

Legislative Reference Guide for Auditors

An Auditor's reference to the Elections Finances Act

**Legislative references in this guideline are to The Elections Finances Act (EFA)
unless otherwise stated**

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Introduction

As an auditor for a candidate's campaign, political party, or a leadership contestant you have a significant need for information surrounding the electoral process. You need to understand the campaign finance legislation governing the political process, the accounting principles upon which the financial statements are prepared, the audit and reporting environment, and the risks inherent in the process. This information is readily available and must be reviewed in order to conduct an effective audit.

Sources of information

1. *The Elections Finances Act* (the *EFA*) – the ultimate authority on election finance, nevertheless, it should be read in conjunction with other guidelines, pronouncements, and interpretations.
2. This guide, the *Legislative Reference Guide For Auditors* – provides a plain language interpretation of the *EFA* and highlights areas of the *EFA* that are especially critical for the auditor to understand.
3. *Accounting Guide – Accounting For Purposes of The EFA* – has been developed to clarify the accounting requirements of the *EFA* and should be viewed as generally accepted accounting principles, or the accounting framework, for financial statements prepared in accordance with the *EFA*.
4. *Audit Guide – Auditing For Purposes of The EFA* – provides guidance concerning the unique audit environment and requirements of the *EFA*, including planning, risk, and reporting.
5. Elections Manitoba – even with the extensive information that is available in written format, and the numerous seminars that are held by Elections Manitoba, auditors will still likely have questions and concerns that need to be addressed or clarified. You are strongly encouraged to contact the support team at Elections Manitoba as often as necessary when in doubt or when requiring clarification.

Elections Manitoba

The conduct of provincial elections is the responsibility of the Chief Electoral Officer of Manitoba (CEO). The Office of the Chief Electoral Officer (Elections Manitoba) is an independent and non-partisan office of the Manitoba Legislative Assembly and has been in existence since 1980. Elections Manitoba is responsible for administering *The Elections Act (EA)* and the *EFA*, legislation governing Manitoba provincial elections.

Election legislation in Manitoba has changed over the years. There were major changes in 1983 (*EA*) and in 1985 (*EFA*). In recent years, the *EFA* has undergone numerous amendments that have significant implications for all involved in the provincial democratic process as they have broadened the obligations placed on participants in the political process, many of whom are volunteers. Elections Manitoba has developed this guide and other guidance material as part of its mandate to provide assistance in helping participants comply with legislative requirements.

The participants

Political Party – a political party is an association, organization or affiliation of voters one of the purposes of which is to nominate and support candidates at elections. Often a political party will have related organizations and, for reporting purposes, the political party entity should include such related organizations.

A political party that decides to register with the CEO (i.e. a registered political party) is entitled to certain benefits:

- The authority to issue income tax receipts for monetary contributions received;
- Allowing the party name on the voter's ballot; and
- Protection of the party name [s.13].

Constituency Association – a constituency association is an association or organization which is recognized by a registered political party as the official association of the party in an electoral division, or, which holds itself out as the official association of a registered political party in an electoral division [s.1].

Candidate – for the purposes of the EFA an individual becomes a candidate in an election through one of the following two methods:

1. By being nominated by a registered political party or a constituency association of a registered political party, or by filing nomination papers with a returning officer during an election (whichever is the earliest). Most candidates in elections are affiliated with registered political parties.
2. By declaring himself or herself to be an independent candidate by filing Form 905 (on which the candidate must specify the date as of which his or her candidacy period will begin) or by filing the nomination papers, whichever is earlier.

Concerning a candidate, the entity under audit is the candidate's campaign (distinct from the individual who is the candidate). A candidate that decides to register with the CEO (i.e. a registered candidate) is authorized to issue income tax receipts for contributions received. An elected candidate becomes a participating member of the Manitoba Legislative Assembly (MLA).

Chief Financial Officer – the individual responsible for the financial affairs of a registered political party. [s.1]

Leadership Contestant – an individual contesting the leadership of a registered political party [s.1]

Official Agent – the individual responsible for the financial affairs of a candidate during an election campaign or a leadership contestant during a leadership contest. This position is staffed on a short-term basis, usually by a volunteer, and is similar to that of a controller in a corporation. [s.1]

Campaign Manager – oversees the activities of the campaign. This position is not defined under the EFA but exists in many campaigns.

Participants' responsibilities

Pursuant to the EFA, the CEO has prescribed certain forms and financial statements that must be audited and filed with Elections Manitoba for purposes of public disclosure and compliance. The nature of these forms and financial statements and their filing deadlines are outlined in *Audit Guide – Auditing For Purposes of The Elections Finances Act*, Section 100, paragraph .02 and Section 200, paragraph .18. Section 500 of *Accounting Guide – Accounting For Purposes of The Elections Finances Act* provides guidance on the reporting periods and the nature of the items to be included in these financial statements. [s.59 – 64].

The **responsibilities** of the official agent and the chief financial officer are fairly specific and are as follows [ss.10(1), 10(4)]:

1. Opening and maintaining a campaign account in a financial institution
2. Ensuring that records are kept of all financial transactions, including donations in kind and transfers
3. Ensuring that records are kept of all financial balances (i.e. assets, and liabilities)

4. Issue tax receipts in the prescribed form, where appropriate
5. Keeping detailed records of contributors and contributions
6. Paying all expenses [s.55(3)]
7. Authorizing advertisements and promotional material [s.48, ss.54.2(1)]
8. Making sure that the campaign does not spend more than the election expense limit or the advertising election expense limit [s.86]
9. Preparing and filing the required financial statements and other information, in the prescribed form, with the CEO
10. Receiving any expense reimbursement cheques and using the funds to first pay off any amounts still owing from the campaign [s.73.3(2)]
11. At the end of the campaign, paying the surplus (if one exists) to the party or to the Chief Electoral Officer, as required [s.75(2)]
12. Providing additional information or clarifications to Elections Manitoba when requested [s.57(2)]

With respect to the maintenance of an account in a financial institution, the *EFA* provides further specific instruction to those maintaining the account. Generally, all receipts and disbursements in the form of money must flow through this account and must be supported by invoice, voucher, or other document. [ss.10.1(1), 10.1(2), 10.1(3)]. Also, the account must not be used for any other purpose.

EFA – Terms and concepts

I. Time periods

It is essential to understand the different time periods in the Act in order to keep records and report as required. For example, spending limits and reimbursements are based on expenses in the election period. Contributions and the issuance of tax receipts are based on the candidacy period. Thus, it is critical that a campaign auditor know when these periods begin and end.

The time periods discussed in the EFA have been defined below:

Year – the calendar year.

Candidacy period – the period that begins the day that an individual becomes a candidate in an election and ends two months after election day. If the period ends on a holiday, the next business day becomes the end of the candidacy period.

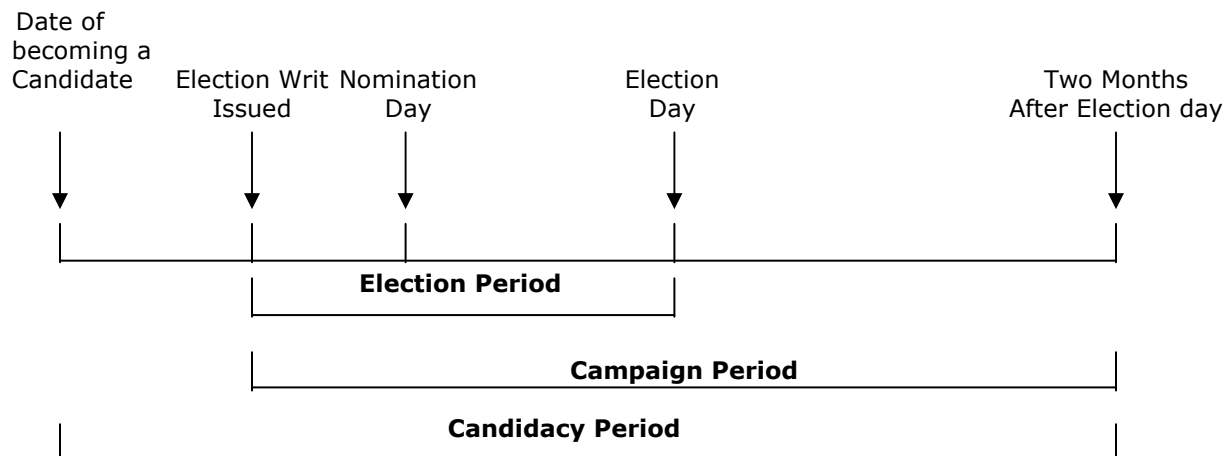
Campaign period – the period that begins on the day the election is called and ending two months after Election Day. If the period ends on a holiday, the next business day becomes the end of the campaign period.

Election period – the period that begins on the writ day for an election (the day an election is called) and ending on Election Day.

Election Day – the day on which voting takes place for the election at the voting stations. This is the last day of the election period.

Any period that ends on a holiday is extended until the next non-holiday day.

These time periods are important in understanding the concepts in the Act. The chart below should help you keep these periods straight:



A. Election calendars

The timeline over which an election unfolds is dependent upon the manner in which the election is set. Recent legislation in Manitoba has introduced the concept of a Fixed Date Election, which requires that an election be held every four years, on the first Tuesday of the October, unless an election is called for an earlier date. As a result, two options exist for the establishment of an election date:

1. An election is called in conjunction with the dissolution of the Legislature by the Lieutenant Governor; or
2. No election is called and the writ is issued in accordance with the Fixed Date Election provision of the Elections Act.

In the former case, the campaign period and the election period will begin on the day the election is called (and writ is issued). The election period will last for a minimum of 28 days (including Election Day) but could last as long as 35 days.

B. Summary table

Time Period	Start Date	End Date
Candidacy Period	Endorsed Candidate – Earlier of: 1. Date of nomination; and 2. Date of filing of the nomination papers (Form 400) Independent Candidate – Earlier of: 1. Date stated on Form 905; and 2. Date of filing of the nomination papers (Form 400)	Two months after election day
Election Period	Day the writ is issued (Writ Day)	Election day
Campaign Period	Day the writ is issued (Writ Day)	Two months after election day
Reporting Period	First day of Candidacy Period (as described above)	Two months after election day

C. Filing deadlines

The official agent has a responsibility to complete Form 922 (*Candidate's Financial Statements and Supporting Schedules*), have it audited, and send it to Elections Manitoba.

Form 922 has to be completed and sent in to Elections Manitoba **no later than four months after election day [s.61(1)]**.

Registered political parties must complete (and submit to Elections Manitoba) both Forms 920 and 921. **Form 920 is due 3 months after the end of the calendar year** while **Form 921 is due four months after Election Day [s.59, 60]**.

Leadership contestants are also subject to similar filing deadlines. Leadership contestants are required to complete **Form 947** and send it to Elections Manitoba **within 30 days of the end of the leadership contest period [s.61.1(1)]**.

D. Filing deadlines when a by-election is cancelled because of a general election

The filing deadlines outlined above are equally applicable in instances of both by-elections and general elections. In fact, even in the uncommon situation where a by-election is cancelled as a result of a general election being called, candidates and parties are still required to complete and file the appropriate forms and information with Elections Manitoba. In such circumstances, while there was no actual election day for the by-election, under the *EFA*, the date that the general election is deemed to be the "election day" for the by-election for the purposes of the filing deadline requirements.

If a candidate in a by-election is also a candidate in the following general election, the official agent will not be required to file the statement of the candidate for the by-election until the filing due date of the general election (i.e. four months after the election day of the general election).

In this situation, the statement of a political party for a by-election period is due at the same time as the party's filings for the general election.

II. Income

The types of income that normally arise during a campaign are:

- a) Contributions (both cash and donations in kind);
- b) Transfers (of cash, goods, and services);
- c) Sale of merchandise;
- d) Other income (including investment income); and
- e) Fundraising (including raffles).

All monetary income must be deposited into the financial account of the candidate's campaign and all disbursements must be supported by an invoice or voucher as proof of payment [ss.10.1(1), 10.2(2)].

A. Contributions

A "**contribution**" means any of the following paid or provided, without compensation, to or for the benefit of a candidate, leadership contestant, constituency association or registered political party:

1. Money, including membership fees paid to a registered political party, but not including:
 - a) Fees covering the reasonable expenses of conferences and conventions of a registered political party, including leadership conventions, or
 - b) Payments received by a person running as a candidate or leadership contestant by way of a paid leave of absence under a collective agreement or other employment agreement
2. A donation in kind
3. The portion of a charge determined to be a contribution under section 38 (fund raising functions)
4. The portion of sale proceeds determined to be a contribution under section 38.1 (fund raising by selling items) [s.1].

For the purposes of the above, reasonable expenses are those expenses that are over and above the costs that normally would have been incurred by the candidate. Thus, reasonable expenses for a conference or a convention are those direct expenses incurred that would not have been incurred had there not been a conference or a convention. A fee must reasonably correspond to the direct expenses for an attendee. Adequate records are required to ensure that fees are reasonable and supportable.

A.1. Who can contribute

Only individuals normally resident in Manitoba may contribute to the following entities:

- A political party registered in Manitoba;
- Any provincial candidate;
- Any constituency association of a political party registered in Manitoba; and
- Leadership contestants.

Corporations, unions, trusts, federal political parties, federal riding associations and provincial political parties from other provinces are examples of organizations that are prohibited from making contributions. It should be noted that a candidate may contribute to his or her own campaign as long as the above requirements are met [ss.39(1)].

A.2. How can contributions be made

If a contributor wants to make a contribution to a provincial candidate, leadership contestant, political party, or constituency association he or she can do so in two ways:

1. The individual can make the contribution directly to the political entity; or
2. The individual can give the contribution amount to another individual normally resident in Manitoba who is collecting contributions to be forwarded to the political entity at a later date.

