular election who is not the candidate of a registered political party.

[405(1)]

These limits will be adjusted on April 1 of each year by an inflation adjustment factor based on the Consumer Price Index. The current limits are published on the Elections Canada Web site (www.elections.ca).

[405.1]

There is no limit to a contribution made in an individual's will as an unconditional, non-discretionary testamentary disposition.

[405(1)]

Contribution limits for candidates

Any money that is used for a candidate's campaign out of the candidate's own funds is considered a contribution. However, contributions from a candidate to his or her own campaign that do not exceed \$5,000 are not taken into account for the purpose of contributions limits.

[404.2(1), 405(4)]

Contribution limits for corporations, trade unions and certain associations

Corporations, trade unions and associations as defined by subsection 405.3(3) of the Act cannot make contributions in excess of \$1,000 in total in any calendar year to the registered associations, nomination contestants and candidates of a particular registered party, and in excess of \$1,000 to a candidate who does not represent a registered party during the course of a particular election.

[404.1(1)]

These limits will be adjusted on April 1 of each year by an inflation adjustment factor based on the Consumer Price Index. The current limits are published on the Elections Canada Web site (www.elections.ca).

[405.1(1)]

A special provision applies if two elections are held in the same electoral district in the same calendar year and a corporation, trade union or association as defined by subsection 405.3(3) has already made a contribution to the registered association, to the nomination contestants or to the candidate of a particular registered party in that electoral district before election day in the first election. In that case, the corporation, trade union or association as defined by subsection 405.3(3) may make further contributions of up to \$1,000 to the registered association, the nomination

contestant and the candidate of the registered party in that electoral district during the election period for the second election. The current limits are also published on the Elections Canada Web site (www.elections.ca).

[404.1(1.1), 405.3(2.1)]

Responsibilities concerning contribution limits

The official agent should not knowingly accept contributions that exceed limits set forth in the Act. However, the official agent is not personally responsible for verifying that contributors have not exceeded their total contribution limit for the year when accepting contributions from them.

[405.2(3)]

Official tax receipts

Tax credits for contributors

Subsections 127(3) through 127(4.1) of the *Income Tax Act* provide tax credits for contributions of money to confirmed candidates during an election as follows:

- 75% of the first \$400
- 50% of the next \$350, and
- 33⅓% of the amount over \$750.

The maximum credit allowable is \$650.

Official Tax Receipt form

The Chief Electoral Officer provides a supply of official tax receipts for use by official agents. The receipts are pre-numbered and must be accounted for at the end of the campaign. An official agent may only issue official tax receipts for qualifying monetary contributions.

[438(3), 477]

Contributors to a candidate can obtain a duplicate receipt from the official agent only when the original is returned to the official agent because it was completed in error or damaged, and only during the period when the official agent has unused official receipts in his or her possession. In any other circumstances, such as when a receipt is lost, a duplicate may be obtained from the Chief Electoral Officer if a request is submitted in writing by the official agent of the candidate.

Obtaining official tax receipts

Contributions and other cash inflows

The returning officer will provide official tax receipts to official agents only after the candidate's nomination has been confirmed. If more receipts are needed, the returning officer will provide them until 30 days after election day.

[478(1)]

Deadline for returning official tax receipts

An official tax receipt may be issued up to 30 days after election day for a monetary contribution to a candidate whose nomination was confirmed by the returning officer if the contribution was received during the election, or if it was in transit on election day.

[*Income Tax Act*]

The unused receipts and the "Returning Officer Copy" must be returned by the official agent to the returning officer no later than 30 days after election day. In addition, the official agent must send the "Chief Electoral Officer Copy" of the official tax receipts to the Chief Electoral Officer.

[478(2)]

Report to the Canada Customs and Revenue Agency

Within four months after election day, the official agent must submit a return to Canada Customs and Revenue Agency concerning contributions received and copies of all official tax receipts and forward with the return the "Canada Customs and Revenue Agency Copy" of all receipts issued. This return is in the candidate's kit provided by the returning officer.



[*Income Tax Act*]

Anonymous and ineligible contributions

Anonymous contributions


The following are anonymous contributions, either monetary or non-monetary:
[452]

- contributions for which the official agent is unable to determine the class of contributor
- contributions exceeding \$25 for which the official agent does not have the name of the contributor
- contributions exceeding \$200 for which the official agent does not have the name and address of the contributor, and
- contributions from numbered corporations for which the official agent does not have the name of the chief executive officer or president of the corporation.


 The proper treatment of anonymous contributions is outlined in transactions 4-1 through 4-6 of the *Candidate's Electoral Campaign Return – Specimen* (EC 20120-A) .

The official agent must, without delay, pay the amount of any anonymous contribution – or in the case of an anonymous non-monetary contribution, an amount equal to its value – to the Chief Electoral Officer, who will forward the amount to the Receiver General for Canada.


[452]

Any anonymous contribution that was deposited in the campaign bank account before being remitted to the Chief Electoral Officer must also be disclosed in part 2g of the *Candidate's Electoral Campaign Return* (EC 20120) .

[451(2)(k)]

The “collection plate” or passing-the-hat method of funding the campaign would not necessarily result in anonymous contributions. The official agent must make sure that no single contribution exceeds \$25, and that all contributions are from eligible contributors as defined by the Act. To help the official agent keep track of these contributions, the *General Solicitation Contributions Record Keeping – Anonymous Contributions of \$25 or Less* (EC 20154)  document appears in the *Supplement to the Election Handbook for Candidates, Their Official Agents and Auditors* (EC 20151).

[452]

The official agent must enter the total of contributions received from such a collection under the category “Anonymous contributions from general solicitation at a meeting or fund-raising event of \$25 or less” in part 2a of the *Candidate's Electoral Campaign Return* (EC 20120) .

[451(2)(j)]

If it is apparent that someone placed an amount exceeding \$25 in the collection, then the official agent must treat that contribution as anonymous.

📖 Please refer to transactions 1-9 and 5-1 in the *Candidate's Electoral Campaign Return – Specimen* (EC 20120-A) [~] to see examples of how to treat contributions received by the “collection plate” method.

Funds raised through the sale of T-shirts, pins and the like would also not be considered anonymous contributions if the amount paid in excess of the cost of the item does not exceed \$25 and the class of donor is known.

[452(b)]

Ineligible contributions

The following are ineligible contributions, either monetary or non-monetary:

[404(1), 404.1(3), 405(1), 405.1]

- contributions from individuals who are not Canadian citizens or permanent residents as defined in subsection 2(1) of the *Immigration and Refugee Protection Act*
- contributions from corporations that do not carry on business in Canada
- contributions from trade unions that do not hold bargaining rights for employees in Canada
- contributions from Crown corporations as defined in section 2 of the *Financial Administration Act*
- contributions from corporations in respect of which the Government of Canada contributes more than 50% of their funding, and
- contributions in excess of the contribution limits set out in the Act.

Section 2 of the *Financial Administration Act*, referring to subsection 83(1) of that Act, defines a Crown corporation as a corporation that is wholly owned directly by the Crown or a wholly owned subsidiary.

📖 The proper treatment of ineligible contributions is outlined in transactions 4-1 through 4-6 of the *Candidate's Electoral Campaign Return – Specimen* (EC 20120-A) [~].

When the candidate receives an ineligible contribution, within 30 days after becoming aware of the ineligibility the official agent must return the contribution unused to the contributor.

