

# Legislative reference guide for Chief Financial Officers

The Elections Finances Act (Manitoba)

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

January 2010



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# About this guide

*The Legislative Reference Guide For Chief Financial Officers* has been written with the help of information from interviews conducted with participants in the electoral process, including representatives of political parties. The Guide helps to explain some of the important concepts of *The Elections Finances Act (EFA)* including responsibilities of a chief financial officer for a registered political party.

## **Checklists:**

Checklists have been provided that breakdown the responsibilities of a chief financial officer into manageable and appropriate sections. These checklists will help you to identify what is expected and required of you at various points in time and with respect to various aspects of your position. Further, these checklists will provide a summary of the critical EFA topics from the perspective of a CFO.

## **Reference material:**

The majority of the content of this guide consists of reference material on specific concepts and requirements of the EFA. Depending on your existing level of knowledge and experience as a CFO, you may not need to read every section of this manual in depth. However, it is strongly recommended that you review each section to identify any concepts which may be unfamiliar to you.

**Please note:** This guide does not take precedence over *The Elections Finances Act* and should be read in conjunction with the Act.

The Guide, in some cases, provides only general information which may or may not be useful for a particular circumstance. You are strongly advised to request an interpretation where clarification is needed. Requests should be in writing and should include sufficient details in order that a specific response may be provided.

This Guide contains only limited information on leadership contests.



# Checklist

## Appointment of Chief Financial Officer (CFO)

- Every registered political party must appoint a CFO. A candidate is not eligible to be appointed. [ss.7(1), 8.1(1)].
- Upon appointment of a CFO, the leader of the registered political party must notify Elections Manitoba in writing of the name and address of the CFO, and submit to Elections Manitoba the CFO's written consent to act in that capacity (Form 901) [ss.7(3)].
- A deputy financial officer may be appointed to act in the issuing of tax receipts for contributions received by the registered political party. Elections Manitoba must be notified by the CFO of the name and address of the deputy, and must be provided the deputy's written consent to act in that capacity [ss.8(1), (2)].

## Chief Financial Officer responsibilities

The CFO is responsible for ensuring that:

### A. Accounts and records

- Accounts are maintained in a financial institution in the name of the registered political party [ss.10(1)(a)].
- All money provided to the registered political party is deposited into the party's account [ss.10.1(1)(a)].
- Only money relating solely to the registered political party is deposited into the account [ss.10.1(3)(a)].
- All disbursements for the registered political party are made from the account [ss.10.1(1)(b)].
- Disbursements are substantiated by an invoice or voucher as proof of payment [ss.10.1(2)].
- The production and distribution of advertising, promotional material, signs and banners for a political party both inside and outside of an election period is authorized in writing by the CFO and that a statement of this authorization appears with the advertising and promotional material [s.48, 54.2(1)].
- Only the CFO, or an individual acting on behalf of the political party with the knowledge and consent of the CFO, makes a payment for an election expense or an annual advertising expense of a registered political party [ss.55(3)].
- Records are kept of all receipts, including contributions, transfers, and other income [ss.10(1)(b),(e)].
- Records are kept of all expenses, including election expenses, annual advertising expenses, and transfers [ss.10(1)(d),(e), 54.1].
- Records are kept of all assets and liabilities [ss.10(1)(f)].
- Tax receipts are issued and accounted for [ss.10(1)(c)].

- Records on which a statement, return or other information is filed are preserved for at least five years from the date of filing or for any additional period considered necessary by the Chief Electoral Officer [s.58].

## **B. Reporting**

- Within three months after the end of a calendar year, an audited annual financial statement in prescribed form is filed with Elections Manitoba (Form 920) [s.59, s.62].
- Within three months after the end of a calendar year, records of all contributions are filed with Elections Manitoba that include the name and address of each contributor and the value of the contributions, by individual, during the year ( Form 930 - Detailed Contributors' List) [ss.10(1)(b.1)].
- Within 30 days of a request, information necessary to verify or clarify a political party's filed statement is provided to Elections Manitoba [ss.57(2)].
- Upon learning of a prohibited contribution accepted by or on behalf of the party, the prohibited contribution (or an amount of money equal to the value of the contribution) is forthwith returned to the contributor [ss.41(3)].
- Within four months of Election Day an audited election financial statement in prescribed form is filed with Elections Manitoba (Form 921). This financial activity is not to be included in the annual return [s.60].
- The political party does not overspend the annual advertising spending limit or the election period spending limits [s.86].
- 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)].
- Within 30 days of a request, Elections Manitoba receives a list of financial officers of constituency associations [ss.10(2)].
- Elections Manitoba receives notification forthwith (Form 904) when a constituency association of a registered political party nominates a candidate [ss.10(3)].