It is critical to understand here that the only manner in which contributions can be collected aside from direct contributions is through collection by an individual who is normally resident in Manitoba.

Note: Non-resident individuals and organizations are not permitted to collect contributions on behalf of political entities (except as discussed in *subsection A.3.2. The role of professional fundraisers*).

A.2.1. Responsibilities of an individual collecting contributions

When an individual decides to undertake the responsibility of collecting contributions for a political candidate or other political entity, there are two specific requirements that he or she must follow.

Requirement 1 – Record keeping: When collecting contributions, the collector is responsible for maintaining a contribution record which will include the following information about the contributors from whom the collector has received payments:

1. The contributor's name and residential address;
2. The date the contribution was collected or received;
3. The amount or value contributed;
4. The name of the individual serving as the collector (if applicable); and
5. The signature of all contributors providing cash in excess of \$100. [ss.37.2(1)]

Requirement 2 – Forwarding Contributions: If he or she (i.e. the "collector") is receiving cash contributions, then after collecting, the collector must either forward the cash directly to the political entity or deposit the cash into his or her own bank account. In the latter case, the collector is required to immediately draft a cheque or money order on his or her account in the amount of the contributions collected, payable to the political entity. This cheque or money order needs to be forwarded to the entity as soon as reasonably possible. Regardless of whether the contributions are forwarded as cash, cheque or money order, the contributions must be accompanied by the contribution record kept by the collector.

If the collector is receiving the contributions in the form of cheque or credit card payments, then these contributions must be collected already payable to the political entity, and must be forwarded to the political entity on a timely basis (i.e. as soon as reasonably possible). When forwarding the contributions, as with cash collections, the contributions must be accompanied by the detailed contribution records kept by the collector.

Key things to remember about forwarding collected contributions:

1. If an individual collects cash, he or she must:
 - a) Forward cash directly to the political entity or deposit the amount in his or her own bank account and then make a cheque or money order payable to the political entity and forward it to the entity on a timely basis; and
 - b) Forward a contribution record to the political entity at the same time. [ss.37.2(2), ss.37.2(3)]
2. If an individual collects cheques or credit card payments:
 - a) Cheques and credit card payments must be made payable directly to the political entity;
 - b) Contributions must be forwarded to the entity on a timely basis; and
 - c) Contribution records must be forwarded at the same time. [ss.37.1(3), ss.37.2(2)]

A.2.2. The role of professional fundraisers

S.37.4 permits professional fundraisers, event organizers, call centres, and other similar entities that are retained by political entities for fundraising purposes to:

1. Solicit contributions on behalf of the political entity; and
2. Collect information from individuals who are interested in making contributions and forward this information to the political entity that retained the organization.

A.3. Forms of contributions

A.3.1. Cash contributions

A cash contribution is any money paid to a Political Entity (i.e. a candidate, leadership contestant, registered political party, or constituency association) that is:

- a) For the benefit of the campaign;
- b) Provided without return compensation to the contributor (i.e. the contributor receives nothing in exchange for the cash); and
- c) Not a loan or transfer.

Cash contributions include contributions in the form of money or cheque, credit card receipt or other similar instrument. Tax receipts may only be issued for cash contributions **to registered candidates or registered political parties**. (See *Tax Receipts* on page 51)

A.3.2. Donation in kind contributions

A **Donation in Kind Contribution** is the provision of a good or service to or for the benefit of a candidate. There is no compensation to the contributor, and the transaction is not a loan or a transfer [s.1].

A donation in kind **includes**:

- a) The market value of goods used as election expenses in a previous campaign where the goods are used again in the current campaign; and,
- b) A service provided by a self-employed individual if the service is normally sold or otherwise charged for by that individual.

A donation in kind **excludes**:

- a) A service provided without compensation by an individual outside the individual's working hours (i.e. volunteer labour), other than a service of a self-employed individual as described above; and
- b) The services of any person who serves without compensation as an auditor, a chief financial officer of a registered political party, official agent for a candidate, or legal counsel for a party or a candidate.

Examples of donation in kind contributions are:

- An individual providing furniture or equipment for a candidate's campaign office at no charge; or
- Signs or pamphlets provided without charge.

A.3.2.1. Value of donation in kind

The value of a donation in kind is the market value of the goods or services at the time of the contribution [s.40(1)].

Market value is defined as the lowest price generally charged by the supplier for an equivalent amount of the same goods or services at or about the time and in the market area in which the goods or services are supplied [s.1]. Where a donation in kind is the service of a self-employed individual, the value of the contribution is the regular fee or amount that the self-employed individual would charge.

Example: John D. is running in the current provincial election. When John was trying to rent office space for his campaign headquarters at the beginning of his campaign, the landlord/owner (who is a sole proprietor) of the office that he wanted offered to give him the space for the entire election period (33 days) at no-charge. Normally, the landlord can rent the office space for \$1,000 every 30 days.

In this case, the official agent for John's campaign would have to record that a donation in kind contribution has been received by the campaign (because the office space is provided without a charge/compensation). The value of the contribution would be the cost of renting the office space under normal conditions (i.e. in this case the value would be \$1,000 for each month the space is used and pro-rated of \$1,000 for each partial month of use).

Value of donation – first 30 days: ($\$1,000 \times 30/30$)	\$1,000
Value of donation – final 3 days: ($\$1,000 \times 3/30$)	100
Total Donation in Kind (resulting from free rent)	\$1,100

Further, the same amount recorded as a donation in kind contribution would also have to be recorded as an election expense since the space was donated and used by the campaign during the election period.

It is important to note that if the office had been owned by a corporation rather than a sole-proprietor, this contribution would have violated the contribution limit provisions

of the EFA as only individuals normally resident in Manitoba may contribute to a party, candidate, leadership contestant or constituency association [ss.41(1)].

A.3.2.2. Discounted donation in kind

Where goods or services are provided for an amount that is less than market value, the provider of the goods or services is considered to have made a contribution equal to the difference between the market value and the amount charged [ss.40(2)].

Example: A self-employed individual provides computer services (with a regular market price of \$2,500) to a provincial candidate for \$1,000.

In this case, the individual has made a donation in kind contribution of \$1,500 (\$2,500 – \$1,000). The \$1,500 must be recorded and reported as a contribution from the individual. A tax receipt cannot be issued because the contribution is a donation in kind [ss.36(2)].

It is important to note that if the contribution was from a corporation, it would be in violation of the contribution limit provisions of the EFA as only individuals normally resident in Manitoba may contribute to a party, candidate, leadership contestant or constituency association [ss.41(1)].

It should also be noted that in the above example, if the services were provided during the election period, the full market value of \$2,500 would be recorded and reported as an election expense (only \$1,000 would be subject to a 50% reimbursement). This concept is discussed more fully in Section VII Expenses.

A.3.2.3. Donations in kind of less than \$25

Individuals normally resident in Manitoba (and only such individuals) may make two donation in kind contributions of less than \$20 in a year to a candidate, constituency association, registered political party or leadership contestant without the contributions having to be recorded under the Act. A third such contribution by an individual in a year, regardless of value, must be reported [s.40.1(1)].

A.3.2.4. Indirect contributions

Money spent on behalf of a political entity, or goods or services provided for the benefit of an entity with the knowledge and consent of the entity are donation in kind contributions.

Example: The purchase of a newspaper advertisement by an individual on behalf of and with the knowledge and consent of a candidate is an election expense and a contribution of the individual where the individual is not reimbursed for the expense. [s.1 "contribution"; s.51(1) and (2)]

A.3.2.5. Forgiven or unpaid trade payables

Political parties and candidates' campaigns often arrange for goods and services to be received from suppliers with the agreement that payment will be made at a later date. These trade accounts or trade payables sometimes do not get paid. This may result when there are not sufficient resources to provide payment.

In situations of non-payment, these transactions could be viewed as donations of goods or services (i.e. donation in kind contributions) and therefore a prohibited contribution unless the goods and services were supplied by an individual normally resident in Manitoba. Provided that the transactions were bona fide and at "arm's length", any unpaid accounts should not be considered donations in kind, but should instead be considered and reported as a payable (liabilities still outstanding).

A.4. Deemed contributions

A loan agreement entered into with a third party could result in a deemed contribution in the following circumstances:

- a) Where there is a lower than market rate of interest (i.e. less than the prime rate of the government's principal banker) [s.44.1(2)]
- b) Any payment on the loan that is not made by the debtor is a deemed contribution in the amount of the loan payment. [s.44.1(3)]
- c) Any amount of the loan that remains unpaid 6 months after becoming due results in a deemed contribution in the amount of the unpaid amount (provided there were no legal proceedings initiated). [s.44.1(4)]

A deemed contribution could also result in a prohibited contribution when the lender is not an individual normally resident of Manitoba. For more information consult *Section VI Loans*.

A.5. Fund raising functions

Fund raising functions are mentioned briefly in this subsection, because you should be aware that under the *EFA* a portion of the gross receipts of a fund raising function might be categorized as a contribution [ss.38(2)]. Additional guidance on the determination of such contribution amounts can be found in *subsection B. Fund Raising Functions*.

A.6. Sales of merchandise

Similar to fund raising functions discussed above, sales of merchandise are mentioned now only briefly to make you aware that under the *EFA*, the net profit on some merchandise sales might be categorized as a contribution [ss.38.1(1)]. *Subsection D. Sale of Merchandise Items* will provide greater detail on such transactions.

A.7. Contribution limits and restrictions

The Elections Finances Act limits contributions:

- Only individuals normally resident in Manitoba may contribute to a provincial candidate or leadership contestant, or to any registered political party or constituency association of a political party registered in Manitoba [s.41(1)]
- The combined total of all contributions made by an individual to all recipients (including contributions to leadership contestants after the leadership contest period ends) may not exceed \$3,000 per calendar year [s.41(1.1)]
- The combined total of all contributions made by an individual to all leadership contestants may not exceed \$3,000 per leadership contest period [s.41(1.1.1)]
- Individuals must use their own resources when contributing. A director of a corporation, for example, may not make a contribution using corporate funds, but may contribute using his or her own personal funds [s.41(1.2)]
- Individuals cannot make contributions if in doing so they are expecting to be compensated or reimbursed by another person or organization for all or part of the value of the contribution [s.41.1]
- No person or organization can provide (or offer to provide) reimbursement or compensation (either in part or in whole) to an individual for making a contribution [s.41.2]
- No person or organization is allowed to accept a contribution from an individual if the person or organization knows that the individual expects to be reimbursed or compensated for all or part of the contribution made [s.41.3]

- No person may solicit or knowingly accept a prohibited contribution. Any contributions of this type must be returned. Further, if subsequent to receiving a contribution a person learns that the contribution was prohibited, then that contribution must be returned (even though it was not known to be prohibited at the time of receipt) [s.41(2)and(3)]
- Anonymous contributions of more than \$10 must not be used and must be returned [s.42] except for some donations in kind as outlined in s.40.1 (see p.10 *Donations in kind of less than \$25*)
- Registered political parties, candidates, leadership contestants, constituency associations must disclose to Elections Manitoba the details of all contributions [s.10(1)(b.1); 10(2.1); 10(4)(b.1); 61.1; 68(3)]
- There are penalties for making or knowingly accepting prohibited contributions [s.83.1(1)]

A contribution has not been made if a cheque is not honoured on presentation (i.e. it has been returned marked "not sufficient funds" or "payment stopped" or something similar). Although audit procedures cannot detect every possible prohibited contribution, auditors should perform tests to provide some assurance that prohibited contributions have not been accepted.

A.7.1. Contributions to candidates before candidacy period

When a candidate who is nominated by a constituency association has received contributions prior to the start of the candidacy period (while contesting the constituency nomination) under s.41(5) of the EFA, these contributions are deemed to be contributions to the candidate's constituency association (not the candidate). Thus tax receipts may not be issued for such contributions.

A.7.2. Use of force or intimidation

No one is permitted to directly or indirectly, use or even threaten to use force or violence, or threaten to inflict injury, damage, harm or loss, upon another person in order to get them to make (or to get them not to make) a contribution. Engaging in such behaviour is considered a general offence [s.78.1].

A.7.3. Contributions by allocation of expenses

Prohibited contributions determined to an entity such as a provincially registered political party would include expenses incurred by or on behalf of the party by a federal political party or a federal riding association. The sharing of goods or services or cost recoveries between a registered provincial political party and a federal political party may not meet the requirements of the *EFA* unless the expenses of the registered provincial political party can be with certainty and are supportable. Allocation of shared expenses, as being federal or provincial, based on a general guideline would not be sufficient to meet the requirements of the *EFA*.

The above analysis would apply to sharing or allocation of expenses or cost recoveries between provincial registered political parties, constituency associations, and candidates. See also *Transfers* in this section.

A.8. Timing of contributions

The timing of when a contribution is recognized could have a significant impact on an individual's compliance with the \$3,000 contribution limit, especially in instances where a contribution is "in transit" at the time a new calendar year arrives. The date of contribution is the date of payment by a contributor. Generally, the date of payment is the date that a contribution is delivered to a registered political party, constituency association, candidate, or leadership contestant (or their recognized agent) but there are exceptions. (See Appendix A for further discussion)

A.9. Reporting contributions

Reporting of contributions received is required for:

- a) Public disclosure; and
- b) Tracking individual contribution limits of \$3,000 (not public).

The *EFA* sets out specific, and differing, disclosure requirements for (a) and (b) above.

