



INFORMATION SHEET 13

MAKING CONTRIBUTIONS THROUGH TRUSTS

(Revised January 20, 2004)

DISCLAIMER

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

Basic Rules for Trusts

1. A trust is simply a method for a person, a corporation or a group of persons to hold property. The property subject to the trust may only be used for the purposes specified in the terms of the trust arrangement.
2. Thus, for the purposes of the *Canada Elections Act*, a trust is treated as the person or entity (individual, corporation or unincorporated association) that holds the trust property (the “trustee”). The trust is not a separate entity from the trustee.
3. In determining the rules that apply to a contribution by or to a trust, the first step is to determine who is the trustee – an individual, a candidate, a corporation, a registered political party, or an unincorporated association – and then to apply the CEA rules for contributions to or by that type of entity.
4. It will, therefore, not be possible to avoid the rules for making or reporting contributions by creating trusts to hold money for electoral purposes.

Relevant Provisions of the Act

5. There are no provisions in the *Canada Elections Act* aimed specifically at trusts. The provisions dealing with contributions and disclosure will catch contributions to and by trusts through their ordinary operation.

Contributions Attributed to Trustee

6. A contribution made from a trust fund is treated as a contribution from the trustee.
7. When a registered party, registered association, candidate, leadership contestant or nomination contestant receives a contribution paid out of funds held in trust, the trustee is reported as the contributor and the contribution counts towards his, her or its contribution limit.

Using Trust to Collect Money from Which to Make Contributions

8. Neither an individual, nor a corporation (including a non-profit corporation), may *collect* funds from others in a trust *for the purpose of making contributions* to registered parties, their associations, candidates, leadership contestants or nomination contestants. (s. 405.3(1) CEA)
9. This is because individuals and corporations cannot make contributions from funds given to them by others for the purpose of making contributions. This rule cannot be avoided by the individual or the corporation collecting funds in a trust from which to make contributions.
10. Only unincorporated associations other than trade unions may collect money from others and put that money in a trust for the purpose of making contributions.
 - 10.1 Even then, they will only be able to
 - 10.1.1 collect money from individuals
 - 10.1.2 contribute \$1,000 per year of this collected money, and
 - 10.1.3 contribute to the local level of each party grouping (candidates, registered electoral district associations and nomination contestants) (s. 405.3(2) CEA)

Contributions Made to Trusts Maintained by Political Recipient

11. A registered party, registered association, candidate, leadership contestant or nomination contestant may not avoid *Canada Elections Act* controls by collecting contributions directly in a trust fund.
 - 11.1 Any such contributions remain contributions. They must be accepted by the relevant agent, put into the campaign account (if received by a candidate, leadership or nomination contestant), and reported as contributions.

Political Trusts Existing Before Bill C-24

12. Persons or entities that have already collected money in trusts before the amendments come into force may:
 - 12.1 continue to use those funds to make contributions as permitted by the new rules regulating contributions under the CEA
 - 12.2 transfer those funds into the political system to a party or candidate in the lead-in period before the Act comes into effect
 - 12.3 keep and use the funds for activities that would not constitute contributions under the *Canada Elections Act* (e.g. activities outside of the election period)
 - 12.4 otherwise dispose of those funds as permitted by the terms of the trust (including, if permitted, third-party election advertising)