[404(2)]

The official agent must also disclose any returned contributions that were deposited in the campaign bank account in part 2g of the *Candidate's Electoral Campaign Return* (EC 20120).[~]

[451(2)(k)]

If it is not possible for the official agent to return an ineligible contribution to the contributor, the official agent must pay the amount of it – or in the case of a non-monetary contribution, an amount equal to its commercial value – to the Chief Electoral Officer, who will forward the amount to the Receiver General for Canada.



[404(2)]



4.2 Other cash inflows

Loans

Interest on loans incurred between the issue of the writ and election day is an election expense, whether it is payable, or accrued, or the commercial value of the use of the money without charge, or at less than its commercial value for the period of the campaign.

[407]

 Transactions 3-1 through 3-4 in the *Candidate's Electoral Campaign Return – Specimen* (EC 20120-A)  outline how to treat loans and the associated interest expense.

Loans are treated as contributions for disclosure purposes. Their source, the amount of interest or discount and the principal of the loan must be disclosed in the *Candidate's Electoral Campaign Return* (EC 20120) . Furthermore, any loan payment that is overdue four months or more after election day should be treated as an unpaid claim. To help account for loans and the associated interest expense properly, please refer to the *Loans Control Sheet* (EC 20156) , which is included in the *Supplement to the Election Handbook for Candidates, Their Official Agents and Auditors* (EC 20151).

[445(1), 451(3)]


Transfers from registered parties, registered associations and nomination contestants

The following transfers are not considered contributions from the time the nomination of the prospective candidate has been confirmed by the returning officer:

:

- a provision of goods or services or a transfer of funds from a registered party or any registered association of the registered party
- a transfer of funds from a nomination contestant in the electoral district in which the nomination contest was held to the candidate endorsed by the registered party, and
- a provision of goods or services or a transfer of funds from the candidate to the registered party, any registered association of the registered party, or to himself or herself as a nomination contestant for the same election.

[404.2(2), 404.2(3)]



The official agent must include the amount and date of these transactions, classified as transfers, in part 2h of the *Candidate's Electoral Campaign Return* (EC 20120) . The following are examples of transfers:


[404.2(2), 404.2(3)]

- transfers of funds
- the difference between the normal commercial value of merchandise (such as printing and office supplies) and the price charged to the official agent

- the regular salary of employees of the party or other individuals assigned by a party to assist the candidate in his or her campaign, and
- a proportion of expenses incurred to promote or oppose a candidate or a party. Elections Canada will accept the basis of allocation used by the official agent, provided that it is reasonable in the opinion of the Chief Electoral Officer, and provided that the auditor agrees that the allocation is reasonable and in keeping with this handbook.

No registered agent of a registered party and no financial agent of a registered association or of a nomination contestant may transfer funds to a candidate after election day, except to pay claims related to the candidate's electoral campaign.
[476]

 Transactions 6-1 through 6-4 in the *Candidate's Electoral Campaign Return – Specimen* (EC 20120-A)  deal with the treatment of transfers received from registered parties, registered associations or nomination contestants.

The *Candidate's Electoral Campaign Return* (EC 20120)  must include a statement of the commercial value of goods or services provided and of funds transferred to the candidate from a registered association, registered party or nomination contestant from the same electoral district. The return must also include a statement of transfers by the candidate to himself or herself in his or her capacity as a nomination contestant.

[451(2)(j), 451(2)(j)]

5 Electoral campaign expenses

An electoral campaign expense of a candidate is an expense reasonably incurred as an incidence of the election, such as:

[406]

- an election expense
- a personal expense, and
- any fees of the candidate's auditor, and any cost incurred for a recount of votes cast in the candidate's electoral district that have not been reimbursed by the Receiver General.

5.1 Election expenses

An "election expense" includes any cost incurred, or non-monetary contribution received by a candidate, to the extent that the property or service for which the cost was incurred, or the non-monetary contribution received, is used directly to promote or oppose a registered party, its leader or a candidate during an election period.

[407(1)]

"Election period" means the period beginning with the issue of the writ, and ending on election day or on the day that the writ is withdrawn or deemed to be withdrawn.

[2(1) "election period"]

"Cost incurred" refers to an expense that is incurred, whether it is paid or unpaid.

[407(4)]

Election expenses limit

The Act imposes a limit on the election expenses that a candidate may incur during an election.

[440]

Since it is an offence for a candidate and an official agent to exceed the election expenses limit, the official agent should closely monitor any spending on election expenses.

[497(1)(s), 497(3)(p), 502(1)(c)]

Calculation of spending limits

Four steps are involved in determining the election expenses limits.

Step 1: Number of names on the lists of electors

Spending limits are based on the number of names appearing on the preliminary lists of electors or on the revised lists of electors for the electoral district, whichever is greater. The Chief Electoral Officer publishes in the *Canada Gazette* not later than the 31st day before election day the number of names on the preliminary lists of electors, and no later than the 7th day before election day the number of names on the revised lists of electors.

[93(3), 105(2), 441(1)]

The limit is calculated as follows:

[441(3), 441(7)]

- \$2.07 for each of the first 15,000 electors
- \$1.04 for each of the next 10,000 electors, and
- \$0.52 for each elector over 25,000.

Step 2: Adjustments for electoral districts whose number of electors is below the national average

The Act provides higher limits for candidates running in electoral districts where there are fewer electors than the national average. This adjustment adds to the actual number of names for the electoral district.

[441(4), 441(8)]

Step 3: Adjustments for geographically large electoral districts

If the number of electors per square kilometre of the electoral district is less than 10, the candidate's spending limit is increased by the lesser of \$0.31 per square kilometre or 25% of the amount calculated in step 1 above.

[441(6), 441(10)]

Step 4: Indexing of limits

The limits determined by steps 1–3 above are then adjusted by the inflation adjustment factor in effect as of the day of the issue of the writ.

[414, 440]

Death of a candidate

If an election is postponed following the death of a candidate endorsed by a registered party, all candidates at this postponed election are entitled to election expenses limits equal to one and one-half times the amount normally stipulated. [441(2)]

Notification of spending limits

To calculate the amounts that may be spent in each electoral district, the Chief Electoral Officer must:

- determine the number of names on the preliminary lists of electors not later than the 31st day before election day and have this information published in the *Canada Gazette*, and
- determine the number of names on the revised lists of electors no later than the 7th day before election day and have this information published in the *Canada Gazette*. [93(3), 105(2)]

Following the publication of the number of names on the preliminary lists of electors, the Chief Electoral Officer notifies each returning officer of the spending limits applicable to his or her electoral district. In turn, the returning officer advises each campaign of the spending limit. Following the publication of the number of names on the revised list of electors, the Chief Electoral Officer advises candidates directly of any revisions to their spending limits. This information is also available on the Elections Canada Web site at www.elections.ca.

Expenses that meet the definition

To be considered an election expense, a good or service (whether purchased or donated) must directly promote or oppose a particular registered party, its leader or a candidate during an election. [407(1)]

Examples of an election expense include: [407(3)]

- the production of advertising or promotional material and its distribution, broadcast or publication in any media or by any other means
- the payment of remuneration and expenses to, or on behalf of, a person for his or her services as an official agent, registered agent, or in any other capacity with the exception of candidates' agents at the polls
- the cost of securing a meeting space or supplying light refreshment at meetings
- the conduct of election surveys or other surveys or research during an election period.