It is important to review *Accounting Guide – Accounting For Purposes of The Elections Finances Act* which establishes the accounting principles upon which, and the framework within which registered political parties exercise judgment when making accounting and disclosure decisions.

# EFA concepts

The CFO of a registered political party must understand the following *EFA* concepts (where applicable):

- Time Periods
- Contributions (including contribution limits and donations in kind)
- Transfers (received and sent)
- Fund Raising Functions
- Merchandise Sales
- Other Income
- Election and Non-Election Expenses
- Election Expense Limits
- Annual Advertising Expense Limit
- Reimbursement of Election Expenses
- Loans
- Tax Receipts
- Advisory Opinion



# Checklist reference material

## I. Financial accounts

The *Elections Finances Act* (Manitoba) requires that the CFO of a political party to:

- Establish and maintain an account at a financial institution;

**"Financial Institution"** means:

- a) A bank;
- b) A credit union;
- c) A trust company or loan company authorized under the law to accept money for deposit and carrying deposit insurance in accordance with the Canada Deposit Insurance Corporation Act [s.1].

- Deposit into this account all money provided to the registered political party, including contributions, loan proceeds, and transfers; and
- Make all disbursements for the registered political party, including transfers, from this account.

The number of accounts is not restricted, however, a party must be sure to report its financial activities based on all of its financial accounts.

The maintenance of an account at a financial institution is important, and necessary, for the following reasons:

- It is a requirement of the EFA;
- It makes it easier for those responsible for the finances of the registered political party to monitor and control the financial activities of the party; and
- It facilitates an effective review by Elections Manitoba, when necessary.

Depending on the financial institution, the account must be like a business account or a not-for-profit or community account. Do not open a personal account (i.e. you do not want a normal savings account that just has a pass book). An account must return all cancelled cheques, and statements that show what went through the account. Some financial institutions provide photocopies of the front and the back of every cheque and this is acceptable. Bank statements, cancelled cheques, and deposit slips will form an important part of the political party's books and records and you, as the CFO, may be asked to provide copies of these documents to Elections Manitoba [s.98(c)].

### A. Petty cash disbursements

It may not be practicable in all cases to disburse cash directly from the account. For such items as meals or transportation, the supplier may not be willing to accept a cheque as payment. Nevertheless, a CFO must ensure that there is proper documentation and support for disbursements as required by s.10 of the *EFA*. Petty cash procedures may be necessary.

For those petty cash disbursements where it is not practicable to disburse funds directly from the account, an advance may be provided from the account to the responsible person prior to incurring

the expense. Invoices and vouchers should be provided to support each disbursement. Unused funds should be deposited back into the account.

For purposes of controlling finances, it is recommended that approval be given in advance for all credit card purchases prior to incurring the credit card expense. Ultimately, the reimbursement of the credit card voucher must be made directly from the party bank account. A credit card voucher that is not paid directly from the party bank account is a donation in kind contribution.

[ss.10(1)(a), 10.1(1)(a), 10.1(1)(b), 10.1(3)(a)]

## **II. Reporting**

### **A. Annual reporting**

An audited financial statement must be filed with Elections Manitoba by the CFO within three months of the end of the calendar year. The financial statement must be in prescribed form (Form 920) and must include the following financial information of the registered political party for the year [s.59]:

- Income, including contributions and transfers during the year;
- Expenses, including annual advertising expenses and transfers during the year; and
- The assets and liabilities at the end of the year.