A.9.1. Public disclosures

For every contributor who made one or more contributions (cash and donation in kind) in the candidacy period to a registered political party, constituency association, candidate, or leadership contestant, totalling \$250 or more, the following information must be disclosed for the period [s.61.1, 62, 64, 67(1), s.68(3)]:

- The name and address of the individual; and
- The aggregate value of contributions received from that individual.

Information to be disclosed above is reported on the applicable Form 920 (party), 922 (candidate), 924 (constituency association), 947 (leadership contestant) and is available for public inspection.

A.9.2. Tracking contribution limits (Form 930, 932, 934, detailed contributors' list)

Registered political parties, candidates, and constituency associations must disclose to Elections Manitoba information concerning all contributions (both cash and donation in kind) received during a calendar year. Accordingly, records must be maintained for all contributions (cash and donations in kind), and would include [s.10(4)(b.1)]:

- A contributor's full name and middle initial (if any);
- The contributor's Manitoba residential address and postal code;
- The date of each contribution;
- The amount of the contribution (for a donation in kind, documents supporting the valuation of the contribution should be maintained).

Although records must be kept for the above, for reporting purposes where one contributor has made several contributions in a calendar year the contributions may be aggregated as one contribution for the calendar year. Information on aggregate contributions of less than \$250 is not public and is only provided for Elections Manitoba to ensure compliance with the contribution limit provisions of the *EFA*.

A.10. Penalties

Any violation of the contribution provisions could result in the following maximum fines [ss.83.1(1)]:

- Individual – \$5,000;
- Organization or Corporation – \$50,000.

Further, an additional fine may be imposed of up to twice the amount of the prohibited contribution [ss.83.1(2)].

B. Fund raising functions

A “fund raising function” is any social function held for the purpose of raising money for a registered political party, candidate, leadership contestant, or constituency association [s.1].

Examples: Dinners, dances, luncheons, and raffles.

Depending on the circumstances, a portion of a fund raising function’s income may be a contribution (and a portion may not be) which impacts the contribution limits and the issuance of income tax receipts.

The general rule for income generated from a fund raising function is that 75% of the ticket price or individual charge is deemed a contribution and 25% is fund raising income [ss.38(2)]. The general rule is applicable in the following circumstances:

- The ticket price or individual charge is for an amount of \$25 or more; or
- The ticket price or individual charge is for an amount that is less than \$25, but multiple tickets totalling \$75 or more are purchased.

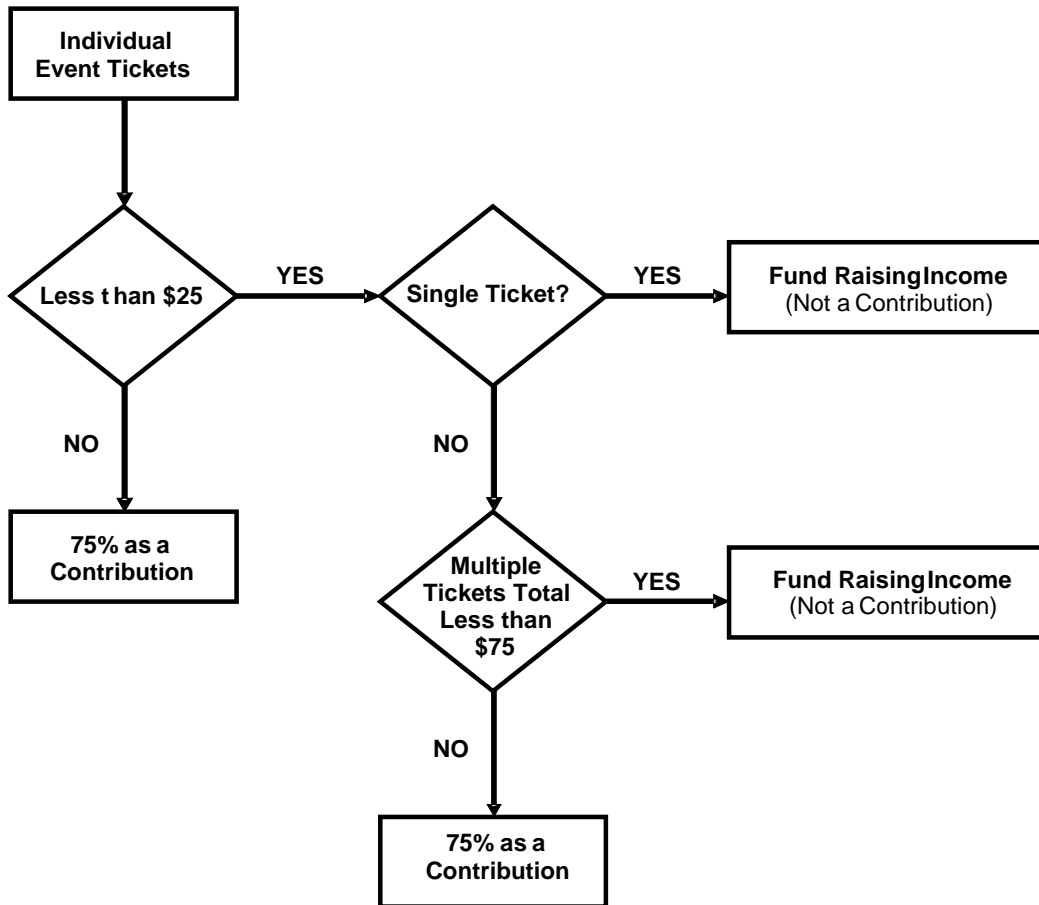
Where the ticket price or individual charge is less than \$25 or where multiple tickets, priced at less than \$25 each, purchased for a single fund raising function total less than \$75, all of the income reported is fund raising income [ss.38(3)] (i.e. **no portion is considered contribution income**). As a result, a prohibited contributor such as a corporation or union may purchase a single fund raising function ticket as long as it is less than \$25, or multiple tickets totalling less than \$75 (the individual ticket price must be less than \$25). The purchases would not be contributions under the Act and, therefore, there would be no requirement to record the contributors' information.

A prohibited contributor may not provide goods or services (donation in kind contributions) for fund raising functions, directly or indirectly, in any amount.

Example: A golf bag donated directly by a company or union to a candidate’s fund raising function or to an individual who subsequently provides it to the candidate’s fund raising function would be a violation of the EFA.

When a fund raising function is held where raffle tickets are sold, it is considered that each activity is a separate and distinct fund raising function. Each of these events would be subject to the *EFA* requirements. The sale of liquor at a fund raising function, even though there is a separate ticket price, is not a fund raising function if the liquor price is controlled by the Manitoba Liquor Control Commission and it is required that tickets be used.

B.1. Fund raising function income classification decision tree



Example 1: During the candidacy period, a candidate held a breakfast function (for the purpose of raising funds) for which tickets were sold for \$10. Fifty tickets were sold and it cost the campaign \$8 per person to put on the function. A company purchased 4 tickets for \$40; the remaining forty-six tickets were sold individually.

Since the ticket price was less than \$25, the forty-six individual tickets purchased would not result in contribution income. In addition, because the company purchased multiple tickets for an amount not exceeding \$75 and each ticket cost less than \$25 each, the company has not made a contribution and consequently, contribution income would not be recorded. Instead, the \$500 of income (\$10 x 50 tickets) would be recorded as fund raising function income.

The \$400 cost of the function (\$8 x 50 people) would be reported as an election expense if the event was held during the election period or as a non-election expense if it was held outside of the election period but during the candidacy period.

Example 2: Two weeks before Election Day, a dinner was held for a candidate for the purposes of raising funds. Two hundred individual tickets were sold for \$150 each. The total cost of the function was \$10,000.

Since the ticket price exceeds the \$25 threshold, each individual who purchased a ticket made a contribution of \$112.50 (\$150 x 75%) to the candidate. Contribution income would be reported in the amount of \$22,500 (\$112.50 x 200 tickets) and individual tax receipts totalling \$22,500 would be issued (if the candidate is registered to issue tax receipts). Income in the amount of \$7,500 (\$150 x 200 tickets x 25%) would be reported as fund raising income.

An election expense would be recorded in the amount of \$10,000.

C. Transfers (received)

A transfer is sometimes confused with a contribution but it is not a contribution [s.44(5)].

A **"transfer"** means money, goods, or services provided amongst the entities (i.e. registered political parties, constituency associations, endorsed candidates and leadership contestants) without compensation from the entity receiving the transfer. This includes the market value of goods provided from a previous election campaign [s.1].

Key concepts to remember:

1. Transfers received are recorded as income whereas transfers given are recorded similar to that of expenses.
2. Transfers received are recorded on a cash basis and are not accrued.

A registered political party may only transfer money, goods, or services to [ss.44(1)]:

1. A constituency association of the registered political party;
2. A candidate endorsed by the registered political party; or
3. A candidate nominated by a constituency association of a registered political party.

A constituency association of a registered political party may only transfer money, goods, or services to [ss.44(2)]:

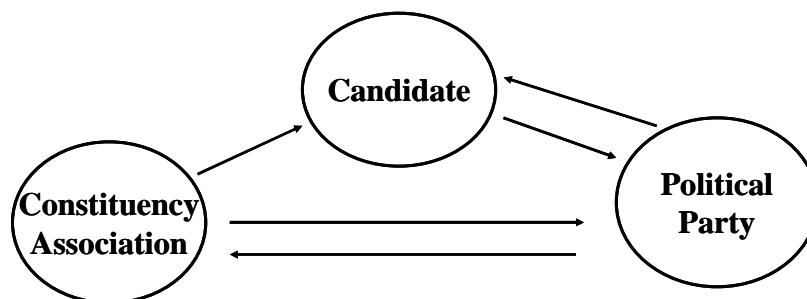
1. The registered political party; or
2. A candidate nominated by the constituency association.

A candidate nominated by a constituency association of a registered political party may only transfer money, goods, or services to [ss.44(3)]:

1. His or her registered political party.

A leadership contestant may only make a transfer when, after the leadership contest is over, there is a surplus that is required to be transferred to his or her political party [s.44(3.1)].

The flow of permitted transfers is illustrated in the diagram below:



Since federal political parties and federal riding associations are not registered under the *EFA*, the provision of money, goods, or services from such organizations are not transfers. Rather **they are contributions but would be prohibited** under the contribution limit provisions of the *EFA*. [s.1 "organization"; "transfer"]

When goods or services are provided by a registered political party, constituency association, candidate, or leadership contestant but are ultimately paid for by the receiver of the goods, these transactions do not represent transfers, but rather expenses to the receiver of the goods or services. These transactions should be treated in the same way as any other supplier expense.

Example: In order to take advantage of bulk purchase discounts, a registered political party arranges to have brochures printed for all of its candidates. The party charges each campaign the full market value of the brochures it receives. This transaction is not a transfer and should be recorded as a purchase from the party. If the brochures are used during the election period, the cost of the used brochures is an election expense.

C.1. Constituency associations – Source of transfer

Where a constituency association makes a transfer to a registered political party (during a campaign period) or to a candidate (during the candidacy period), and the value of the transfer is \$250 or more, the constituency association must advise the party or candidate of the following [ss.44(4)]:

- a) The name and address of each individual whose contributions in that period totalled \$250 or more; and
- b) The total value of the contributions from that individual in that period.

The party or the candidate must disclose this information from the constituency association on Form 921 (party return), or on Form 922 (candidate return).

C.2. Deemed transfers

Similar to a deemed contribution, a loan agreement entered into between and amongst a registered political party, a constituency association, leadership contestant, or a candidate could result in a deemed transfer in the following circumstances:

- Where there is a lower than market rate of interest (i.e. less than the prime rate of the government's principal banker) [s.44.5(a)];
- Any payment on the loan that is not made by the debtor but is instead made by a registered political party, constituency association, or candidate would result in a deemed transfer in the amount of the loan payment [s.44.5(b)]; and
- Any amount of the loan that remains unpaid 12 months after becoming due results in a deemed transfer in the amount of the unpaid amount [s.44.5(c)].

Note: Candidates and constituency associations are not permitted to make loans to leadership contestants.

For more information consult the *Loans* section.

D. Sales of merchandise

When an item is sold for the purposes of raising money for a candidate, leadership contestant, registered political party, or constituency association, it is critical that the resulting income be classified correctly. What is especially of concern is the amount of such income that should be considered a contribution as this will impact:

1. The issuance of income tax receipts;
2. The contribution limits by source (only individuals); and
3. The contribution limits by amount (maximum of \$3,000).

D.1. Contributions from a sale of merchandise

“Contribution from sale of merchandise”: When, for the purpose of raising money, an item is sold by or on behalf of a candidate, leadership contestant, constituency association or registered political party, the amount by which the proceeds from the sale exceed the item’s acquisition cost is a contribution [ss.38.1(1)].

The **“Acquisition Cost”** of merchandise sold is determined as the greater of the actual cost of the item and the fair market value of the item (at the time it was acquired) [ss.38.1(3)].

“Net Profit” is equal to sale proceeds less acquisition cost.

D.1.1. Sales of items with prices greater than or equal to \$25

When the selling price of the item or items sold exceeds \$25 there are two possible situations that may result:

- a) Selling price (SP) equals the Acquisition Cost (AQ) resulting in a sale with no net profit and thus no contribution income.

SP = AQ → No contribution

Example: Merchandise sold by a political party at a price of \$350, where the market value cost to acquire the merchandise was also \$350, would **not** result in a contribution.

- b) Selling price is greater than Acquisition Cost resulting in net profit on the transaction and thus a contribution must be recorded.

SP > AQ → Contribution

Example: Merchandise sold at a price of \$350, where the cost to the candidate to acquire the merchandise is \$250, would result in a net profit (and a contribution) of \$100. A tax receipt would be issued for the contribution portion of \$100 (provided that the candidate is registered).