📖 Transactions 8-1 through 8-4 in the *Candidate's Electoral Campaign Return – Specimen* (EC 20120-A) 📄 outline how to record basic election expenses that meet the definition outlined in the Act.

Volunteer labour

Volunteer labour is any service provided free of charge by someone outside of the person's normal working hours. It does not include service provided by a person who is self-employed if the service is one that is normally charged for by the volunteer. The commercial value of volunteer labour need not be reported.

[2(1) "volunteer labour"]

Examples of volunteer labour are:

- a sign painter who is not self-employed working outside his or her normal working hours painting signs for the campaign
- a secretary employed by a local business, who is on an annual leave or compensatory leave, working as a secretary in the campaign office
- a self-employed insurance salesman working for the campaign free of charge doing door-to-door canvassing, and
- unemployed or retired persons working anytime.

The service of a person who is self-employed is not volunteer labour if the service is one for which that person is normally remunerated. An example of donated labour that must be reported as a contribution and an election expense is a self-employed printer who prints material free of charge that directly promotes the candidate. The commercial value of this material is a contribution and an election expense from the first dollar, and must be authorized by the official agent.

[2(2)]

Incidental expenses of volunteers for such things as meals, lodging and transportation, if paid by the campaign, are considered as election expenses and should be reported in the *Candidate's Electoral Campaign Return* (EC 20120) 📄. If the incidental expenses are paid by the volunteer, subject to the commercial value for non-monetary contributions, these expenses may also need to be considered election expenses and reported in the return.

[2(2), 407(1)]

Expenses of senators and elected members

If a senator or a person who is (or was, during the last session) an elected member of the House of Commons or any provincial legislature campaigns on behalf of a candidate, the expenses related to that person's involvement in the campaign are election expenses of the candidate and must be authorized beforehand by the official agent.

[407(1)]

For example, if a minister or other member of Parliament travels from Ottawa to a candidate's electoral district to assist in the candidate's campaign, the costs of travelling to the electoral district and the costs of accommodation and transportation within the electoral district are election expenses of the candidate.

Alternatively, if travel to the candidate's electoral district includes official ministerial business above and beyond assisting in the candidate's campaign, a proportion of the cost of the trip must be allocated as an election expense of the candidate. This allocation should be made on the basis of the proportion of time spent working on each activity. Elections Canada will accept the basis of allocation used by the official agent, provided that it is reasonable in the opinion of the Chief Electoral Officer, and provided that the auditor attests that the allocation is reasonable and in keeping with this handbook and the *Canada Elections Act*.

It is important to note that expenses of senators and elected members incurred while campaigning for a candidate must be paid by the official agent, because senators and elected members of Parliament are not eligible contributors to a candidate's campaign, other than in their capacity as individuals, and are subject to the contribution limits.

[404(1), 404.1(3)]

Exempt staff of ministers; party leaders' and party employees

If members of the exempt staff of ministers and employees of party leaders and parties engage in political activities, the costs related to the involvement of those persons in the campaign during normal working hours are election expenses. It is important to note that expenses related to staff employed in these categories while involved in the campaign of a candidate must be paid by the official agent, because they are not eligible contributors to a candidate's campaign, other than in their capacity as individuals, and are subject to the contribution limits.

[404(1), 404.1(3), 407(1)]

Before undertaking campaign work, however, exempt staff of ministers must check the rules governing their political activities.

Poll agents

Unremunerated poll agents are volunteer labour and are not election expenses. However, the payment by the campaign of any of their incidental expenses would be considered an election expense of the candidate (see section 5.2 below). Any amount paid for the remuneration of poll agents is deemed a personal expense of the candidate.

[409.1]

Commercial value of used signs



Some signs can be used for more than one election. If a campaign uses signs in a second or subsequent election, the amount that the official agent should record as a non-monetary contribution and an election expense is the current commercial value for similar signs. That commercial value is the amount it would cost to purchase similar new signs: that is, the current replacement cost. If the campaign refurbishes, restores or repaints used signs, the value that the official agent should record is the amount it would cost to purchase a sign similar to the restored sign.

[2(1) "commercial value", 407(1)]

Capital assets

If an official agent chooses to purchase a capital asset (such as a fax machine or computer), the election expense associated with the asset is the commercial value of the benefit derived from the asset by the campaign. The Chief Electoral Officer will accept any reasonable method used by the official agent in determining the commercial value of the benefit. At the end of the campaign, the official agent may either transfer the asset to the registered party or a registered association, or sell the asset for its residual value. The residual value of the asset would not be considered an election expense.

[2(1) "commercial value", 407(1)]

 For a comprehensive example of how to treat purchased capital assets, please see transactions 7-4 and 8-16 in the *Candidate's Electoral Campaign Return – Specimen* (EC 20120-A) .

Election advertising

Election advertising means the transmission to the public by any means during an election period of an advertising message that promotes or opposes a registered party or the election of a candidate, including one that takes a position on an issue with which a registered party or candidate is associated. Election advertising includes articles such as billboards, bus signs, pamphlets, lawn signs, flyers, stickers, lapel buttons or pins, T-shirts and caps, among others.

[319]

Identification of election advertising

All election advertising that promotes or opposes a registered political party or the election of a candidate, including taking a position on an issue with which a registered party or candidate is associated, must indicate that it is authorized by the official agent of the candidate.

[320]

For example, a pamphlet promoting candidate Jane Brown should display the following message: *Authorized by the official agent of Jane Brown.*

Rates charged for advertising

Candidates are entitled to the lowest rate made available to any advertiser for the same amount of broadcasting time purchased during the period. For example, when a candidate purchases 20 minutes of time for 40 commercials in a certain time slot, he or she is entitled to the lowest rate that any other advertiser would pay for those commercials, during the same time slot.

[348(a)]

Similarly, in the print media a candidate must be charged the lowest rate that would be charged to any other advertiser for the same amount of space during the permitted period. For example, a candidate purchasing 500 agate lines of advertisements on 10 different occasions should not be charged a higher rate than any other advertiser purchasing the same amount of space under the same conditions.

[348(b)]

Payment of accounts

Liability for contracts

Unless a contract is entered into by the candidate, the candidate's official agent or a person authorized in writing by the official agent, a person who has a claim cannot demand payment from the candidate. All bills for election-related expenses are the responsibility of the candidate, with the exception of any overpayment in the reimbursement of paid election expenses and paid personal expenses of the candidate, which is the personal responsibility of the official agent. The official agent is not personally responsible for campaign debts.

[446]

For instance, a contract to purchase radio advertising time entered into by a campaign official who did not have the official agent's authorization would not be the responsibility of the official agent at the end of the campaign if this expense remained unpaid.

An executory contract cannot be enforced unless a note signed by the candidate or official agent supports it. A contract is an executory contract if its completion depends on the performance of one of the terms of the contract at some time in the future.

[446]

Presentation of accounts

Within three months after election day, a person who has a claim to be paid for an electoral campaign expense must send the invoice or other document supporting the claim to the candidate's official agent, or to the candidate if there is no official agent.

[444(1)]

A person who has a claim is barred from recovering a claim to be paid if he or she sends the invoice or other document supporting the claim more than three months after the election, unless the claimant, the candidate or the official agent applies for, and is granted, an authorization from the Chief Electoral Officer for the late submission.

[444(2), 447(1)]

Any official agent who pays a late invoice without an authorization is in contravention of the Act.