Annual advertising expenses are reported on the party's annual financial statement separately from other expenses. The annual advertising amount reported must include:

- Annual advertising expenses conducted by the party,
- Advertising expenses conducted by individuals acting on behalf of the party with the party's knowledge and consent,
- Constituency association advertising conducted outside an election period. [s.54.1, 59]

In the year of an election, the annual income statement should not include the party's income during the campaign period or the party's election expenses (in the election period). However, the contributors' list on Form 920 (Schedule 2) must disclose contributors' information for the year, including an election period [s.60].

### **B. Reporting of 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.

#### **B.1. Public disclosure (Form 920)**

Where the aggregate of contributions (cash and donation in kind) to a registered political party from an individual contributor totals \$250 or more in a year, the following information must be disclosed by the CFO for the period [s.62]:

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

Where the aggregate of contributions for an individual contributor is less than \$250, the amount is reported in summary with other such contributions but the name and address of the individual is not publicly disclosed.

Information to be disclosed above is reported on Form 920 and is available for public inspection.

#### **B.2. Tracking contribution limits (Form 930)**

Registered political parties, candidates, and constituency associations must disclose in detail 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, and would include [ss.10(1)(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).

**Note:** While it is not required, it is strongly recommended that you also include the tax receipt number with each contribution record.

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*.

### **B.3. Identification of contributors**

Registered political parties 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 two 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]. 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.

#### **B.4. Collections of contributions**

Contributions can be made to a provincial candidate, leadership contestant, political party, or constituency association, either directly, or through another individual who is normally resident in Manitoba and is collecting contributions to be forwarded to the political entity at a later date.

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)]

#### **B.5. Reporting loan balances**

Information regarding the balance remaining unpaid on outstanding loans must be provided to Elections Manitoba with the financial statement filed by the registered political party (i.e. Form 920, 921), along with a copy of the loan agreement (if the agreement was not previously filed). [ss.44.2(2)(a), 59, 60]

**Please note:** Loan agreements are to be filed with the Chief Electoral Officer immediately after the loans are made.

## **B.6. Election reporting**

During the year of an election, where a registered political party incurs elections expenses, an audited financial statement (Form 921) in prescribed form must be filed with Elections Manitoba within four months of Election Day.

## **B.7 Cancellation of by-elections due to a general election**

In the uncommon instance of a by-election being cancelled as a result of a general election being called, the candidates in the by-election and the endorsing political parties are still required to complete and file the appropriate statements with Elections Manitoba. 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 (i.e. four months after the date of the general election).

It should be noted that election expenses incurred as part of a by-election are not included as election expenses for a general election.

### **III. The auditor [s.10.2 - s.10.5]**

Every political party must appoint an auditor. The auditor examines Forms 920 and 921, the supporting schedules and documentation for these forms, as well as the party's books and provides a report based on his or her findings. Basically, the auditor reviews the financial statements and then expresses an opinion regarding whether or not the statements have been prepared in accordance with the EFA.

It is important to emphasize that the amounts reported on Forms 920 and 921 must always reflect, fairly and transparently, the underlying substance and form of transactions and events.

**Example:** A "cheque exchange" must be recorded as a donation in kind transaction and not as a cash transaction.

A "cheque exchange" could be a situation where as a result of an understanding, a party purchases goods from an individual and some or all of the money provided for the purchase is contributed back to the party by the individual.

When it comes time for the auditor's review of Forms 920 and 921, you should contact your auditor and confirm the date that you will have the forms available. Let the auditor know immediately if you cannot meet the deadline and work out an alternate plan. Send the form and the books and records that support the reported amounts, to your auditor for examination.

**Remember:** It is the auditor's job to express an opinion regarding whether the forms present fairly the financial results and position of the party. It is not the auditor's job to correct the form.

#### **A. Auditor payments**

The maximum amount paid to auditors by the Province of Manitoba for the audit of various statements required to be filed under the Act is as follows:

- To audit a party's annual financial statement under s.59 - \$16,000 or such lesser sum as deemed reasonable by the Chief Electoral Officer.
- To audit a party's election financial statement under s.60 - \$30,000 or such lesser sum as deemed reasonable by the Chief Electoral Officer.
- To audit a candidate's election financial statement under s.61 - \$1,500 or such lesser sum as deemed reasonable by the Chief Electoral Officer.