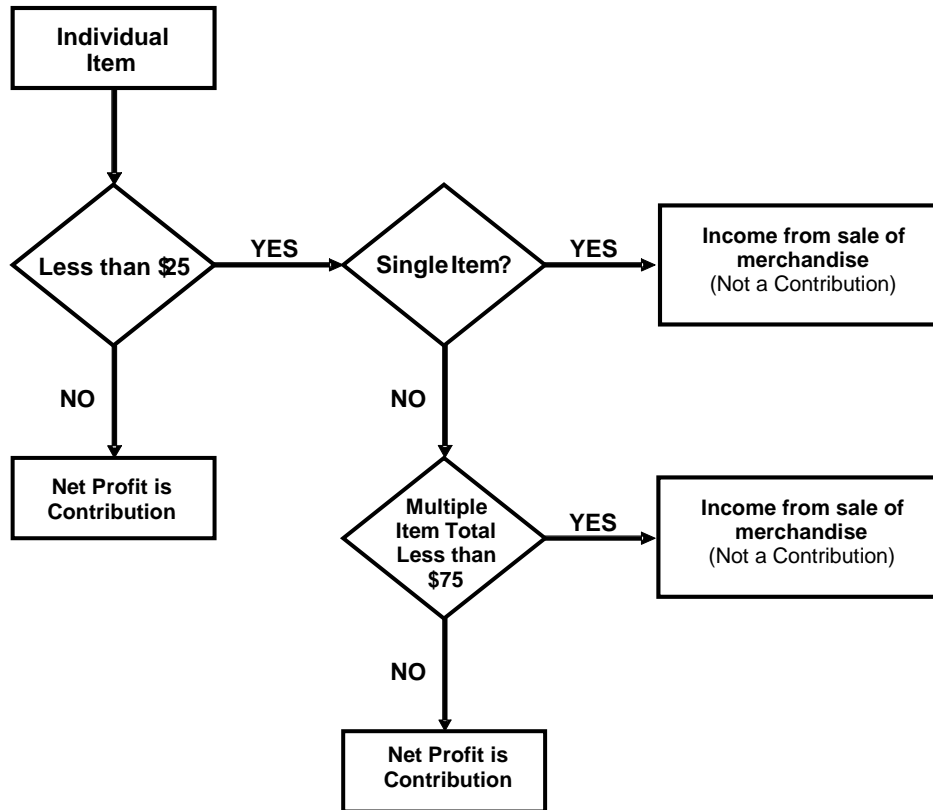
D.1.2. Exception for nominal amounts: sales of items with prices less than \$25

While the above rules work in the general situation, when the proceeds from the sale of merchandise is nominal in amount, exceptions exist which allow the entire amount of the proceeds to be considered “other income”. The exception conditions are as follows:

- A single item sold for proceeds less than \$25; or
- Multiple sales of the same item totalling \$75 (where the individual item price is less than \$25).

In either situation, all of the income recognized in the sale would be classified as sale of merchandise income as opposed to a contribution income.

D.1.3. Sale of merchandise income classification decision tree



Example: During the candidacy period, a candidate chose to sell t-shirts in order to raise funds for the campaign. T-shirts had a selling price of \$12 and cost the campaign \$8 each to acquire.

In one transaction, a single t-shirt was sold. Under the general rules for a sale of merchandise, \$4 (the difference the selling price of \$12 and the cost of \$8) would be recognized as a contribution. However, in following the decision tree above, we classify this income according to the following steps:

1. The selling price on the T-shirt is less than \$25.
2. The sale is of a single item.
3. Therefore: All income should be classified as sale of merchandise income (i.e. no contribution should be recognized).

In a second transaction, an individual purchases ten t-shirts. We will again consider each of the steps in the above decision tree:

1. The selling price on each individual T-shirt is less than \$25.
2. The sale is not of a single item (i.e. move to the "Multiple Sales" box).
3. The total revenue from the sale is \$120, which exceeds the proceeds threshold for sales of multiple items (\$75).
4. Therefore: This sale should be treated according to the regular contribution rules for sales of merchandise.

Total revenue = $\$12/\text{shirt} \times 10 \text{ shirts} = \120 → Reported as sale of merchandise income to the extent of the acquisition cost.

Total Acquisition Cost = $\$8/\text{shirt} \times 10 \text{ shirts} = \80 → Reported as expense.

Net Profit = $\$120 - \$80 = \$40$ → Reported as a contribution

E. Other income

In addition to contributions, fund raising, transfers, and sales of merchandise, all other income of a party, candidate, leadership contestant or constituency association must be recorded.

Sources of other income include:

- Income from investments (e.g. bank account interest, credit union dividends, and GIC interest); and
- As note in the section above, revenue from the sale of merchandise that is not in excess of the cost of the merchandise.

III. Expenses

Overall, there are three types of expenses or reductions of income that may arise:

- a) Election expenses [s.1];
- b) Non-election expenses; and
- c) Transfers [s.44(6)].

As with income from contributions and transfers, the three types of expenses or reductions of income are further defined as monetary (i.e. they are or will be paid with money or cash), or as non-monetary (i.e. the use of goods or services provided and paid for by someone else). All monetary expenses must be disbursed from the financial account of the candidate's campaign, constituency association, leadership contestant or political party, and must be supported by an invoice or voucher as proof of payment [ss.10.1(1), 61(2)]. A non-monetary "donation in kind" expense may result only from the acceptance of a donation in kind contribution and the "using up" of the good or service contributed. This will be clarified further in this section.

Expenses may be incurred indirectly by individuals with the knowledge and consent of the candidate, leadership contestant, constituency association, or registered political party (a transaction of this nature would be a donation in kind contribution and a donation in kind expense). However, individuals not normally resident in Manitoba, and organizations, are prohibited from using their own funds incurring expenses (for which there is no reimbursement) on behalf of and with the knowledge and consent of political entities as such expenses would represent prohibited contributions.

Exception: Individuals not normally resident in Manitoba can incur petty cash expenses on behalf of a political entity provided that:

1. The political entity consents;
2. The individual is reimbursed for the amount of the petty cash expense; and
3. Appropriate records and supporting documentation for the expenses are maintained.

Candidates' campaigns are required to file copies of all vouchers and invoices in support of all expenses reported on Form 922 (Candidate's Financial Statements and Supporting Schedules) when filing Form 922.

Leadership contestants are not permitted to receive contributions or incur expenses until the leadership contest has been officially announced by the political party [s.41(1.1.2) and s.61.1(5)].

A. Election expenses

The concept of election expenses is one of the most important concepts in the EFA. The definition of "**election expenses**" [s.1] is extensive and must be reviewed thoroughly by the auditor as it impacts on spending limits and on the amounts reimbursed by the public treasury to candidates (spending limits and reimbursements are discussed in another section).

In general, "election expenses" means

- a) Money spent or liabilities incurred; and
- b) The value of donations in kind accepted;

before or during an election period in respect of goods or services used during the election period to support or oppose, directly or indirectly, a candidate or registered political party in the election.

Essentially, an election expense is the use (i.e. consumption) of a good or service in an election period for an election purpose. **Understanding the concept of use or consumption is critical in understanding the definition of election expenses.** Goods that are acquired in a pre-election period may still represent election expenses.

Example: A candidate's campaign received and paid for brochures in a pre-writ period. The cost of the brochures would be an election expense if they were used (i.e. distributed) in the election period. If they were used outside of the election period the cost of the brochures would be a non-election expense. If the brochures were not used at all they would be reported as inventory.

Goods or services used in an election period are acquired in various ways. For instance, a candidate's campaign may obtain goods or services through:

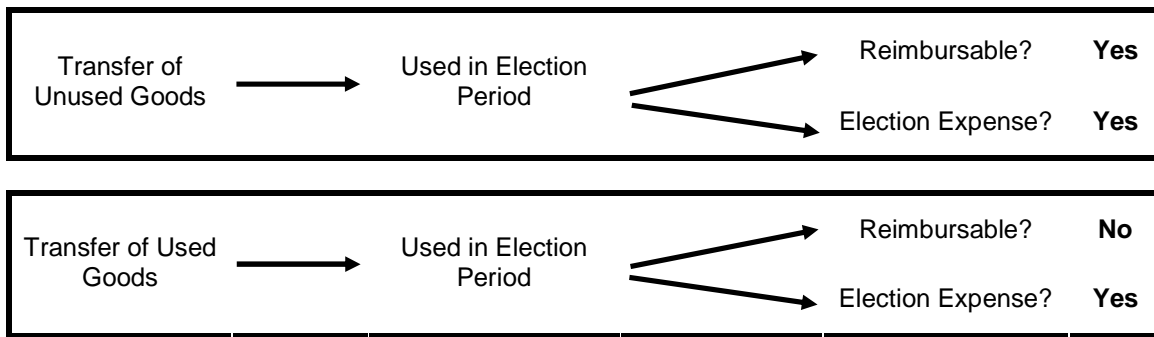
- A cash purchase or a trade payable by the campaign;
- A donation in kind contribution where goods or services are received;
- A donation in kind contribution where there has been payment for goods or services on behalf of a candidate's campaign with the knowledge and consent of the campaign; or
- A transfer of goods and services received from the candidate's constituency association or political party.

A.1. Transfer of goods and services – A clarification

Where goods and services that have not been used in an election are transferred and subsequently used in an election by the transferee, the expense attributable to those goods and services is the expense of the transferee. The expense, if it qualifies as an election expense, would be reimbursable to the transferee [ss.44(6)]. If the goods had been previously used as an election expense by the transferor, no reimbursement would be available to the transferee, although it would still be an expense of the transferee [ss.44(7)].

Example: Where brochures that have never been used are transferred from a registered political party to a candidate's campaign, and then are used by the candidate's campaign during the election period, the candidate's campaign will report the transfer to the campaign under income and the expense as a reimbursable election expense.

The following illustration should help to explain the treatment transferred goods in each situation:



A leadership contestant may only make a transfer when after the leadership contest is over there is a surplus that is required to be transferred to his or her political party.

A.2. Election expenses – Inclusions and exclusions

The definition of "election expenses" provides a detailed list of examples of various election expenses for greater certainty. It also lists specific expenses that would be excluded from the definition, even though some of them may meet the general definition of election expenses. The exclusions are discussed in more detail under the subsection *Non-Election Expenses*. A few of the specific **inclusions** are highlighted below as they are less obvious than others:

- Amounts paid to individuals for their services provided to the election campaign, such as acting in the capacity of the candidate, official agent, organizer, campaign manager, or office worker (this does not include salaries and wages paid to permanent staff members of a registered political party working in the office during the election period);
- Reasonable personal expenses incurred by a candidate in an election period to enable the candidate to campaign in an election;
- A reasonable portion of the cost of capital assets (see *Accounting Guide – Accounting For Purposes of the Elections Finances Act*, Section 650 "Capital Assets", paragraphs .08 to .11);
- The expenses incurred for a fundraising function;
- Goods which were acquired in a previous election and not used in the previous election but are used in the current election; and
- Costs for polling.

The test for identifying election expenses: To what extent was the good/service used or consumed during the election period for the purposes of supporting or opposing a candidate or political party?

Note: In the uncommon instance of a by-election being cancelled as a result of a general election being called, the election expenses incurred for the by-election are not considered to be election expenses for the subsequent general election.

Neither a contractual arrangement for a payment to a supplier or contractor nor the delivery of a product or service is, by itself, sufficient to determine if an election expense has been incurred.

Sometimes it is necessary to apportion an expense as an election expense and as a non-election expense. This is required because of the definition of "election expenses". Goods or services used outside of an "election period" (for an election purpose) cannot be election expenses even though the expenses were only incurred because an election was anticipated. The basis used to determine the

amount or partial amount of expense that is applicable to each time period must be reasonable, however, the specifics of the method are a matter of judgment. Some possible allocation approaches include:

- a) Time that a good or service was used (such as number of days or hours that it was provided); or
- b) An estimate of the use of a good or service (such as the number of kilometres multiplied by a reasonable charge for fuel per kilometre).

Examples of the expenses that need to be apportioned:

- Honoraria and salaries could be allocated based on the period of time that the service was provided;
- Monthly rent for office premises could be allocated based on the percentage of total days leased that relate to the election period and non-election period, respectively; and
- The cost of telephones could be allocated based on the number of days of use during the election period over the total number of days the telephones were available and operational.

In order to obtain the necessary information to evaluate the appropriateness of an expense categorized as an election expense, it may be necessary for the auditor to confirm with the vendor the nature and extent of the services and the time period those services were provided.

A.3. Donations in kind as election expenses

Election expenses include the value of donations in kind which are used during the election period. The time at which an item was actually donated is not relevant in determining whether it is an election expense or not. The test is whether the item was used during the election period.

The value of a donation in kind is the market value of the goods or services at the time of the contribution.

“Market value” is defined as the lowest price generally charged by the supplier for an equivalent amount of the same goods or services at, or about the time, and in the market area in which the goods or services are supplied [s.1].

This means that the official agent or chief financial officer must determine how much it would normally cost to purchase or rent the item donated and then record that amount as an election expense and contribution.

Most goods and services provided at no charge to a campaign or provided for the benefit of a campaign (other than transfers) that are used or consumed in an election period are donation in kind election expenses. Notable exceptions are:

- Volunteer labour [s.1 “donation in kind” item (a)];
- Volunteer chief financial officer, official agent, auditor, or legal counsel [s.1 “donation in kind” item (b)];
- Inventory acquired in a previous election but not used in the previous election [s.1 “election expenses” item (q)]. (This would be a transfer and a reimbursable election expense if used during the current election).

Note: It is important to emphasize that the amounts reported on Form 922 must always reflect, fairly and transparently, the underlying substance and form of transactions and events.