[497(1)(f)]

If a person who has a claim dies before the end of the three-month period without having sent the invoice or other document supporting the claim, a new three-month period begins on the day on which the claimant's legal representative becomes entitled to act for the claimant.

[444(3)]

Deadline for payment

The official agent must pay all expenses incurred in the conduct or management of an election within four months after election day.

[445(1)]



It is an offence for the official agent to pay invoices after those four months without an authorization.

[445(1), 497(1)(f)]

Authorizing payment of unpaid claims

If an official agent has not paid an invoice within four months after the election, the unpaid claim can only be paid following an authorization from the Chief Electoral Officer obtained by the candidate, the official agent or the person who has a claim. This authorization is requested by filing a *Request for the Chief Electoral Officer's Authorization to Pay an Unpaid Claim* (EC 20158), which is included in the *Supplement to the Election Handbook for Candidates, Their Official Agents and Auditors* (EC 20151).

[447]

 Transactions 9-1 through 9-3 in the *Candidate's Electoral Campaign Return – Specimen* (EC 20120-A)  outline the proper treatment for unpaid expenses before the Chief Electoral Officer's authorization to pay the claim is granted.

If the Chief Electoral Officer refuses an authorization, or its conditions cannot be met, the candidate, the official agent or the person who has a claim may apply to a judge to authorize the payment of a claim by the candidate through the official agent.

[448]

Payment of unpaid claims

When the Chief Electoral Officer authorizes a claim to be paid, the official agent, after submitting the candidate's return, must then submit to the Chief Electoral Officer an updated version of the *Candidate's Electoral Campaign Return* (EC 20120) [☞] within 30 days after making the payment.

[455(1)]

With some exceptions, if an unpaid claim remains unpaid (in whole or in part) on the day that is 18 months after election day for the election to which the return relates, that unpaid claim is deemed to be a contribution to the candidate made as of the day on which the expense was incurred, and is subject to the contribution limits.

This information will be published by the Chief Electoral Officer.

[450]

Disclosure and reporting requirements

Monetary expenses

If an electoral campaign expense of \$50 or more is incurred by the candidate, or on behalf of the candidate by the official agent or by a person authorized in writing by the official agent, the official agent must keep a copy of the invoice prepared by the person who provided the goods or services to which the expense relates, together with proof that it was paid. A *Voucher Cover Template* [☞] to help the official agent in organizing the campaign vouchers is included in the *Supplement to the Election Handbook for Candidates, Their Official Agents and Auditors* (EC 20151).

[410(1)]

If an electoral campaign expense of less than \$50 is incurred on behalf of the candidate by the official agent or a person authorized in writing by the official agent, the person who made the payment must keep a record of the nature of the expense, together with proof that it was paid.

[410(2)]

Non-monetary expenses

When an official agent receives a non-monetary contribution from a donor, the official agent must obtain complete documentation about the commercial value of the goods or services donated, and the name, address and class of the donor, so that the contribution may be (subject to its commercial value) reported in the *Candidate's Electoral Campaign Return* (EC 20120) [☞] as a contribution and as an expense.

[2(1) "commercial value", 2(2), 451(1)(a)]

Supporting documentation

Together with the *Candidate's Electoral Campaign Return* (EC 20120) [✓] and its accompanying declarations and auditor's report, the official agent must file with the Chief Electoral Officer within four months from election day:

- all documents supporting expenses set out in the return, including bank statements, deposit slips and cancelled cheques
- any statements provided to the financial agent by virtue of paragraph 405.3(2)(c): that is, statements from unincorporated associations making allowable contributions that come from the money provided by eligible individuals
- any declarations provided to the financial agent by virtue of subsection 405.3(4): that is, declarations by individuals responsible for unincorporated associations that the information in the statements is complete and accurate
- the *Candidate's Statement of Personal Expenses* (EC 20220) [✓], and
- all of the campaign auditor's documents.
[451(2.1)]

5.2 Candidate's personal expenses

The incremental concept

Personal expenses of a candidate are electoral campaign expenses, other than election expenses, that are reasonably incurred in relation to his or her campaign. These expenses are not subject to the election expenses limit.
[409(1)]

Other campaign workers may use the goods or services acquired for the use of the candidate, provided that there are no additional costs involved. However, in any situation, if costs are incurred in excess of what the candidate would normally incur because of the involvement of campaign workers, these additional costs will have to be charged as an election expense subject to the spending limit.
[407(3)(b)]

For example, if the official agent rents a minibus for the candidate and several campaign workers, the official agent must charge, as an election expense subject to the limit, the difference between the commercial value of renting a normal passenger car and the commercial value of the vehicle actually rented.

Personal expenses include incremental expenses: expenses that a candidate would not normally incur had there not been an election. For example, the costs of day-to-day meals at home are not related to a campaign, whereas a candidate who had to relocate because of the campaign might incur incremental expenses for the costs of meals.


In all cases, the amounts charged as personal expenses of the candidate must be incremental, reasonable and incurred by the candidate or by the official agent for the benefit of only the candidate. The Chief Electoral Officer will review the expenses to determine if they are reasonable.



[409(1)]

Categories

The categories of personal expenses of the candidate are:

- transportation costs to the electoral district
[409(1)(a)]
- transportation costs within the electoral district
[409(1)(a)]
- costs of temporary lodging necessary for the election
[409(1)(a)]
- costs of meals and incidental expenses related to the campaign
[409(1)(a)]
- remuneration paid to agents representing the candidate at polling stations, and
[409.1]
- all other necessary related personal expenses, including childcare expenses, expenses relating to the provision of care for a person with a physical or mental incapacity for whom the candidate normally provides such care, and in the case of a candidate who has a disability, personal expenses that are related to the disability and that are incurred as a result of the campaign.
[409(1)(b), 409(1)(c), 409(1)(d)]

For more detail on these categories, see the *Candidate's Statement of Personal Expenses* (EC 20220)  in the candidate's kit.

 Transactions 10-1 through 10-4 in the *Candidate's Electoral Campaign Return – Specimen* (EC 20120-A)  outline the treatment of personal expenses incurred by the candidate.

5.3 Amounts not included in election expenses

Certain expenses incurred for the campaign are not to be included as election expenses and are not subject to the spending limit.

[406, 407(1)]

Pre-writ expenses

Any expense incurred for goods and services consumed before the issue of the writ is not an election expense.

[407(1)]

For example, the cost of a flyer distributed before the issue of the writ is not an election expense.

The cost of promotional material sent by mail before the issue of the writs and distributed during the election period, but over which the candidate has no possible control when the election is called, would not be an election expense. The important consideration in these cases is the control of the candidate or official agent over the distribution after the issue of the writ.

[407(1)]

Nomination expenses

During an election, the expenses incurred for a candidate's nomination – other than costs incurred for the production of advertising or promotional material and its distribution, broadcast or publication in any media or by any other means – are not election expenses.

[407(2)]

Notices of nomination meetings must be limited to 1% of the election expenses limit at the last general election in the same electoral district. If the boundaries of the electoral district have changed since the preceding general election, the 1% limit for that electoral district is based on an amount determined by the Chief Electoral Officer. Further information on this amount is available from the returning officer or Elections Canada. The information is also available on Elections Canada's Web site at www.elections.ca.

[439(1)]

A notice of a nomination meeting should only identify the party organization and state the purpose, date, time and location of the meeting. The notice should not contain photographs of any individual seeking the party nomination or any other promotional information.