The Province will pay an auditor (up to the maximum permitted) for the value of services provided and billed. An auditor could receive less than the maximum amount. Auditors will be paid after submitting a bill for the full amount of audit services provided and after a statement has been filed, if the audit meets the requirements of the Act. No payment will be considered until the required financial statement (including an auditor's report) and an auditor's invoice have been submitted to Elections Manitoba. Audit fees above the maximum amounts paid by the Province are the responsibility of political party or candidate's campaign (as the case may be).

## **IV. Filing deadlines and extensions**

Statements and returns must be filed by a specific filing deadline. Often there are requests to provide information necessary to clarify the statements and returns. Responses to these information requests must also be filed by a specific deadline.

It is possible for a filing deadline to be extended. It is important to know the procedures and requirements for requesting an extension and also to know the steps that will be taken by Elections Manitoba when required filings have not been made. Judgement and discretion are necessary to ensure that each request for an extension is handled in a fair and consistent manner and to ensure timely and accurate filings. There are 4 points to consider:

### **A. Extensions to the filing deadline**

Where a statement or a return is required to be filed within a prescribed period of time, subsection 57(3) of the Act allows for the possibility of extending the filing deadline. The Chief Electoral Officer may grant an extension where:

- An application for an extension is made in writing by the person required to file the statement or return; and
- The application is made (received) before the expiry of the filing deadline or any extension to the filing deadline.

There is no provision in the Act to consider applications for extensions by Chief Financial Officers made after the expiry of any filing deadline or any extended filing deadline.

Verbal requests for extensions will not be considered. All applications to extend the deadline must be made in writing. Since the Act gives discretion to the Chief Electoral Officer in deciding whether or not to grant extensions, all applications for extensions must include a suitable written reason for the request. A suitable written reason would normally be a brief explanation of circumstances that are reasonably beyond the control of the person making the request.

If an extension is granted, the extension will normally be granted for a period of 30 days or less. Extensions for period of more than 30 days, or requests for additional extensions concerning the same statement or return will only be granted in very unusual circumstances which are beyond the reasonable control of the person making the request.

### **B. Statements and returns not filed [s.69]**

Where the Chief Financial Officer of a registered political party or the Official Agent of a candidate does not file a statement or return with the Chief Electoral officer within the time period prescribed under this Act or any extension thereof, the Chief Electoral Officer shall give written notice by personal service or by certified mail:

- a) In the case of the Official Agent of a candidate, to the candidate; and
- b) In the case of the Chief Financial Officer of a registered political party, to the leader or the president of the registered political party; that the statement or return has not been filed.

The person receiving the notice must now file the required statement or return within 30 days after receiving the notice or within such extended time period as may be granted by the Chief Electoral Officer. The person who receives a notice under subsection 69(1) may apply for an extension to the new filing deadline.

If the statement or return has not been filed by the filing deadline, as required under subsection 69(1) the matter will be referred to legal counsel to attempt to secure compliance or to proceed with prosecution if necessary.

Late-filing fees of \$25 per day (to a maximum of 30 days) will be charged when required forms are not filed by the deadline date [ss.69.1(1)]. Individuals will not be subject to further proceedings provided that:

1. The required forms are filed within 30 days of the deadline; and
2. The late-filing fee incurred is paid [ss.69.1(4)].

**Note:** If a person owes late filing fees, the Chief Electoral Officer has the authority to deduct the late fees from any amounts that may be payable to the political entity [ss.69.1(4.1)].

**Important fact:** The Chief Electoral Officer may publicly disclose the names of any person who is obligated to pay late filing fees as well as the amount owing [ss.69.1(4.2)].

### **C. Information requests [s.57(2)]**

Where any information with respect to the financial affairs of a candidate, constituency association or registered political party is reasonably required to clarify or verify the information contained in a statement or return filed under this Act, the Chief Electoral Officer may request such information in writing, and, within 30 days after receiving the request or within such extended period of time as the Chief Electoral Officer may allow, the Chief Financial officer of the registered political party or the Official Agent of the candidate, or the person responsible for the finances of the constituency association, shall provide the information.

If the person responsible for providing the information files for and is granted an extension by the Chief Electoral Officer, the additional time allowed will normally be a period of 10 days or less. Extensions for a period longer than 10 days will only be granted in very unusual circumstances which are normally beyond the reasonable control of the person making the request.