Example transaction – Cheque exchange: A cheque exchange may take place where, as a result of an understanding, a campaign purchases goods from an individual and some or all of the money provided for the purchase is contributed back to the campaign by the individual.

Required treatment: *Cheque Exchanges must be recorded as a donation in kind transaction and not as a cash transaction.*

A.4. Authorization and payment of election expenses

In order to ensure the official agent or chief financial officer maintains control of the financial affairs of a candidate's campaign or a registered political party, only the official agent or chief financial officer, or an individual acting on their behalf with their knowledge and consent, may make a payment for an election expense (or an annual advertising expense). [ss.55(3)]

The only exception to this rule is in the event of a candidate's campaign where the official agent is unwilling or unable to authorize a payment for an election expense. In this case, the candidate may make or authorize payment. [ss.55(4)]

A.5. Campaign workers (other than permanent employees of a registered political party) [s.1 "donation in kind"; "election expenses" "(d)"]

There are some recording issues concerning individuals working for political parties or candidates' campaigns during an election. Individuals may be paid by the campaign, paid by another, or not paid at all. Each of these circumstances is reported differently.

A.5.1. Campaign workers paid by the political party

If a political party is paying for an individual (e.g. fees and/or expenses) to work for the party then the costs are election expenses (assuming that the costs relate to services provided during the election period). If any part of the service is provided outside of the election period then a part of the cost is a non-election expense. Where the political party pays for the individual but the individual is working for a candidate's campaign, the candidate's campaign must record the expenses.

A.5.2. Campaign workers paid by another entity

An individual may be working for a political party and may be receiving compensation from a source other than a candidate's campaign or the political party. This is a donation in kind contribution and a donation in kind election expense (assuming the services are being provided in the election period) since a service is being provided for the benefit of the political party.

It is also important to note that such a contribution would be considered a "prohibited contribution" if the individual worker was paid by an organization or by another individual who is not normally resident in Manitoba (i.e. from outside of the province).

A.5.3. Campaign workers volunteering time

If an individual is volunteering on his or her own time (i.e. the individual is not getting paid or is using vacation time) such work is not considered a contribution or an expense but rather a volunteer service and does not have to be reported. The only exception is for services provided by a self-employed individual who normally sells or charges for the services provided. In this case the party must record a donation in kind contribution and a donation in kind election expense for the market value of the self-employed individual's services.

A.5.4. Summary table of treatment of costs related to campaign workers

Source of payment for the services of campaign workers	Election expenses (if services were provided during the election period)	Non-election expenses (if services were provided outside the election period)
1. Paid by campaign/party	Yes (Monetary)	Yes (Monetary)
2. Paid by another entity	Yes (Donation in Kind)	Yes (Donation in Kind)
3. Volunteer Services – No payment – Not a self-employed individual	No	No
4. Self-employed Individual	Yes (Donation in Kind)	Yes (Donation in Kind)

A.6. Expenses to operate a permanent office of a registered political party

The term "**Election expenses**" *does not include* reasonable expenses incurred in the operation of any permanent office of a registered political party, including salaries and wages paid to permanent staff members working in the office during the election period [s.1 "election expenses" (t)].

Reasonable expenses normally incurred to operate a permanent office would include ongoing expenses such as office rent, utilities, telephone, office equipment and salaries for employees working in the office. These expenses can be considered the base expenses incurred. Generally, election expenses are those expenses incurred in an election period as a result of an election that are over and above the base expenses. Base salaries for permanent staff members of a political party working in the office, therefore, are non-election expenses as these salaries would be paid regardless of an election was taking place. Overtime expenses, on the other hand, incurred for permanent staff (and other staff) during an election period as a result of the election would be incremental to base or ongoing salaries and thus would be considered election expenses.

Key Tip to Remember: While it is not determinative by itself, it can be helpful when assessing whether expenses are "election expenses" to consider whether expenses would have been incurred if there were no election.

The work location of permanent office staff may also be a factor in determining if the expenses of permanent office staff are election expenses. If a permanent office employee is working outside of the party office on a candidate's campaign during an election period, then it would not be reasonable to consider the nature of the regular salary to be related to the operation of the permanent office. Instead, since the employee's work is devoted to the campaign, it would seem more appropriate to consider the expenses as election expenses.

"Transferred resources" used during an election period are election expenses of the transferee [ss.50(4)].

Resources may have been transferred where a political party pays one of its employees to work in a candidate's campaign office and that employee is under the direction and control of the campaign. While it is true that there is a prohibition on transferring election expenses, it must be noted that there is a difference between transferring an expense [s.50(4)] and transferring resources used as election expenses [s.44(6)]. A party may transfer a resource (e.g. the services of an employee) to a candidate's campaign. For the time the employee is working for the candidate's campaign (in the candidate's campaign location), the campaign would report:

- A transfer received;
- An election expense for all of the employee's salary expense incurred in the election period (base salary and overtime); and

- A non-election expense for all of the employee's salary expense incurred outside of the election period (if the employee was in place at the candidate's campaign location prior to, or following the election).

A party's employee may be working on a candidate's campaign (in the candidate's campaign location) but still be working under the direction and control of the political party. In this situation it would be **the party, not the campaign**, which would report:

- An election expense for all of the employee's salary expense incurred in the election period (base salary and overtime); and
- A non-election expense for all of the employee's salary expense incurred outside of the election period (if the employee was in place at the candidate's campaign location prior to, or following the election).

B. Non-election expenses

Non-election expenses occur where goods or services used are:

- a) Used or consumed outside of an election period; or
- b) Specifically excluded from the definition of "election expenses".

Similar to election expenses, goods or services used that are non-election expenses are acquired in various ways, including:

- A cash purchase or a trade payable by the campaign;
- A donation in kind contribution received; or
- A transfer of goods and services received from the candidate's constituency association or political party.

Non-election expenses are not reimbursed; however, all such expenses must be recorded and reported.

The expenses incurred that relate to the following are specifically excluded from the definition of election expenses, however this is not an exhaustive list: [s.1 "election expenses" (r) – (bb)]:

- A leadership contest, or other conference or convention of a registered political party;
- Meetings to nominate candidates;
- Reasonable expenses incurred in the operation of any permanent office of a registered political party, including salaries and wages paid to permanent staff members working in the office during the election period;
- Auditor's fees;
- Reasonable child care expenses incurred by a candidate in order to enable the candidate to campaign in an election period;
- Reasonable expenses incurred by a disabled candidate in relation to a candidate's disability to enable the candidate to campaign in an election period;
- Volunteer labour, unless provided by a self-employed individual where the service provided is normally part of the individual's self-employed business;

- Volunteer chief financial officer, official agent, auditor, or legal counsel to a registered political party or candidate; and
- Goods or services used after 8 p.m. on Election Day (i.e. after the election period).

Examples of Non-Election Expenses:

- The value of the rent for the office of a candidate’s campaign in the pre-election period where the office was established before the election was called (writ day).
- Victory and thank-you celebrations held for campaign workers after 8 p.m. on Election Day (regardless of when food or refreshments may have been purchased).
- Newspaper advertising published before the election is called.
- Thank-you notices published after 8 p.m. on Election Day.

C. Transfers (sent)

A "**transfer**" means money, goods or services provided among registered political parties, constituency associations, endorsed candidates and leadership contestants, without compensation from the entity or person that receives the money, goods or services, and includes the market value of goods provided from a previous election [s.1].

Key points about transfers:

1. Transfers received are recorded as income.
2. Transfers sent are recorded in the same manner expenses.
3. Transfers are recorded on a cash basis and are not accrued.

Example: A candidate’s campaign has surplus funds and has decided to send some of the surplus funds to the candidate’s endorsing political party. The sending of the funds would be considered a transfer and treated as an expense.

Transfers are discussed in more detail in the section entitled *Income* under the subheading *Transfers*.

IV. Election expense limits

The amount of election expenses that may be incurred by the campaign is limited by the EFA. Specifically, there are limits on two categories of expenses:

1. Total Election Expenses; and
2. Total Advertising Expenses.

Each of these two limits will be discussed separately below. However, the method used to calculate each of the limits and the timing of when these limits are established is the same.

A. Total election expense limit

The total value of all election expenses incurred during an election period must not exceed the calculated maximum amount (i.e. the Expense or Spending Limit) [ss.50(1), 51(1)].

Key points to remember:

1. Election expenses incurred by an individual on behalf of a party or a candidate, with the knowledge and consent of the party or the candidate, must be included in the party or candidate's spending limit.
2. Any election expenses incurred by a candidate's constituency association must be included in a candidate's spending limit.
3. Advertising election expenses are included in both the Total Advertising Expense Limit and Total Election Expense Limit calculations.

The Total Advertising Expense Limit is a limit specifically on the advertising expenses incurred as part of the overall election expenses which are, in turn, limited by the Total Election Expense Limit. The advertising limit is not an additional limit permitting additional spending beyond the Total Election Expense Limit.

Election expense limits are determined using four factors:

- The number of registered voters in each electoral division (at the specific election)
- The per-voter dollar amount specified in the EFA
- Changes in the Winnipeg Consumer Price Index, and
- The size of an electoral division (in square miles) in the cases of the electoral divisions of Flin Flon and Rupertsland.

B. Allocation of election expenses, including advertising

The EFA **does not allow** a political party or a candidate to transfer, charge, or allocate election expenses to each other or to arrange a transaction or a series of transactions in order to do this [ss.50(4), 51(4)]. This provision exists to ensure that election expenses are applied against their respective spending limits.

Example: A party may not allocate the costs of its province-wide media campaign, in whole or in part, to any or all of its candidates' campaigns. On the other hand, it would not be an allocation of election expenses for a political party to purchase brochures and provide them to a candidate's campaign for use at the discretion of the candidate's campaign. The party could sell or transfer the brochures to the candidate's campaign and, in either event, the cost of the brochures used by the candidate's campaign would be an election expense of the candidate's campaign.

C. Advertising expenses and spending limit

C.1. Definition and components of advertising expense

"Advertising expenses" means money spent or liabilities incurred, and the value of donations in kind accepted, for advertising:

- a) In newspapers, magazines or other periodicals, or on the Internet,
- b) On radio or television, and
- c) On billboards, buses or other property normally used for commercial advertising [s.1].

Advertising expenses also includes direction production expenses.

Direct production expenses refers to all material and labour costs (or other similar service costs) that can be directly attributed to the cost of producing a specific advertisement. Material and labour costs incurred in the process of developing general themes or concepts that are not specific to a particular advertisement **would not** constitute a direct production expense. Direct production expenses associated with the development of advertising may come from sources such as:

- Advertising agencies performing work related to:
 - Strategic involvement/recommendations specific to a particular advertisement;
 - Project management (client service);
 - Art direction;
 - Design;
 - Copyright services;
 - Production management; and/or
 - Media planning or buying.
- Graphic design firms;
- Typesetting firms;
- Photographers or photo studios;
- Stock photography companies;
- Color houses (film output);
- Audio production houses;
- Video production houses;
- Talent (agency or direct pay);
- Printers – specific to outdoor, bus boards, transit;
- Website advertising designers.

Two other things to consider are that:

1. An advertisement relies on a medium (such as a newspaper or website) to deliver a message; and
2. Promotional expenses (which include signs, banners, brochures, leaflets, letters, cards, pamphlets, and handbills) are **not** considered to be advertising expenses and therefore, are not subject to the election period advertising spending limit.

With the above concepts in mind, the following examples should be considered.

Examples of costs considered to be advertising expenses:

1. The costs associated with placing an advertisement on a website.
2. The cost associated with placing a print advertisement (such as a meeting announcement) in a newspaper.

Examples of costs not considered to be advertising expenses:

1. The costs of operating/maintaining a website.
2. The costs associated with distribution a piece of promotional material with a newspaper (e.g. a flyer) would be considered promotional expenses rather than advertising expenses.

Critical note: During an election period, no person can charge a political entity, or an individual acting with the consent of a political entity, a rate for advertising that exceeds the lowest rate the person charges anyone else for the same amount of equivalent advertising space or time during that period [ss.78.2(1)].

C.2. Advertising election expense limit

- Campaigns are also specifically limited with respect to the amount of advertising expenses that they can incur in the election period.
- The Advertising Expense Limit is calculated on the basis of the same two factors as the total election expense limit (i.e. the per-voter dollar amount and the number of the registered voters on the voters list) and is calculated at the same five points in time.
- Similar to the total election expense limit, the minimum advertising expense limit will serve as the base amount for allowable advertising expenses. While subsequent calculations based on the revised or finals voters list may lead to increases in this spending limit, the final advertising spending limit will not fall below the base amount calculated.

Key point to remember: Advertising election expenses are included in both the Total Advertising Expense Limit and Total Election Expense Limit calculations.

- The Total Advertising Expense Limit is a limit specifically on the advertising expenses incurred as part of the overall election expenses which are, in turn, limited by the Total Election Expense Limit.
- The advertising limit is not an additional limit permitting additional spending beyond the Total Election Expense Limit.

C.3. Authorization of advertising and promotional material

If a political party, or leadership contestant or a candidate's campaign prints, publishes or distributes advertising or promotional material at any time of the year (i.e. both inside and outside of an election period) then s.48 and s.54.2(1) require that:

- The advertising or promotional material be authorized in writing, by the chief financial officer in the case of a party, or by the official agent in the case of a candidate's campaign; and that
- A public statement of the authorization appears with the advertising or promotional material.

The above requirements extend to any advertising done by a third party with the knowledge and consent of the party or the candidate's campaign.