Fund-raising expenses

The official agent must authorize expenses incurred for a fund-raising function. These expenses, other than those for promotional material, are not election expenses, provided that a fixed charge is made for admission and the charge exceeds the proportional per capita fair market value cost of the function. Note that the net proceeds of a fund-raising function are contributions to the campaign and must be reported in part 2a, 2b, 2c, or 2d of the *Candidate's Electoral Campaign Return* (EC 20120) [✓]₆. The non-contribution portion of any fund-raising proceeds is reported as an "Other Cash Inflow" in part 2i of the return.

[407(2), 438(5)]

Where an activity combines fund-raising and promotion or opposition, the official agent must report as an election expense the portion of the fair market value cost of the activity that involves direct promotion or opposition during an election.

[407(1), 407(2)]

Unused inventory

Any material that was never used during the election period and remains on hand at the end of the election does not promote or oppose the election of a candidate, and hence is not an election expense. This material should be considered as an electoral campaign expense other than an election expense and retained, since it is subject to examination by the auditor. The cost of any unused inventory will be considered in the calculation of the surplus. Therefore the unused inventory must be sold at its commercial value or transferred to the registered party or registered association.

[407(1)]

Other excluded expenses

The following types of expenses are not included as election expenses:

[407(1)]



- nomination deposit
- cost of victory parties held after the close of polls on election day
- legal costs for recounts
- charges by lawyers for legal services
- proportion of rent and other costs of campaign offices before the writ is issued and after election day
- interest on loans for the period after election day during which the loans are still outstanding, and
- costs associated with preparing the various reports required by the Act, other than the payment of remuneration to a person for his or her services as an official agent during an election period.

5.4 Reimbursements

Maximum reimbursement of election expenses

A candidate who is elected or receives at least 10% of the valid votes cast at the election is entitled to a reimbursement of 60% of the actual paid election expenses and the paid personal expenses, to a maximum of 60% of the election expenses limit. The Receiver General will make the reimbursement cheque payable to the official agent, except when the official agent designates another person as the recipient.

[464, 465]

 To see how to record the initial reimbursement of election expenses, please refer to transaction 7-5 in the *Candidate's Electoral Campaign Return – Specimen* (EC 20120-A) .

If an officially nominated candidate dies after the close of nominations but before the closing of the polls, the deceased candidate is deemed to have obtained 10% of the valid votes cast and qualifies for a reimbursement of election expenses paid and personal expenses paid, and a full reimbursement of the candidate's nomination deposit. Both reimbursements are payable to the official agent or the person designated by the official agent.

[468, 469]

Candidates may qualify for an additional payment. When election expenses are paid in accordance with the Act and the necessary updated version of the return is filed with the Chief Electoral Officer following the filing of the initial return, the official agent, or a person designated by the official agent, may receive a further reimbursement of 60% of the additional election expenses paid. However, this reimbursement is paid only when the candidate qualifies for the original reimbursement and when that additional reimbursement does not bring the total reimbursement to more than 60% of the maximum election expenses allowed.

[465]

Only paid expenses are reimbursable

Only those paid election expenses and paid personal expenses of the candidate are included in the calculation of the reimbursement.

[438(2), 438(4), 465]

Instalments

The Receiver General for Canada issues a cheque to the official agent, or a person designated by the official agent, for the reimbursement of election expenses and personal expenses as follows:

[464(2), 465(3)]

- 15% of the maximum election expenses allowed, as soon as the Chief Electoral Officer has received the return of the writ for the electoral district from the returning officer, and
[464(1)]
- the balance of the reimbursement, on receipt of the *Candidate's Electoral Campaign Return* (EC 20120) [Ⓢ] and on confirmation of compliance with the relevant provisions of the Act within four months after election day.
[465(1)]

If the amount of the first payment is more than 60% of actual paid election expenses and paid candidate personal expenses, the official agent will be required to reimburse the excess.

[464(3)]

Repayment of nomination deposit

Every candidate – including one who withdraws by 5:00 p.m. on the day that nominations close – is entitled to a full refund of his or her deposit, provided that:

- the official agent complies with the reporting requirements under the Act: that is, within one month after election day the official agent returns the unused official tax receipts to the returning officer, and
- the official agent sends the *Candidate's Electoral Campaign Return* (EC 20120) [Ⓢ] and related documents to the Chief Electoral Officer.

The Receiver General can issue a refund cheque to the official agent, or to a person designated by the official agent.

[464(2), 468(1), 468(2)]

Payment of auditor

On receipt of the candidate's return, including the auditor's report and his or her invoice for that report in an amount of \$250 or more, the Chief Electoral Officer will authorize payment of a subsidy of the auditor's fees. This subsidy cannot exceed 3% of the election expenses of the candidate, to a maximum of \$1,500.

[466, 467]

Candidates are responsible for paying any fees charged by their auditors that are in excess of the subsidy provided by the Chief Electoral Officer. Elections Canada recommends that candidates have the auditor confirm the audit fees in writing, on appointment of the auditor.

[406(c)]

Cost of recount

In some cases, a candidate may apply to the Chief Electoral Officer for reimbursement of the costs actually and reasonably incurred for a recount, up to a maximum of \$500 for any day that the judge certifies he or she spent carrying out the recount.

[310]

Recounts can occur in one of two ways:

- at the request of the returning officer, automatically within four days after the validation of the results if the number of votes separating the candidate receiving the highest number of votes and any other candidate is less than 1/1000 of the votes cast, or
[300(1)]
- on the application of an elector, including a candidate (since the candidate must be qualified as an elector), within four days after the validation of the results.
[301(1)]

6 Campaign reporting requirements

6.1 The reporting process

All disbursements related to the election must be reported by the official agent, whether or not they are election expenses.

[451]

The official agent makes all entries in the *Candidate's Electoral Campaign Return* (EC 20120) [Ⓢ] and as soon as possible transmits these documents to the auditor, along with the *Candidate's Statement of Personal Expenses* (EC 20220) [Ⓢ]. The official agent must give the auditor sufficient time to perform the audit before the deadline for submitting the return to the Chief Electoral Officer.

After the auditor has performed the audit and the official agent has made any necessary changes in the *Candidate's Electoral Campaign Return* (EC 20120) [Ⓢ], the official agent can then finalize the *Candidate's Electoral Campaign Return* (EC 20120) [Ⓢ], ensuring that he or she makes no changes to the final figures unless he or she has consulted the auditor. The official agent should then submit the completed return to the auditor for final verification to permit completion of the audit report.

The necessary detailed forms for completing the return are included in the electronic kit provided by the returning officer to the official agent at the time of the candidate's confirmation of nomination. An electronic version of the return is also included in the candidate's kit.

After the period of four months provided for the submission of the *Candidate's Electoral Campaign Return* (EC 20120) [Ⓢ], the Chief Electoral Officer publishes in a manner that he or she considers appropriate – generally on the Elections Canada Web site (www.elections.ca) – a summary of the candidate's return, the auditor's name and, if it applies, an indication that the auditor's report on the return included a statement qualifying the report.

[412(3)]

6.2 Contents of the *Candidate's Electoral Campaign Return*

The *Candidate's Electoral Campaign Return* (EC 20120) [Ⓢ], which the official agent must send within four months after election day to the Chief Electoral Officer, consists of four main parts.

Part 1 – Declaration

This part contains the sworn statements of the candidate and the official agent regarding the completeness and the accuracy of the return, and lists the documents being submitted as part of the return.