If the requested information has not been filed by the filing deadline, the matter will be referred to legal counsel to attempt to secure compliance or to proceed with prosecution if necessary.

### **D. Other possible consequences**

The Act provides for other possible consequences in addition to prosecution when statements and returns are not filed by candidates and political parties.

Subsection 69(3) states that the Chief Electoral Officer must make a report to the Legislative Assembly for any successful candidate that fails to file a statement or a return when required. Until such a statement or a return is filed, the successful candidate shall not sit in the Assembly. An unsuccessful candidate that does not file a statement or a return is not eligible to run as a candidate in any election up to and including the next general election unless the statement or return is filed.

Where a registered political party fails to file any statement or return, or fails to provide any information to the Chief Electoral Officer that is reasonably required to clarify or verify the information contained in the statement or return, subsection 19(2) of the Act requires the Chief Electoral Officer to proceed with de-registration of the political party.

## **V. Consequences of non-filing related offences**

In the event or appearance that an individual or organization has committed an offence under the terms of the *EFA*, there are additional enforcement provisions available to the commissioner (who is appointed by the Chief Electoral Officer under the terms of the *Elections Act*). Before implementing any of these provisions, the commissioner must first investigate the matter under suspicion and in doing so must notify the individuals or organizations that are being investigated (and disclose the subject of the investigation) unless the commissioner believes that such notification would compromise the investigation.

### **B.1. Injunctions**

In the context of the *EFA*, an injunction is a court order requiring an individual (or organization) to either do something or refrain from doing something to ensure compliance with the *EFA*. If during an election, the commissioner has reason to believe that an individual has violated or is likely to violate the *EFA* in some way which has the potential to impair the fairness of the election and run counter public interest, the commissioner may apply to the court to have an injunction imposed.

### **B.2. Compliance agreements**

A Compliance Agreement is a contract between the commissioner and an individual or organization (the "contracting party") whereby the contracting party agrees to maintain compliance with the *EFA*. When the commissioner has reason to believe that the contracting party has violated or is likely to violate the Act in some way, he or she may engage the party in a compliance agreement. Once such an agreement is in place, the commissioner may still, at his or her discretion, commence prosecution of the contracting party if the commissioner believes that the party entered the agreement without disclosing all material facts or that the party has violated the terms of the agreement.

### **B.3. Prosecution**

With respect to prosecuting offences under the *EFA*, the commissioner is empowered with all the same rights, powers, authority and privileges that the Crown has in prosecuting offences under other Acts of the Legislature. If the commissioner has reason to believe that the Act was violated in some manner serious enough to hurt the public interest, then he or she can legally prosecute the offending party.

# 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. The following periods are defined under the EFA: [s.1]

**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.

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.

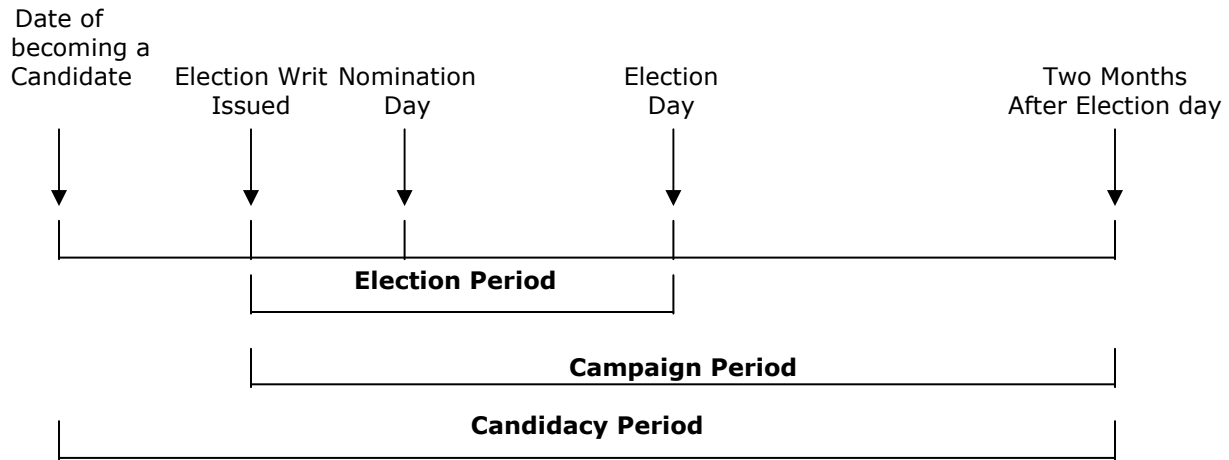
**Campaign period** – the period that begins on the day the election is called and ending two months after Election Day. If the period ends on a holiday, the next business day becomes the end of the campaign period.