The statement of authorization should be in a form similar to the following:

- Authorized by the Chief Financial Officer for *(party's name)*;
- Authorized by the Chief Financial Officer (if the full name of the party is evident on the material).
- Authorized by the Official Agent for *(candidate's name)*;
- Authorized by the Official Agent (if the full name of the candidate is evident on the material).

D. Expense limit calculations

The expense limits (for both Total Election Expenses and Advertising Expenses) are calculated and communicated to the official agents, candidates, and chief financial officers five times during a campaign.

The expense limits are calculated using the same formula:

Expense Limit = Per voter dollar rate x the number of voters on the voters list.

The per voter dollar rate is established by Elections Manitoba as of the writ day (i.e. the day the election is called). This rate is determined as follows [s.52]:

Per Voter Rate	=	Per-voter rate specified in the EFA [s.50, 51]	X	Consumer Price Index (CPI) for the City of Winnipeg in the second month preceding the month in which the writ is issued ----- CPI for Winnipeg in June 2008
Note: The CPI levels used for the purposes of this calculation are those published by Statistics Canada.				
Per voter rates specified in the EFA:				
Total election expense limit:				
<ol style="list-style-type: none"> 1. For candidates in electoral divisions with areas less than 30,000 square miles: \$2.72 per name on the voters list; or 2. For candidates in election divisions with areas of 30,000 square miles or more: \$4.33 per name on the voters list. 3. For political parties in a general election: \$1.79 per name on the voters lists for all electoral divisions in which the party endorses candidates. 4. For political parties in a by-election: \$3.22 per name on the voters list for the electoral division. 				
Total advertising expense limit:				
<ol style="list-style-type: none"> 1. For all candidates, regardless of the size of their electoral division: Total advertising expenses of a candidate are not to exceed \$0.56 per name on the voters list. 2. For political parties in a general election: \$0.92 per name on the voters lists for all electoral divisions in which the party endorses candidates. 3. For political parties in a by-election: \$1.61 per name on the voters list for the electoral division. 				

Each of the expense limits is calculated and communicated several times during a campaign. Changes in the expense limits are the result of differences in the number of voters on the various versions of the voters list used. The following tables summarize when the limits are calculated, the version of the voters list used in each instance, and the date upon which each limit calculation will be communicated.

In a fixed date election:

Limit calculation	Voters list used and date of determination
Minimum or base	Enumeration voters list. Established and communicated within three days of the end of the enumeration period.
Second	Revised voters list. Established and communicated within three days of the end of the revision period and prior to advance voting (approximately 10 days prior to election day).
Third	Final voters list. Established and communicated approximately 1 week after election day.

In a non-fixed date election:

Limit calculation	Voters list used and date of determination
Minimum or base	Final voters list in the preceding general election. Established and communicated within three days of Writ Day (i.e. the day the election is called).
Second	Preliminary voters list. Established and communicated within three days of the end of the enumeration period (approximately 10 days into the election).
Third	Revised voters list. Established and communicated within three days of the end of the revision period (approximately 17 days into the election).
Fourth	Final voters list. Established and communicated approximately 1 week after election day.

The Minimum or Base Limit calculated represents the lowest amount at which the particular spending limit may be set. If any of the subsequent calculations result in a higher figure, the spending limits will be revised upwards to this new limit; however, if subsequent calculations are lower than the base limit, no revision will take place.

E. Per diems

You should be aware that per diems paid to campaign workers **will not be eligible for reimbursement** (as an election expense) unless they can be supported with invoices or vouchers from the suppliers of the goods and/or services (e.g. an invoice from a hotel for lodging).

Only the actual amount of the expenditure to the vendor or supplier is eligible for reimbursement. Further, the actual amount of the expenditure to the vendor or supplier must be reported as an expense.

F. Penalties

Any contravention of either of the election spending limits could result in the following maximum fines: [ss.84(1), 84(2), 86]

- Candidate – \$5,000;
- Chief Financial Officer – \$5,000;
- Official Agent – \$5,000;
- Other Officer – \$5,000;
- Registered Political Party – \$50,000.

Further, an additional fine may be imposed of up to twice the amount of the overspending. [ss.84(3)]

V. Annual advertising expense limit in fixed date election years

In a year where there is a fixed date election, candidates and registered political parties are subject under the *EFA* to limits on the amount that can be spent on advertising outside of the election period. These limits differ from the election expense advertising limits discussed in the *Election Expense Limits* section of this guide.

The limit on advertising expenses incurred outside of an election period in a calendar year are as follows [ss.54.1(1)]:

1. Registered political parties – \$250,000; and
2. Candidates – \$6,000.

Advertising expenses is a defined term in the *EFA* [s.1] and is discussed in greater detail in the *Election Expense Limits* section of this Guide. However, it must be noted that in the year of a fixed date election, the definition of advertising expenses is expanded.

In the year of a fixed date election, the definition of *advertising expenses* “also includes money spent or liabilities incurred, and the value of donations in kind accepted, in respect of

- a) Posters, leaflets, letters, cards, signs and banners; and
- b) Any similar printed material, the purpose of which is to support or oppose, directly or indirectly, a registered political party or candidate; that a registered political party or candidate produces and distributes, if the material is distributed outside the election period in that year but does not include
- c) Material that is distributed
 - i) To individuals who hold memberships in the party, or
 - ii) At a conference, convention or meeting held by the party, or a constituency association or candidate of the party; or
- d) A commentary, letter to the editor or similar expression of opinion of a kind normally published without charge in a newspaper, magazine or other periodical publication [ss.54.1(6)].

The annual advertising expense limit is separate from and in addition to, the election period spending limit. Further, advertising expenses incurred using this limit may not be incurred during an election period [ss.54.1(3)]. In other words, a political entity may not “double up” the spending limits during an election. Election advertising costs may not be applied against the annual limit.

Included within a party’s annual limit are advertising expenses incurred outside of an election period by [ss.54.1(2)]:

- An individual on the party’s behalf with the party’s knowledge and consent;
- A constituency association of the party.

Similarly, included within a candidate’s annual limit are advertising expenses incurred by an individual on the candidate’s behalf and with his or her knowledge and consent [ss.54.1(2)].

Note: For candidates of a registered political party, a person becomes a candidate for the purposes of the EFA on the date he or she has been nominated by a constituency association of a registered political party, or when nomination papers have been filed with a Returning Officer during an election period, whichever is earlier. It is not unusual for constituency associations to nominate their candidates months in advance of an election. For the purposes of the EFA a person becomes a candidate when nominated by a constituency association.

Allowances paid under *The Legislative Assembly Act* for expenses incurred by a member of the Assembly or by the caucus of a political party are not advertising expenses for the purposes of the annual advertising spending limit [ss.54.1(5)].

A. Revised amount of annual advertising expense limit

At the beginning of each calendar year, the annual advertising spending limit will be adjusted for inflation (based on the ratio of CPI for Winnipeg at the beginning of the 2008 calendar year to CPI at the beginning of the current year – the year of adjustment) and Elections Manitoba will advise of the revised amount in *The Manitoba Gazette* [ss.54.1(4)].

B. Reporting

A registered political party must report annual advertising expenses on the party's annual financial statements separately from other expenses. The amount reported must include annual advertising expenses conducted by the party as well as advertising expenses conducted by individuals and constituency associations [s.59]. Since advertising expenditures incurred by candidates and by others on behalf of candidates are subject to the candidate limit, these expenses do not need to be included in the party advertising expense total (otherwise such expenditures would be effectively double counted). However, these expenditures must be reported separately on the party's annual financial statements (Form 920).

C. Authorization of annual advertisements [s.54.2]

A registered political party must not conduct annual advertising outside of an election period unless the advertising is authorized by the party's chief financial officer, and displays the authorization. A proper authorization is expressly required for the advertisements of registered political parties. Other advertisements that must be included in a registered political party's annual spending limit (i.e. where a candidate or constituency association advertises outside of the election period) should also display an authorization. A candidate's advertising should display the authorization of the candidate's official agent and constituency association advertising should display the authorization of the person responsible for the finances of the constituency association. Authorizations assist registered political parties in tracking advertisements that must be included in their annual limits.

D. Penalties

Overspending the annual advertising spending limit could result in the following maximum fines: [ss.84(1), 86]

- Registered Political Party – \$50,000;
- Chief Financial Officer – \$5,000;
- Other responsible officers of a registered political party – \$5,000;
- Official Agent – \$5,000.

Further, an additional fine may be imposed of up to twice the amount of the overspending. [ss.84(3)].

VI. Reimbursement of election expenses

An accurate calculation and recording of election expenses is important not only for public disclosure purposes, but for determining appropriate amounts to be reimbursed by the public treasury to registered political parties and candidates. Auditors should be aware of the additional risk that exists with respect to overstatement of election expenses, and subsequent reimbursement of public money. Election expenses that have not been adequately supported or substantiated are not eligible for reimbursement.

A. Reimbursement to registered political party

A registered political party is entitled to receive a partial reimbursement of election expenses incurred during an election period where the total votes for candidates endorsed by the party equals 10% or more of all the valid votes cast in the province during the election [ss.71(1)]. A similar threshold exists for by-elections. The amount of the reimbursement is 50% of the lesser of

1. The total election expense limit of the party; and
2. The actual election expenses incurred (excluding donations in kind) [ss.71(2), 71(3)].

The amount of reimbursement of election expenses calculated above for a registered political party is reduced \$1 for every \$1 by which the greater of the actual election expenses or the actual election advertising expenses, exceeds the permitted spending limits [ss.73(1)].

The reimbursement is paid directly to the chief financial officer of the registered political party [ss.71(3)].

B. Reimbursement to candidate

A candidate may be entitled to receive a partial reimbursement of the election expenses (and full reimbursement for some non-election expenses) that were incurred by his or her campaign. In order for the candidate to be eligible for this reimbursement he or she **must receive at least 10% of all valid votes** cast in the candidate's electoral division [ss.71(1)].

Remember: Election expenses are those expenses incurred during the election period. Thus, only expenses incurred during this period are eligible for reimbursement.

Further, even if the campaign is eligible to receive reimbursement for election expenses incurred, reimbursement may not be paid in relation to specific election expenses if those expenses have not been adequately supported or documented or they are not reasonable [ss.61(2)].

B.1. Expenses eligible for 50% reimbursement

Candidate's eligible for reimbursement may receive as reimbursement 50% of the lesser of:

1. The total actual election expenses incurred (**excluding donations in kind**); and
2. The total election expense limit of the candidate [s.71(2)(b)].

It should be noted that when a candidate's campaign has exceeded an allowed spending limit, the amount of reimbursement that the candidate may receive for election expenses incurred will be reduced by \$1 for every \$1 of overspending [ss.73(1)].

B.2. Expenses eligible for 100% reimbursement

As was noted in the subsection *Non-Election Expenses* in the section entitled *Expenses*, reasonable expenses incurred in relation to a disability or child care to enable a candidate to campaign in an election are specifically excluded from the definition of "election expenses". These expenses are excluded so as not to unfairly inflate the election expenses of this candidate with respect to the candidate's election expense limit. However, the *EFA* allows for a 100% reimbursement for these reasonable expenses, over and above the election expense reimbursement [ss.71(2)(a)].

B.3. Calculation of candidate's surplus or deficit [s.75(1)]

The calculation of the candidate's surplus or deficit is defined under the *EFA* and determines *to whom* the candidate's reimbursement is paid. Depending on the level of surplus or deficit, it is possible that the candidate's campaign will not receive all of the reimbursement that would be calculated based on the candidate's eligible election expenses. Rather, some or all of a candidate's reimbursement will be paid to a candidate's political party, or not paid at all in the case of an independent candidate. The surplus or deficit calculation also determines, where there is a surplus, the amount that must be paid to a candidate's registered political party, or to the Minister of Finance in the case of an independent candidate.

Note: This calculation does not impact the reimbursement of election expenses for a registered political party.

Generally, the surplus or deficit calculation for these purposes is a revised net income calculation, after excluding:

1. Donation in kind contributions and donation in kind expenses;
2. Transfer income and transfer expenses in the form of goods and services;
3. Election expenses that result from goods and services transferred; and
4. Most non-election expenses.

This calculation is performed as follows [ss.75(1)]:

Surplus/(deficit)

Less:	Total gross income for candidacy period Donation in kind contributions Transfer income from goods and services
Subtotal:	Adjusted gross income
Less:	Adjusted election expenses (<i>from below</i>) Loan interest (close of polls to end of the filing deadline) Bank charges (close of polls to end of the filing deadline) Transfers (monetary)
Equals:	Surplus/(deficit)

Adjusted Election Expenses:

Less:	Total election expenses Donation in kind election expenses Election expenses resulting from transfers of goods or services received (and used during election period)
Equals:	Adjusted election expenses

Upon calculating the candidate's surplus or deficit under this part of the *EFA*, the following rules apply to the payment of the surplus and/or reimbursement amounts.

B.3.1. Reimbursement in a surplus situation [ss.75(2), 75(3)]

If the candidate is endorsed by a registered political party: The candidate's official agent is required to pay the surplus amount to the chief financial officer of the party. Further, all reimbursement of election expenses must also be paid directly to the chief financial officer.

If the candidate is not endorsed by a registered political party (i.e. is an independent candidate): The candidate's official agent is required to pay the surplus amount to the CEO to be held in trust for future use. Reimbursements will not be paid out to the candidate's campaign but rather will also be held in trust by the CEO. If the candidate chooses to run again in the next election (general or by-election) then the amount of the unpaid reimbursement held in trust, and the amount of accumulated interest on this trust amount will be distributed to the candidate. (If the candidate does not run in the following election, the funds will be transferred to the Minister of Finance to be added to the Consolidated Fund) [ss.73.1(4), 73.1(6)].