[451(1)(d), 451(1)(e)]

Part 2a – Statement of contributions received – Details of contributions from individuals

This part lists all contributions received from individuals, including:

- the date each contribution was received
- the individual's name and address
- the amount of all aggregated monetary and non-monetary contributions over \$200
- the amount and number of all monetary and non-monetary contributions of \$200 or less, and
- the amount and approximate number of anonymous monetary and non-monetary contributions of \$25 or less.

[451(2)(f), 451(2)(g), 451(2)(h)]

Part 2b – Statement of contributions received – Details of contributions from corporations

This part lists all contributions received from corporations, including:

- the date each contribution was received
- the corporation's name and address
- the amount of all aggregated monetary and non-monetary contributions over \$200, and
- the amount and number of all monetary and non-monetary contributions of \$200 or less.

[451(2)(f), 451(2)(g), 451(2)(h), 451(2)(h.1)]

Part 2c – Statement of contributions received – Details of contributions from trade unions

This part lists all contributions received from trade unions, including:

- the date each contribution was received
- the trade union's name and address
- the amount of all aggregated monetary and non-monetary contributions over \$200, and
- the amount and number of all monetary and non-monetary contributions of \$200 or less.

[451(2)(f), 451(2)(g), 451(2)(h)]

Part 2d – Statement of contributions received – Details of contributions from associations as defined by subsection 405.3(3)

This part lists all contributions received from unincorporated associations as defined by subsection 405.3(3) of the Act, including:

- the date each contribution was received
- the association's name and address, and
- the amount of all monetary contributions.
[451(2)(f), 451(2)(g), 451(2)(g.1), 451(2)(h)]

Part 2e – Details of contributions from an association as defined by subsection 405.3(3) declared in part 2d

This part lists the details for all contributors who made monetary contributions to associations as defined by subsection 405.3(3).

[451(2)(f), 451(2)(g.1), 451(2)(h)]

Part 2f – Statement of contributions received – Details of operating loans

This part lists, by class of contributor, the name and address of each lender, as well as the date, the interest rate and the principal of the loan.

[451(2)(f), 451(3)]

Part 2g – Statement of contributions received – Contributions returned to donor or otherwise dealt with in accordance with the Act

This part lists, by class of contributor, the name and address of contributors, and the amount of the contribution or the commercial value of the property or service granted by suppliers that were accepted by the official agent and subsequently returned to the donor or remitted to the Chief Electoral Officer. The official agent must also indicate the dates on which the contributions were received and returned or remitted.

[451(2)(k)]

Part 2h – Statement of transfers received

This part provides details of monetary and non-monetary transfers from registered parties, registered associations and nomination contestants.

[451(2)(j)]

Part 2i – Statement of cash inflows other than contributions, loans and transfers

This part provides details of cash inflows other than contributions, loans and transfers. In particular, this form shows the non-contribution portion of fund-raiser revenue, bank interest, refunds from suppliers, the returned portion of any cash advances, the proceeds from the sale of residual assets, and other sources of cash inflows.

[471(2)(d)]

Part 2j – Summary of contributions, transfers and other cash inflows

This part summarizes, by class of contributor, all contributions and transfers received (money, property, services and discounts). It also includes a summary of the other cash inflows from the campaign.

[451(2)(f), 451(2)(g), 451(2)(g.1), 451(2)(h), 451(2)(h.1), 451(2)(j), 451(2)(k), 451(3), 471(2)(d)]

Part 3a – Statement of electoral campaign expenses

This part lists all of the electoral campaign expenses of the candidate by date, and provides:

- the name of the supplier
- the cheque and voucher numbers
- the amount paid
- the non-monetary contribution received or the amount unpaid, and
- a classification of the expense by nature and its commercial value.

[451(2)(a), 451(2)(b)]

Part 3b – Statement of electoral campaign expenses other than election expenses

This part provides the official agent with a means to explain those electoral campaign expenses that are not included in the election expenses of the candidate. It recapitulates the name of the supplier, the cheque, voucher number, the amount of discount, the unpaid amount and the expenditure classification. It also lists loan payments and transfers.

[451(2.1)]

Part 3c – Statement concerning personal expenses declared in part 3a, column 8

This part is a summary of the candidate's personal expenses classified by the nature of the expenditure, including:

- the cost of transportation to and within the electoral district
- temporary lodging, meals and incidental expenses
- other necessary personal expenses related to the campaign, and
- remuneration of representatives of the candidate present at a polling station.

[451(2.1)]

Part 3d – Statement of unpaid claims declared in part 3a

This part provides a listing of claims that remain unpaid, indicating the name of the supplier, the class of contributor to which the supplier belongs (on a day that is 18 months after election day, with some exceptions, an unpaid claim becomes a contribution of the supplier), and the amount of the claim. If the claim is a disputed claim, the official agent will note the disputed amount next to the agreed amount.

[451(2)(d), 451(2)(e)]

Part 4 – Campaign financial summary

This part provides a summary of all of the financial information on the return that will be published by the Chief Electoral Officer. In particular, the contributions, expenses, surplus, and bank reconciliation are clearly identified and summarized.
[451(2.1)]

6.3 Auditor's report and checklist

The official agent must include with the return the auditor's report, the *Checklist for Audits* (EC 20011) [~], and the auditor's invoice for fees.
[451(1)(b), 466]

6.4 *Candidate's Statement of Personal Expenses*

Within three months after election day, the candidate must submit to the official agent:

- the *Candidate's Statement of Personal Expenses* (EC 20220) [~] paid by the candidate and not reimbursed by the official agent
- all supporting vouchers and proof of payment for any personal expense of \$50 or more, and
- proof of payment for any expenses under \$50.
[456(1)(a), 410(1), 410(2)]

The candidate must submit to the official agent the *Candidate's Statement of Personal Expenses* (EC 20220) [~] even if he or she has incurred no personal expense.
[456(1)(b)]

6.5 Supporting documentation

Together with the return, the official agent must file the official agent's and candidate's declarations, and all documents supporting the expenses set out in the return, including bank statements, deposit slips and cancelled cheques. The official agent must also file any statement provided under paragraph 405.3(2)(c).
[451(2.1)]

An elected member who does not file the required documentation, including the declaration of the candidate, or fails to make a required correction, will not be allowed to sit or vote in the House of Commons until it is provided or made, as the case may be.
[463(2)]

6.6 Deadline for filing

When and where

Within four months of election day, the official agent must send to the Chief Electoral Officer in Ottawa the audited *Candidate's Electoral Campaign Return* (EC 20120) [~], accompanied by the auditor's report and the *Candidate's Statement of Personal Expenses* (EC 20220) [~].

[451(4)]

A candidate or the official agent may apply to a judge for an order relieving the official agent from the obligation to provide the *Candidate's Electoral Campaign Return* (EC 20120) [~] if the documents have been destroyed by a superior force, including a flood, fire or other disaster. The person applying for the order must notify the Chief Electoral Officer that he or she has made the application.

[462(1), 462(2)]

Extension by Chief Electoral Officer

If the official agent cannot send the return within four months after election day, before the expiry of this four-month period the official agent or the candidate may apply to the Chief Electoral Officer for an authorization to send the return and declarations within an extended time. The *Application for Extension of Period for Providing Electoral Campaign Return Documents* (EC 20157) may be used.