**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 day that is not a holiday.

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 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**

<b>Time period</b>	<b>Start date</b>	<b>End date</b>
<b>Candidacy period</b>	<p><i>Endorsed Candidate</i> – Earlier of:</p> <ol style="list-style-type: none"> <li>1. Date of nomination; and</li> <li>2. Date of filing of the nomination papers (Form 400)</li> </ol> <p><i>Independent Candidate</i> – Earlier of:</p> <ol style="list-style-type: none"> <li>1. Date stated on Form 905; and</li> <li>2. Date of filing of the nomination papers (Form 400)</li> </ol>	Two months after election day
<b>Election period</b>	Day the writ is issued (Writ Day)	Election day
<b>Campaign period</b>	Day the writ is issued (Writ Day)	Two months after election day
<b>Reporting period</b>	First day of Candidacy Period (as described above)	Two months after election day

## II. Income

The types of income that normally arise are:

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

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

### A. Contributions

It is essential to have a good understanding of contributions so that you can effectively track and record them in detail.

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:

- a) Money, including membership fees paid to a registered political party, but not including:
  - i) Fees covering the reasonable expenses of conferences and conventions of a registered political party, including leadership conventions, or
  - ii) 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,
- b) A donation in kind,
- c) The portion of a charge determined to be a contribution under section 38 (fund raising functions),
- d) The portion of sale proceeds determined to be a contribution under section 38.1 (fund raising by selling items) [s.1].

There are two types of contributions: monetary (cash) and non-monetary (donations in kind).

#### A.1. Cash contributions

A cash contribution is any money paid to a party that is:

- a) For the benefit of the party;
- 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, cheque, credit card payment or other similar instrument. Tax receipts may only be issued for cash contributions (provided that a candidate is registered to issue such receipts).

## A.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**:

**Key point to remember:** Regardless of whether the contribution is cash or a donation in kind, it may only be made by individuals normally resident in Manitoba. Businesses, Associations, and other organizations are not permitted to make contributions of any kind.

- 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:**

- Free office rent;
- Free use of cars or motor homes (for travel in the electoral division during a campaign);
- An individual providing furniture or equipment for a party's office at no charge (such as the provision of a computer printer by an individual, without charge, to a registered political party);
- Signs or pamphlets provided without charge;
- Services of a self-employed computer technical support person providing technical computer support; and
- Campaign signs or lumber purchased and used in a previous election which are being re-used in a subsequent election.

### A.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:** XYZ Party is a registered political party that has obtained free office space from its landlord/owner (who is a sole proprietor normally resident in Manitoba) for the purposes of conducting the party's operations. The landlord can typically rent the space provided to XYZ party for \$1,000 every 30 days.

In this case, XYZ party would have to record that a donation in kind contribution has been provided and the value of the contribution is equal to the amount that it would normally have cost to rent the office space under normal market conditions (i.e. \$1,000 for each 30 day period that the XYZ occupies the space).

XYZ Party would also have to record an expense since the space was donated to, and used by, the party.

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.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 printer makes campaign signs and charges the party \$1,000. Normally, the printer would have charged \$2,500 for an identical printing order. Thus, in this case, the printer 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 printer. A tax receipt cannot be issued because the contribution is a donation in kind [ss.36(2)].

Again, it is critical to note that if the printer is a corporation, this contribution 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 signs were used 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 reimbursement). This concept is discussed more fully later in this Guide.

### A.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 \$25 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)].