B.3.2. Reimbursement in a deficit situation

If the candidate is endorsed by a registered political party [ss.73.3(2), 75(2)]: The reimbursement of election expenses will be paid directly to the official agent of the candidate up to and including the amount of the deficit. If any amount of the reimbursement exceeds the deficit, this amount is to be paid directly to the chief financial officer of the registered political party.

If the candidate is not endorsed by a registered political party (i.e. is an independent candidate): The reimbursement of election expenses will be paid directly to the official agent of the candidate up to and including the amount of the deficit. Excess reimbursement is treated in the same way as reimbursement in a surplus situation. That is, the excess amount will be retained by the CEO to be held in trust for the candidate. This excess amount and accumulated interest will be paid out to the candidate if he or she runs in the following election. However, if he or she does not run, then the amount in trust is turned over to the Minister of Finance to be paid into the Consolidated Fund [ss.73.1(4), 73.1(6), 77.1(1), 77.1(3)].

C. Campaign deficit

This deficit amount is different from the candidate's deficit amount noted earlier for the calculation of potential reimbursement. Campaign Deficit refers to the amount of money that is still owed by the campaign after all reimbursement has been received. If such a deficit exists at year end, your candidate must report this deficit amount to the CEO within 30 days of the end of the year by submitting Form 925.

D. First use of reimbursement

When reimbursement funds are received, these funds must first be used to reduce or eliminate any remaining liabilities that were incurred by the candidate during the election, before the funds can be used for any other purpose [s.73.3(2)].

VII. Annual allowance for registered political parties

The *EFA* entitles registered political parties to receive an annual allowance out of the Consolidated Fund to assist with expenses for the parties' administration and functions. The allowance is essentially a reimbursement of expenses incurred by a party for its functions and administration. In order to receive the allowance, when submitting its annual audited statement, a registered political party must also file a statement with the Chief Electoral Officer which specifies whether the party wishes to receive the allowance for the period covered by the audited statement.

A. Determining the annual allowance

At its most basic level, the annual allowance is calculated according to the following formula [ss.70.2(2), s.70.3]:

The lesser of:

- a) the lesser of:
 1. \$1.25 x Number of valid votes received by each candidate endorsed by the party in the most recent general election (see note below)
 2. \$250,000
- b) The total expenses paid for the party's administration and functions during the year, according to the audited statement.

Note: During years in which a general election is held, the number of valid votes used for the allowance calculation as shown above, is determined by prorating the valid votes received in the current and preceding general elections. The formula is as follows [ss.70.2(3)]:

$$\text{Valid Votes Received} = (A \times B/E) + (C \times D/E)$$

Where:

- A:** is the number of valid votes received in the current general election
- B:** is the number of days in the year after to the current general election
- C:** is the number of valid votes received in the preceding general election
- D:** is the number of days in year prior to and included the current general election
- E:** the number of days in the year (365 or 366)

Regardless of the amount calculated using the above formula, the *EFA* has established minimum annual allowance levels for all registered political parties. These minimum levels are as follows:

- Registered parties with at least one member in the Assembly – \$10,000; and
- All other registered political parties – \$600 [ss.70.2(4)].

Example – Part A: Since the last general election two years ago, ABC Political Party ("ABC") has had 18 elected members in the Assembly. In the last general election, ABC received 180,000 valid votes.

ABC has just filed its audited annual statement for the current year (during which there was no general election) which showed that it had incurred \$200,000 for administration and party functions during the year.

Using the formula:

Lesser of:	
a) Lesser of:	
i) \$1.25 x 180,000 =	\$ 225,000
ii) Maximum value	<u>250,000</u>
	225,000
b) Paid expenses for administration and functions	200,000
Annual Allowance per formula	<u><u>\$ 200,000</u></u>

Based on the formula, ABC will received \$200,000 as its annual allowance.

Example – Part B: It is one year later and as a result of success in the election held on June 2nd of this year (a leap year), ABC’s candidates received a total of 255,000 valid votes, winning a total of 33 seats in the Assembly.

According to the audited statement filed by ABC’s CFO last week, ABC incurred \$420,000 for administration and party functions during the year.

Under the EFA, ABC will be entitled to receive the maximum annual allowance of \$250,000. The calculation of this allowance is demonstrated below.

Prorated Valid Votes:	
255,000 Votes x 212 / 366 days	147,705
180,000 Votes x 154 / 366 days	<u>75,738</u>
<i>Prorated Valid Votes</i>	<u><u>223,443</u></u>
Lesser of:	
a) Lesser of:	
i) \$1.25 x 223,443 =	\$ 279,303
ii) Maximum value	<u>250,000</u>
	250,000
b) Paid expenses for administration and functions	420,000
Annual Allowance per formula	<u><u>\$ 250,000</u></u>

B. Certification of the annual allowance

The annual allowance to which a registered political party is entitled will be certified by the Chief Electoral Officer and made public within one month of the audited annual statement being filed with Elections Manitoba. The allowance payment will be made as soon as reasonably practicable after certification [ss.70.4(1)].

This timeline for certification and payment will only be postponed if the filed annual statement submitted by the party does not comply with the requirements of the *EFA* [ss.70.4(2)].

VIII. Loans

The *EFA* sets out specific requirements regarding the lending of money. Candidates, leadership contestants, constituency associations, and registered political parties may all borrow funds to finance their activities. However, the following limitations have been established regarding the lending/borrowing of funds by political entities:

1. Candidates cannot lend to any person or organization (including their constituency association or party) money that has been raised for the purposes of an election [s.44.3];
2. A leadership contestant may not loan money that has been raised for the purposes of the leadership contest [s.44.3.1];
3. A constituency association may only lend money to its nominated candidate or its registered political party [s.44.4];
4. The maximum period of any loan made to a *political entity* (including refinancing loans) is 24 months [ss.44.1(3.1)]; and
5. No person or organization shall, in a single year, provide a loan to a political entity in excess of \$3,000 [s.44.1(3.2)].

It should be noted that limitations 4 and 5 above are not applicable to loans made from financial institutions, registered political parties, or constituency associations [ss.44.1(3.3)].

Where an eligible loan is entered into, which includes lines of credit and financial institution overdrafts, all such loan agreements must [ss.44.2(1)]:

1. Be in writing;
2. Set out the amount of the loan;
3. Set out the annual rate of interest and the term of the loan;
4. Include the name, address and signature of the lender;
5. Include the name and address of any guarantors, or an indication that there were no guarantors;
6. Include the details of any agreements made to assign any portion of the election expense reimbursement; and
7. Be signed by the borrower authorized to act on behalf of the entity (i.e. the Chief Financial Officer, a financial officer, or in the case of a candidate, the Official Agent or the candidate him or herself).

A copy of all loan agreements (including line of credit or overdraft agreements) must be filed with the Chief Electoral Officer **immediately after they are made**. Information regarding these loans is disclosed to the public by the CEO, except where the loan is made by a financial institution or is for an amount less than \$250 [ss. 44.2(1)(c), 44.2(1.1), 44.2(1.2)].

Loan proceeds received must be deposited into the candidate's, constituency association's, or registered political party's bank account.

A. Loans deemed to be contributions

Loan proceeds may be received to finance election or other expenses. Such loans are generally not contributions. However, there are circumstances where a loan results in, or is deemed to be a contribution. Loans deemed to be contributions are not eligible for tax receipts [ss.44.1(6)]. Where any of the following deeming provisions apply, and the deemed contribution is from a corporation, union, or other prohibited contributor, a violation of the *EFA* has occurred.

A.1. Loans made at low rates of interest [ss.44.1(2)]

A contribution results if a loan is given at a rate of interest that is less than the prime rate of the government's principal banker at the time the loan's interest rate was set. The applicable prime rate of interest and the effective date may be obtained from Elections Manitoba or its website.

The deemed contribution is equal to the difference between the amount of interest that would be payable at the prime rate and the amount of interest that is actually payable.

A.2. Uncollected loans [ss.44.1(4)]

A loan becomes a contribution if it is not paid within 6 months after becoming due and the creditor has not commenced legal proceedings to collect the debt. An auditor is required to report on a period that ends 2 months after the election and may not know at that time whether a loan will remain unpaid for 6 months. However, at the end of the candidacy period the auditor can assess whether there is a reasonable expectation that the loan will be paid (see also *Accounting Guide – Accounting For Purposes of The EFA*, Section 670, "Loans Payable").

A.3. Loans settled by third parties [ss.44.1(3)]

Where someone other than the debtor makes a payment on a loan to the candidate, leadership contestant, constituency association, or registered political party, that payment is deemed to be a contribution.

B. Loans deemed to be transfers [s.44.5]

The following are examples of loans that are deemed to be transfers:

B.1. Loans made at low rates of interest

Where a loan from a registered political party or constituency association is at an interest rate that is lower than the prime rate of the government's principal banker at the time the interest rate on the loan is determined, the difference between the amount of interest that would be payable at the prime rate and the amount of interest that is actually payable in accordance with the loan agreement, is a deemed transfer [ss.44.5(a)].

Example: ABC Party loaned its candidate \$10,000 for her election campaign. ABC Party charged the candidate's campaign 5% interest at a time when the prime rate of interest was 7%. The loan was outstanding for 6 months. The amount of the interest payable on the loan was \$250 ($\$10,000 \times 5\% \times 6 \text{ months}/12 \text{ months}$). The amount of interest that would have been payable at the prime rate was \$350 ($\$10,000 \times 7\% \times 6 \text{ months}/12 \text{ months}$). The difference of \$100 ($\$350 - \250) is a deemed transfer.

B.2. Uncollected loans

A loan from a registered political party or constituency association that remains unpaid 12 months after it becomes due is deemed to be a transfer [ss.44.5(c)].

Note: It is important that a loan from a registered political party to a leadership contestant is repaid. If not repaid it could be deemed as a transfer and transfers to leadership contestants are not permitted.

B.3. Loans settled by third parties

Where a payment on a loan is not made by the debtor but rather by a candidate, constituency association, or registered political party, that payment is deemed to be a transfer [ss.44.5(b)].

C. Reporting for loans outstanding

Every year that the loan balance is outstanding, information regarding the balance remaining unpaid must be provided to the CEO with the financial statements filed by constituency associations, or registered political parties (i.e. Forms 920, 921, 922, 924, 947), along with a copy of the loan agreement [ss.44.2(2)].

In addition, where a loan to a candidate or a leadership contestant remains outstanding at the end of a year, and is \$250 or more, the candidate must report the balance within 30 days of the end of the year to the CEO [ss.44.2(2)]. The loan agreement does not have to be filed again.

IX. Tax receipts

“Tax receipt” is a defined term under the *EFA* and means a receipt issued for income tax purposes [s.1].

A tax receipt is similar to a charitable donation receipt; if you have one you can get a credit against the tax you have to pay on your income tax return. An individual making a contribution to a *registered* candidate may be issued a tax receipt for the amount of the contribution so that the individual can claim an income tax credit. If you want to know how much may be claimed see Appendix C – Manitoba Tax Credit Program.

- Only political parties and candidates *registered* with the Chief Electoral Officer may issue tax receipts [ss.32(1), 32(2)].
- Constituency associations may not issue tax receipts for contributions to the constituency association [s.34] or for contributions that are made to individuals contesting a constituency association nomination which are deemed to be contributions to the constituency association [ss.41(5)].
- Leadership contestants also may not issue income tax receipts for contributions to the leadership contestant [s.33.1].

For a registered political party, only the chief financial officer (or deputy appointed under s.8 of the *EFA*) may issue tax receipts whereas for a candidate, only the official agent (or deputy appointed under s.8 of the *EFA*) may issue tax receipts [ss.33(1)].

Tax receipts may only be issued for contributions received in the form of money, cheque, or similar instrument. For contributions of this type, a tax receipt must be issued for every eligible contribution in excess of \$10 [s.35] but they may be issued for all monetary contributions regardless of the amount. Since all cash contributions have to be deposited into the campaign bank account, each tax receipt should also be supported by a deposit slip(s) [ss.10.1(1)].

A tax receipt **may not** be issued for:

- a) A donation in kind contribution [ss.36(2)];
- b) A deemed contribution as a result of a loan (see *Accounting Guide – Accounting For Purposes of the Elections Finances Act*, Section 670, “Loans Payable” [ss.44.1(6)]);
- c) A transfer or deemed transfer (because this does not meet the definition of a contribution) [s.44(5)]; or
- d) A contribution to a candidate outside of the candidate's candidacy period [s.29 and 35].

A. Reconciliation of tax receipts – candidates

Elections Manitoba provides booklets of pre-numbered tax receipts to all registered candidates. The candidate's financial statement filed with the CEO must include a reconciliation of all tax receipts. This reconciliation is prepared on Schedule 5 of Form 922 and includes the following information:

- a) Total number of tax receipts received from Elections Manitoba;
- b) Total number of tax receipts issued to contributors;
- c) Total number of voided or cancelled tax receipts; and
- d) Total number of unused tax receipts.

In addition to a copy of every issued tax receipt, all three copies of unused or voided receipts must be returned to Elections Manitoba.

Appendix A – Contribution limits clarifications

I. Examples of contributions

- Services provided at no charge by a self employed individual if the services are normally sold or charged for by the individual [s.1 "donation in kind"].
- Contributions to individuals contesting a constituency association candidacy nomination are deemed to be contributions to the constituency association [s.41(5)].
- Expenses incurred by individuals on behalf of and with the knowledge and consent of candidates, political parties and constituency associations [s.1 "contribution", 40(2), 41, 50(1), 51(1)].
- Where a payment on a loan is made by someone other than the debtor, a donation in kind contribution is deemed to have been made [s.44.1(3)].
- Where loans have been uncollected, unpaid, or forgiven the lender, in some cases, is deemed to have made a permitted contribution [s.44.1(4)].
- Membership fees are contributions [s.1"contribution"].
- 75% of the ticket price of a fund raising function where the ticket price is \$25 or more, or where multiple tickets are purchased for one fund raising function totalling \$75 or more [ss.38(2), 38(3)].
- Net profit on a sale of merchandise (i.e. the price less the acquisition cost of the merchandise) where the individual items have a selling price of \$25 or more, or where multiples of the same item (with a unit price less than \$25) are purchased for total proceeds greater than \$75 [ss.38.1(1), 38.1(2)].