[458(1)(a)]

If the Chief Electoral Officer refuses to authorize an extension, or the official agent is unable to file the return within the extended period, the candidate or the official agent may apply to a judge to allow for the sending of the return and declarations within an extended time. The candidate or the official agent must apply within two weeks after the rejection or within two weeks after the expiration of the extended period, as the case may be.

[459(1)(b), 459(2)(b)]

Otherwise, the official agent and the candidate may be liable to prosecution.

[497(1)(u), 497(1)(v), 497(3)(r), 497(3)(s)]

6.7 Amended return

Errors and omissions

The Chief Electoral Officer may, in writing, request the official agent or the candidate to correct the return within a specified period.

[457(2)]

The candidate or the official agent may apply to a judge for an order relieving them from complying with a request to correct the return. The candidate or the official agent must apply within the time period specified by the Chief Electoral Officer for the correction, or within two weeks after the expiration of that period, and must notify the Chief Electoral Officer of the application.

[459(1)(a), 459(2)(b)]

Authorization of the Chief Electoral Officer

As soon as a candidate or official agent becomes aware of the need for a correction, either of them may make a written application to the Chief Electoral Officer to authorize a correction. The Chief Electoral Officer may authorize the correction of the return, or any updated document since the original filing, if he or she is satisfied by the evidence submitted by the applicant that the reason for the application was:

[458(1)(b), 458(2)(b), 458(3)]

- the illness of the applicant
- the absence, death, illness or misconduct of the official agent or a predecessor
- the absence, death, illness or misconduct of an agent, a clerk or an officer of the official agent, or a predecessor of one of them, or
- inadvertence or an honest mistake of fact.

The *Request for the Candidate's Statement of Surplus / Updated Electoral Campaign Return* form (EC 20048) may be used.

Corrections by the Chief Electoral Officer

The Chief Electoral Officer may correct a *Candidate's Electoral Campaign Return* (EC 20120) [✓] or any updated document provided since the original filing, if the correction does not materially affect its substance.

[457(1)]

For example, the reclassification of an expense would be the type of correction that could be made to a *Candidate's Electoral Campaign Return* (EC 20120) [✓]. On the other hand, an omission in the return could not be remedied by the Chief Electoral Officer's correction: the official agent would have to file an updated version of the return.

Payment of unpaid claims

If an unpaid claim remains unpaid (in whole or in part) on the day that is 18 months after election day for the election to which the return relates, the amount is deemed to be a contribution to the candidate made as of the day on which the expense was incurred, and is subject to the rules on contributions.

[450(1)]

This provision does not apply to:
[450(2)]

- a claim that is the subject of a binding agreement to pay
- a claim that is the subject of a legal proceeding to secure its payment
- a claim that is the subject of a dispute as to the amount the candidate was liable to pay, or the amount that remains unpaid, or
- a claim that has been written off by the creditor as an uncollectible debt in accordance with the creditor's normal accounting practices.

If a candidate or an official agent believes that any of these circumstances applies to an unpaid claim disclosed in the return already filed, the candidate or the official agent must notify the Chief Electoral Officer accordingly before the day that is 18 months after election day.


[450(3)]

6.8 Maintaining books and records

The official agent must maintain proper books and records if he or she is to monitor and report on contributions and expenses and to comply with the *Canada Elections Act* and the *Income Tax Act*. The necessary detailed forms to keep records and to submit returns are included in the candidate's kit provided by the returning officer at the time of the confirmation of the nomination.

[436]

Supporting documentation

For each expense of \$50 or more incurred on account of or in the conduct or management of the election, a bill showing the nature of the purchase, the price charged and proof of payment must accompany the return. In the *Supplement to the Election Handbook for Candidates, Their Official Agents and Auditors* (EC 20151), a *Voucher Cover Template*  is provided to help the official agent to organize the vouchers.

[410(1)]

Payments from petty cash funds held by the official agent or other persons authorized in writing by the official agent should only be for amounts less than \$50, and should be supported by vouchers. For these petty cash payments, the official agent needs to send only the nature of the expense together with the proof of the payments to the Chief Electoral Officer with the return, because vouchers for amounts under \$50 do not need to be sent.

[410(2)]

If goods or services are donated by a person or commercial organization that normally sells the goods or services, then the official agent should provide a "no-charge" invoice showing the commercial value of the goods or services donated.

[2(1) "commercial value", 451(2.1)]

If the goods or services are donated by a person or organization that does not issue invoices, the contributor or the official agent should prepare a pro forma invoice showing the date of the contribution, the name, address and class of the contributor, the nature of the goods or services contributed and the commercial value of the goods or services. For a contribution by a numbered company, the official agent must also include the name of the chief executive officer or president of that company.


[2(1) "commercial value", 2(2), 451(1), 451(2)(h.1)]

If the goods or services have a commercial value of \$200 or less and were donated by a person or organization who does not supply the goods or services commercially, the contribution has a deemed value of nil, and no supporting documentation is required.

[2(2)]

The official agent must provide the auditor with access to:

[453(4)]


- copies of receipts issued for contributions
- bank statements, deposit slips and cancelled cheques
- a list of cheques issued but not yet cashed at the bank
- copies of all bills, vouchers, and pro forma invoices
- details of loans obtained
- details of the proceeds of fund-raising functions and other miscellaneous revenues, and
- the *Candidate's Electoral Campaign Return* (EC 20120) .

Retention period

The *Income Tax Act* requires that the official agent keep records and books of accounts for all amounts contributed and all expenditures made, so that these amounts can be verified. The official agent must retain these records for two full years after the end of the calendar year to which the records or books of accounts relate.

For example, if an election had been held on November 12, 2000, books and records would have to be retained until December 31, 2002.

Destruction of books and records

As soon as practicable after receiving them, the Chief Electoral Officer sends the returning officer a copy of the *Candidate's Electoral Campaign Return* (EC 20120) , auditor's report and declarations for the electoral district. The returning officer must permit any member of the public to examine these documents and make extracts from them for a period of six months. The returning officer must retain the documents for a further three years or any other shorter period that the Chief Electoral Officer considers appropriate.

[413]

This means that a member of the public can view the documents and obtain copies of them for a period of up to six months after the deadline for submission of the return. Although returning officers are not required by law to provide copies, it is Elections Canada's normal practice to have returning officers provide copies to members of the public at a cost of \$0.25 per page. At any time after the initial six months, the information contained in the returns is also available on the Elections Canada Web site or by contacting Elections Canada.

[413(2)]

Since the documents are destroyed by the returning officer after 3½ years, or sooner on the written order of the Chief Electoral Officer, Elections Canada recommends that candidates make copies of documents for their own purposes.

[413(3)]

7 Closing out the campaign

7.1 Steps to close out the campaign

To close out the campaign, the official agent must take four steps:
[437(4)]

- dispose of any surplus
- deal with unpaid claims in accordance with the Act
- close the campaign bank account, and
- file any required updates to the original return.

7.2 Definition of surplus

The surplus amount of electoral funds that a candidate receives for an election is the amount by which the candidate's electoral revenues are more than the total of the candidate's electoral campaign expenses paid by the candidate's official agent and certain transfers.

[471]

Electoral revenues include:

- monetary contributions made to the candidate
- an election expense or personal expense for which a reimbursement was received
- the candidate's nomination deposit for which he or she was reimbursed, and
- any other amount that was received by the candidate for the candidate's electoral campaign and that is not repayable, including transfers from registered parties, registered associations, and nomination contestants.