**Key point:** Registered political parties must keep track of the number of donation in kind contributions of less than \$25 made by an individual in a year so that the party is aware when the threshold for not recording such donations has been reached.

### **A.3. Indirect contributions**

Money spent on behalf of a party, or goods or services provided for the benefit of a party with the knowledge and consent of the party are contributions.

**Example:** The purchase of a newspaper advertisement by an individual on behalf of and with the knowledge and consent of a registered political party is a contribution of the individual where the individual is not reimbursed for the expense. [s.1 "contribution"]

### **A.4. Deemed contributions**

A loan agreement entered into with a third party could result in a deemed contribution 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.44.1(2)];
- Any payment on the loan that is not made by the debtor would result in a deemed contribution in the amount of the loan payment [s.44.1(3)]; and
- 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)].

**Please note:** Tax receipts should not be issued for deemed contributions.

For more information consult the *Loans* section further in this document.

### **A.5. Forgiven or unpaid trade payables**

A political party may 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.6. 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)].

The determination of whether an individual is considered to be **normally resident** in Manitoba involves the consideration of numerous factors called “residential ties”. (It should be noted that that facts used to determine residency for electoral contribution purposes are the same factors used to determine residency for tax purposes). Below are three of the factors (*the Primary Residential Ties*) that may be taken into consideration by Elections Manitoba when determining whether an individual should be considered a resident.

1. Dwelling place or places in Manitoba: If the individual owns or rents a residence in Manitoba where he or she lives, then this is typically sufficient for establishing residency.
2. Spouse or Common-law partner: If the individual’s spouse or common-law partner normally resides in Manitoba, then typically the individual would be considered a resident of Manitoba.
3. Dependents: If the individual has children or other dependents who live in Manitoba, then typically the individual will be considered to live in Manitoba.

Other factors that may be considered include owning a Manitoba driver’s license or Manitoba Health card. Residency is determined on a case by case basis through consideration of all of the relevant residency factors.

In general, if it can be determined that an individual contributor has a true, fixed, and permanent home and principal residence in the province, or can provide the above mentioned identification cards, then this is probably sufficient for the purposes of accepting contributions (as they likely satisfy the eligibility requirement).

It is important to note that the “normally resident” criterion applies to the point in time the contribution is made, not to the year in which the contribution is made. An individual can contribute in a year where he or she moves in or out of the province; however, at the time the contribution is made the individual must be normally resident in Manitoba.

#### **A.7. Collections of contributions**

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 *Section II. Contributions, Subsection F.2. The role of professional fundraisers*).

### **A.7.1. Responsibilities of an individual collecting contributions**

When an individual decides to undertake the responsibility of collecting contributions for a political party 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:
  - i) 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
  - ii) 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:
  - i) Cheques and credit card payments must be made payable directly to the political entity;
  - ii) Contributions must be forwarded to the entity on a timely basis; and
  - iii) Contribution records must be forwarded at the same time. [ss.37.1(3), ss.37.2(2)]

### **A.7.2. 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.8. Contribution limits and restrictions**

*The Elections Finances Act* limits contributions as follows:

- 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 political entities (including contributions to leadership contestants after the leadership contest period ends) may not exceed \$3,000 per calendar year [s.41(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 "*Donations in kind of less than \$20*"). If the contributor cannot be identified, the contribution must be turned over to the Minister of Finance;

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).

### **A.8.1. 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 dollar-value 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 15<sup>th</sup>, the contribution date is March 15<sup>th</sup>.
- If a contributor gives a cheque to a representative of a registered political party on March 15<sup>th</sup> and the cheque is dated for the same day, the contribution date is March 15<sup>th</sup>. This is true, even if the cheque is forwarded to the party and does not arrive until April 2<sup>nd</sup> and/or is not cashed on April 10<sup>th</sup>.
- If a contributor mails a cheque on December 20<sup>th</sup> (dated December 20<sup>th</sup>); the cheque arrives on January 4<sup>th</sup> of the following year; and the cheque is deposited on January 12<sup>th</sup>; the contribution date will still be December 20<sup>th</sup> as that is the date that the payment was made.
- If a contributor mails a cheque on December 20<sup>th</sup>; the cheque arrives on January 4<sup>th</sup> of the following year; and the cheque is post-dated for January 12<sup>th</sup>; the contribution date will be January 12<sup>th</sup>.