II. Examples of prohibited contributions

- Money, goods, or services provided from federal political parties, federal riding associations, and political organizations in other jurisdictions are prohibited contributions [s.1"organization"].
- Services of an employee provided by a prohibited contributor [s.1"donation in kind"].
- Expenses incurred by organizations (other than a candidate's political party or constituency association) on behalf of and with the knowledge and consent of candidates, political parties and constituency associations [s.1"contribution", s.1 "organization", 41, 50(1), 51(1)].
- A website provided to a registered political party by a web development company at no charge (the company will have provided a good or service to or for the benefit of the political party which is essentially the definition of a donation in kind contribution).
- Where goods or services are provided by a prohibited contributor at a price below market value, a donation in kind contribution has been made to the extent that the market value exceeds the price charged [s.40(2)].

Note: Prohibited contributions to an entity such as a provincial political party would include expenses incurred by or on behalf of the provincial party by a federal political party or a federal riding association. The sharing of goods or services between a provincial and a federal political party may not meet the requirements of The Elections Finances Act (EFA) unless the expenses of the provincial party can be determined with certainty and are supportable. Allocation of shared expenses, as being federal or provincial, based on a general guideline would not be sufficient to meet the requirements of the EFA.

III. Examples of non-contributions

- A service provided without compensation by an individual outside his or her working hours unless he or she is self-employed and normally sells or otherwise charges for the services [s.1 "donation in kind"].
- A candidate on paid leave under a collective or other employment agreement is not a contribution [s.1 "contribution" "(b)"].
- The services of a person who acts without compensation as a chief financial officer, auditor, or an official agent or legal counsel to a candidate or registered political party [s.1 "donation in kind"].
- A fund raising function ticket purchased where the individual ticket price is less than \$25 is not a contribution [s.38(3)].
- Multiple fund raising function tickets purchased for a fund raising function totalling less than \$75 where the individual ticket price is less than \$25 is not a contribution [s.38(3)].
- A sale of a single item of merchandise where the price of the item is less than \$25 is not a contribution [s.38.1(2)].
- When more than one of the same item of merchandise is sold and the total proceeds of the sale are less than \$75, there is no contribution [s.38.1(2)].

IV. Issues related to the annual limits on contributions [s.41(1.1)]

The timing of when a contribution is recognized could have a significant impact on an individual's compliance with the \$3,000 contribution limit, especially in instances where a contribution is "in-transit" at the time a new calendar year arrives. **The date of contribution is the date of payment by a contributor.** Generally, the date of payment is the date that a contribution is delivered to an entity (i.e. a registered political party, candidate, constituency association, or leadership candidate) or an entity's recognized agent. However, the general rule will not apply in the following circumstances:

- In the case of a post-dated cheque, the indicated future date is the contribution date.
- Where a contributor mails a cheque the contribution date would be the date that the contribution was delivered to Canada Post (assuming it was not a post-dated cheque). It would be similar if the contribution was sent via courier. Where a contribution is "in transit", it is advisable to keep records supporting the date of contribution (such as post-markings from Canada Post, courier vouchers, or signed contributor declarations).

Examples that illustrate the contribution date:

- If a contributor gives cash to a representative of a registered political party on March 15th, the contribution date is March 15th.
- If a contributor gives a cheque to a representative of a registered political party on March 15th and the cheque is dated for the same day, the contribution date is March 15th. This is true, even if the cheque is forwarded to the party and does not arrive until April 2nd and/or is not cashed on April 10th.
- If a contributor mails a cheque on December 20th (dated December 20th); the cheque arrives on January 4th of the following year; and the cheque is deposited on January 12th; the contribution date will still be December 20th as that is the date that the payment was made.
- If a contributor mails a cheque on December 20th; the cheque arrives on January 4th of the following year; and the cheque is post-dated for January 12th; the contribution date will be January 12th.

Note: No contribution has been made if a cheque is not honoured on presentation (i.e. it has been returned marked "Not Sufficient Funds" or "Payment Stopped" or something of similar effect).

V. Identifying contributors and disclosing contributions [s.10(4)(b.1), 68(3)]

Recipient entities must always know and be able to identify the source of a contribution otherwise the contribution cannot be accepted and used [s.42]. There are 2 exceptions:

- Cash contributions of \$10 or less where the contributor is not known (contribution amount must still be recorded but not the identity of contributor).
- Individuals normally resident in Manitoba (and only such individuals) may make two donation in kind contributions of less than \$25 in a year to each candidate, constituency association, registered political party or leadership contestant without the contributions having to be recorded under the Act. A third such contribution by an individual in a year, regardless of value, must be recorded [s.40.1(1)]. What this means is that the political entities must keep track of the number of donation in kind contributions of less than \$25 made by a single individual in a year to know when the threshold of two has been reached.

Generally, determining the identity of the contributor will be straightforward if the contribution is made in the form of a cheque. The contributor will generally be the owner of the financial account on which the cheque was drawn.

Note: A contribution made with a cheque issued from a corporate bank account, even if done so at the instruction of a sole shareholder, would be a corporate contribution and would be prohibited.

The only exception to this general rule is if the contribution is drawn from the financial account of a sole proprietorship. Sole proprietorships and the individuals who own them are legally only one entity. Therefore, a contribution made with a cheque drawn on a sole proprietorship financial account would be a contribution of the individual who owns the sole proprietorship and would be:

- a) Applied against the individual's annual contribution limit; and
- b) Disclosed as the individual's contribution.

Nevertheless, it may be difficult to determine the legal structure of a business operation (i.e. partnership, sole proprietorship). Contributions made by cheque should only be accepted if the cheque is drawn from a personal account. **Entities must always know the identity of a contributor before a contribution may be accepted.** A contributor's identity should not be assumed.

There may be a concern with identifying a contributor if a personal cheque is received that drawn on a joint account. In such a case, generally, the contribution is considered to be from the person who signed the cheque. Additional written instructions are required describing the contributions made per person if the cheque represents a contribution from more than one contributor. You should try to obtain written instructions from the contributors before cashing the cheque. Further, it would be beneficial to keep a photocopy of the cheque in situations where written instructions have been provided.

Note:

1. It is critical that those receiving contributions clearly identify all contributors and the dates of contributions.
2. It is also important that the contributor's signatures are obtained in the contribution record when a cash contribution received is greater than \$100.

VI. Returning contributions [s.41(2), 41(3), 42]

No person may solicit or knowingly accept a prohibited contribution and such a contribution must be returned. The Act specifies that contributions must not be accepted and must be returned in the following circumstances:

- Anonymous contributions of more than \$10 except for some donations in kind of less than \$25 as outlined in s.40.1(1);
- Individuals not using their own resources when contributing;
- Contributions that are prohibited by source (i.e. contributor is not an individual normally resident in Manitoba); and
- Contributions that are prohibited by amount (i.e. in excess of \$3,000).

A political party should have its own internal records of amounts contributed to date to the party for each contributor (as should candidates and constituency associations). To protect contributors from over contributing, a political party may wish to have contribution reporting systems in place between the political party and its candidates and constituency associations. Also, entities should review contributions further where it is suspected that a contribution is from a prohibited contributor such as an organization or from an individual with an address outside of Manitoba. If a prohibited contribution is received it must be returned immediately. It may be that despite the entity's best efforts a prohibited contribution is accepted. The circumstances of each situation will be considered.

Prohibited contributions that are accepted must be returned in the reverse order they are received (i.e. the last contribution received must be the first returned).

Example: A contributor may give \$2,500 to a candidate and later in the same year give \$1,000 to a registered political party. The political party, upon learning of the prohibited contribution, is required to return \$500 to the contributor.

In the above example, the registered political party would likely become aware of the prohibited contribution as a result of Elections Manitoba reviewing the records of all contributions made. Although the political party has a responsibility to return the contribution, in this example, the issue of an individual contributing in excess of the \$3,000 limit is a separate matter which would be reviewed by Elections Manitoba.

If a contribution is not accepted by an entity (i.e. deposited and/or used) and is returned within a reasonable period of time, no contribution is considered to have been made.

Appendix B – Subsidy to consult auditor on record keeping

If an official agent or a chief financial officer would like to consult with his or her entity's auditor with respect to the development of the entity's record keeping system, a subsidy may be available to the auditor to pay for some of this time. Elections Manitoba may authorize a payment up to \$500 to subsidize the auditor's costs. This subsidy is in addition to, and is separate from, the subsidy of \$1,500 paid for audit services. This additional subsidy is **not** is not an election expense for the campaign.

This subsidy is to assist the official agent or chief financial officer in planning an appropriate accounting and record keeping system. An appropriate accounting and record keeping system will significantly assist in the production of a complete and accurate set of financial statements (Forms 920, 921, or 922) that is in accordance with the accounting requirements of the of *The Elections Finances Act*. A well designed record keeping system may also be of some benefit to the external auditor in the process of performing his or her audit of the entity's financial statements.

The auditor is not permitted to do the actual record keeping since he or she must audit the financial statement however he or she may provide advice and suggestions to the agent or officer with regards to the system design.

In order to qualify for this payment, Elections Manitoba requires that auditors do the following:

1. Meet with the official agent or chief financial officer shortly after being appointed auditor and perform the following:
 - Provide a basic overview of the accounting requirements of *The Elections Finances Act* (EFA) and the Accounting Guide – Accounting for the Purposes of *The Elections Finances Act*.
 - Discuss the specific EFA accounting requirements and accounting recommendations concerning:
 - Prohibited contributions (source and amount);
 - Tax receipt requirements and reporting;
 - Election vs. non-election expenses;
 - Overall spending limits;
 - Advertising spending limits;
 - Definition of advertising expenses;
 - Allocation of expense restrictions;
 - Required inventory counts;
 - Reporting of inventory;
 - Reporting of capital assets; and
 - Reporting of accounts payable.

- Evaluate the accounting system to ensure that it will provide:
 - A suitable system to maintain an organized accounting system;
 - An appropriate audit trail for expenses and contributions;
 - Adequate controls to ensure that prohibited contributions are not received;
 - Adequate controls to ensure that the overall spending limit is not exceeded; and
 - Adequate controls to ensure that the advertising spending limit is not exceeded.
 - Discuss the importance of tracking donations in kind and evaluate the system designed to track and account for donations in kind.
2. Meet with the official agent early in the election period to assess the official agent's record keeping and accounting system and to make recommendations where necessary.

To qualify for the subsidy, the auditor must send an invoice directly to Elections Manitoba with a signed confirmation that the aforementioned services were performed, along with the number of hours incurred in this capacity. An invoice that is submitted without this information will not be paid.

Appendix C – Manitoba tax credit program

Since 1980, contributions to registered political parties and registered candidates have been eligible for a political contribution tax credit.

Subsection 4.11(1) of The Income Tax Act (Manitoba) states that an individual's political contribution tax credit for a taxation year ending after 2004 is the lesser of \$650 and the amount determined according to the following table:

Total contributions (T)	Political Contribution Credit (PCC)
\$400 or less	$PCC = \$0.75 \times T$
More than \$400 but not more than \$750.	$PCC = \$300 + (T - \$400)/2$
More than \$750	$PCC = \$475 + (T - \$750)/3$

According to the tax credit calculation schedule above, the maximum provincial tax credit of \$650 is achieved with a contribution of \$1,275. Any contributions made beyond this amount in a single year will not result in any further tax credits for the contributor.

Subsection 4.11(2) of The Income Tax Act (Manitoba) requires that for an amount to be included for a taxation year in the total contributions amounts referred to above:

1. The amounts must be contributed in a form other than a donation in kind (i.e. a monetary or cash contribution) in the year by the individual to a registered political party or registered candidate; and
2. The payment of the amounts must be proven by filing a receipt containing the required information and signature of the chief financial officer of the registered political party or the official agent of the candidate (depending on the recipient of the contribution).

Appendix D – Travel/mileage

In order for a candidate to claim automobile travel expenses as reimbursable election expenses, the expenses must be supported by valid gas receipts from a commercial gasoline vendor. Documentation of a per diem or mileage allowance provided to an individual is not considered to be valid evidence of the expense incurred.

In order to provide properly supported records for automobile travel expenses claimed, the campaign should retain all gas receipts for fuel purchased during the candidacy period.

The calculation of the amounts that should be reported as election and non-election expenses should be completed in two steps:

Step 1: All gas receipts should be divided between election and non-election periods according to the dates on the gas receipts.

Step 2: All gas receipts dated within the election period should be allocated between campaign and personal expenses based on the estimated proportion of mileage attributable to campaign travel. (Please note that the reasonability of the estimated campaign proportion will be assessed by Elections Manitoba.)

All gas receipts, in addition to a statement declaring the estimated proportion of total mileage attributable to campaign purposes, must be submitted to Elections Manitoba along with the candidate's Form 922.

Please note: Mileage logs can be used to separate gas expenses between personal and campaign travel. However, mileage logs alone do not qualify as sufficient documentation for reimbursement.

Unacceptable submissions

Only the value of fuel is an eligible reimbursable election expense. Failure to provide gas receipts at all will result in the claimed expenses being deemed as unsupported. No reimbursement will be provided for such expenses [s.61(2)].