The transfers are:

- any funds that the candidate transfers, during the election, to the registered party or to a registered association
- any amount of a reimbursement of election expenses and personal expenses of the candidate that the candidate transfers to that registered party, and
- any funds transferred from a candidate to himself or herself in his or her capacity as a nomination contestant for the same election.

It is essential to note that unused inventory and any residual assets are also included in the surplus.

7.3 Notice of estimated surplus

If the Chief Electoral Officer estimates that the *Candidate's Electoral Campaign Return* (EC 20120) indicates a surplus of electoral funds, the Chief Electoral Officer will issue a notice of the estimated amount of surplus to the official agent, who will then be required to submit the *Candidate's Statement of Surplus / Updated Electoral Campaign Return* (EC 20048).

[472(1)]

7.4 Disposition of surplus

The official agent of a candidate is required to dispose of the surplus of electoral funds within 60 days after receiving the notice of estimated surplus. Any excess of revenues over expenses and transfers must be paid to:

[473(1)]

- in the case of a candidate who was endorsed by a registered party, to that party or to the registered association of that party in the candidate's electoral district, or
[473(2)(a)]
- in any other case, to the Receiver General for Canada.
[473(2)(b)]

7.5 Filing the *Candidate's Statement of Surplus / Updated Electoral Campaign Return*

Within seven days after disposing of a candidate's surplus electoral funds, the official agent must notify the Chief Electoral Officer by submitting the *Candidate's Statement of Surplus / Updated Electoral Campaign Return* (EC 20048) of the amount and date of the disposal and to whom the surplus was transferred.

[474(1)]

The Chief Electoral Officer will publish this information as soon as practicable after the disposition of the surplus of electoral funds by the official agent.

[474(2)]

7.6 Deadlines for disposition

The official agent must dispose of the surplus of electoral funds within 60 days after receiving the notice of estimated surplus.

[473(1)]

An official agent who has a surplus of electoral funds but has not received a notice of estimated surplus must dispose of that surplus within 60 days after whichever is later:

[472(2)]

- receiving the final instalment of the reimbursement of the candidate's election and personal expenses and receiving the reimbursement of the candidate's nomination deposit, or
[472(2)(a)]
- sending in the *Candidate's Electoral Campaign Return* (EC 20120) [✓], if the candidate did not receive either the expenses reimbursement or the deposit reimbursement, or both.
[472(2)(b)]

7.7 Closing the campaign bank account

After any surplus has been disposed of, and after unpaid claims have been dealt with in accordance with the Act, the official agent must close the campaign bank account and forward all bank statements, including the one that confirms the closure of the account, to Elections Canada.

[437(4), 437(5)]

8 Compliance and enforcement

8.1 Commissioner of Canada Elections

The Commissioner of Canada Elections ensures that the *Canada Elections Act* is complied with and enforced. The Commissioner assesses each case brought to his or her attention in light of the Act and the particular circumstances of the case. The decision to prosecute or to apply compliance measures must be taken by the Commissioner, and may not be delegated or imposed.

With the exception of offences relating to peace and good order at elections, the prosecution of offences under the Act can only be undertaken with the prior written consent of the Commissioner. The Commissioner may institute a prosecution or cause one to be instituted if he or she believes on reasonable grounds that an offence under the Act has been committed, and is of the view that the public interest justifies prosecution. A prosecution for an offence under the Act must be instituted within 18 months after the day on which the Commissioner becomes aware of the facts giving rise to the prosecution, and not later than seven years after the day on which the offence was committed.

During an election period, the Commissioner may also apply to a competent court for an injunction or may enter into a compliance agreement with a contracting party to ensure compliance with the Act. Once complied with, a compliance agreement terminates any prosecution of the contracting party and prevents the Commissioner from instituting a prosecution.

8.2 Offences and punishment

All of the offences and penalties are found in Part 19 of the *Canada Elections Act*. The offences are either strict liability offences or offences requiring that the prosecution prove that the accused intended to commit the offence. Strict liability offences do not require the prosecution to prove an intention to commit the offence. A defence is open to the accused to demonstrate that he or she acted with due diligence.

Candidates' and official agents' offences are found under Part 19 at section 497 of the Act.

The offence provisions are listed in sections 480 to 499 of the Act. The offences are categorized according to whether intent was required and the procedures required to prosecute them:

- offences prosecuted on summary conviction, or
- offences prosecuted on conviction on indictment.

8.3 Penalties

Penalties vary for convictions, depending on the procedure selected to prosecute and the seriousness of the offence.

On summary conviction, the person found liable may receive:

- a fine of not more than \$1,000 to \$2,000
- imprisonment for a term of not more than one year, or
- both.

On summary conviction, the person found liable of an offence under subsection 495(4) (election survey and broadcasting) or the registered party found liable of an offence referred to in section 507 (registered party's election finances, such as a registered party's chief agent failing to provide the financial transactions return) may receive a fine of not more than \$25,000.

On conviction on indictment, the person found liable may receive:

- a fine of not more than \$5,000
- imprisonment for a term of not more than five years, or
- both.

The Act enables the court to impose additional penalties, having regard to the nature of the offence and the circumstances surrounding its commission. A person may be liable, in addition to any other penalty, to:

- perform community service
- compensate any other person who has suffered damages as a result of the commission of the offence
- perform any obligation the non-performance of which gave rise to the offence, or
- take any other reasonable measure that the court considers appropriate to ensure compliance with the Act.

For persons convicted of illegal or corrupt practices, the Act provides for further penalties. As well as any other penalty that may be imposed, a person found guilty of one of these offences loses the right to be a candidate in a federal election, to sit as a member in the House of Commons, and to hold any office to which the incumbent is appointed by the Crown or by Governor in Council – for five years in the case of an illegal act, and for seven years in the case of corrupt practices.

9 Transitional provisions for the 2004 political financing amendments

An Act to amend the Canada Elections Act and the Income Tax Act (political financing) received royal assent on June 19, 2003, and most of its provisions came into force on January 1, 2004.

The *Canada Elections Act* as it read before January 1, 2004, applies to any election that preceded the amending Act's coming into force.

[66(2)]

9.1 Coming into force during an election period

If the amending Act comes into force during an election period, the *Canada Elections Act* as it read before January 1, 2004, applies to that election. Similarly, all obligations and rights – including the obligation to report and right to reimbursement of election expenses – must comply with the *Canada Elections Act* as it read before January 1, 2004.


[66(1)]

9.2 Contributions before January 1, 2004

A contribution made before January 1, 2004 is not subject to the contribution limits for individuals, corporations, trade unions, and associations as defined by subsection 405.3(3).

[65]

9.3 The electoral campaign return of the candidate

For the electoral campaign return of a candidate filed after January 1, 2004, sections 451 to 456 of the *Canada Elections Act* as amended by *An Act to amend the Canada Elections Act and the Income Tax Act (political financing)* apply. The sections set out the reporting requirements for the *Candidate's Electoral Campaign Return* (EC 20120) .

[70]

In a return filed after January 1, 2004, for contributions accepted by a candidate before January 1, 2004, subsection 451(2) of the Act (concerning the contents of the return) applies as if paragraphs 451(2)(*f*) to (*h.1*) of the *Canada Elections Act* as they read before January 1, 2004, continued to be in force, with one exception. The exception is that it is not necessary for the official agent to provide the details of the original contributors whose funds form part of a transfer from a registered party, a trust fund of a registered party, or an electoral district association.

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