**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).

Examples of contributions, non contributions, and prohibited contributions are provided in Appendix A.

### **A.9. 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. Transfers (received and sent)

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 concept to remember:** Transfers received are recorded as income whereas transfers given are recorded similar to that of expenses.

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)]:

- A constituency association of the registered political party;
- A candidate endorsed by the registered political party; or
- 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)]:

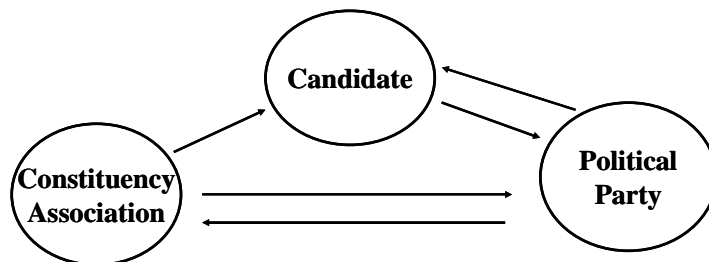
- The registered political party; or
- A candidate nominated by the constituency association.

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

- 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.

### **B.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).

### **B.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.

### C. 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.

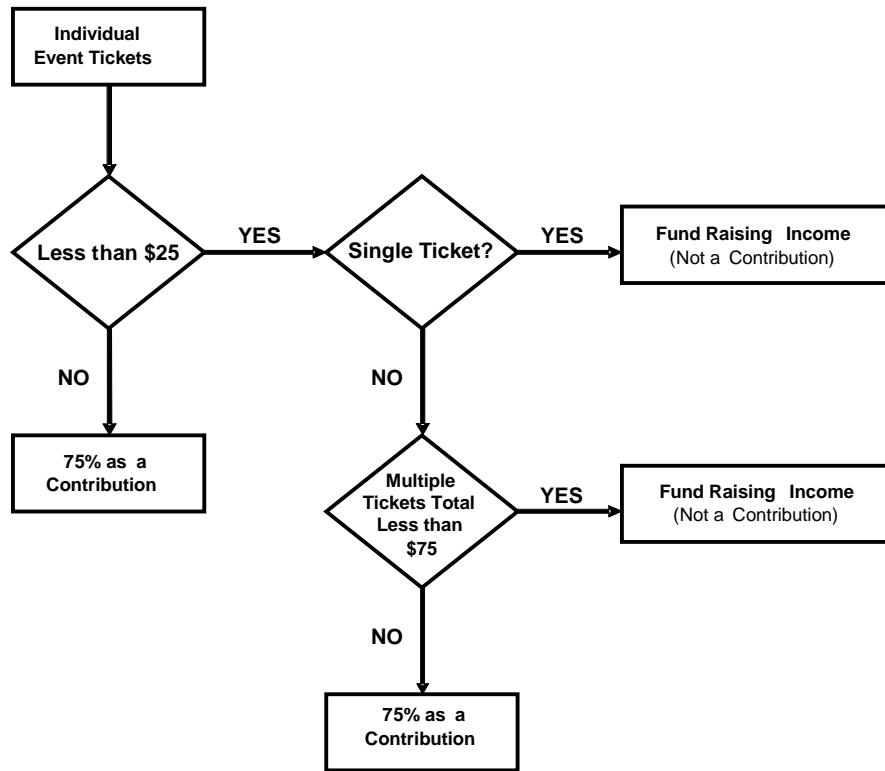
A prohibited contributor may not provide goods or services (donation in kind contributions) for fund raising functions, directly or indirectly, in any amount.

**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.

A constituency association cannot issue income tax receipts when it holds a fund raising function, or for any contributions it receives [s.34]. However, if the requirements of the *EFA* above are met with respect to a fund raising function hosted by a constituency association, 75% of the ticket price or individual charge is recorded, and disclosed, as a contribution. No income tax receipt would be provided.

**C.1. Fund raising function income classification decision tree**



**Example 1:** During the campaign period, a registered political party 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 party \$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 registered political party 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 party. 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. 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.

## D. Merchandise sales

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).

**“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 registered political party 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.

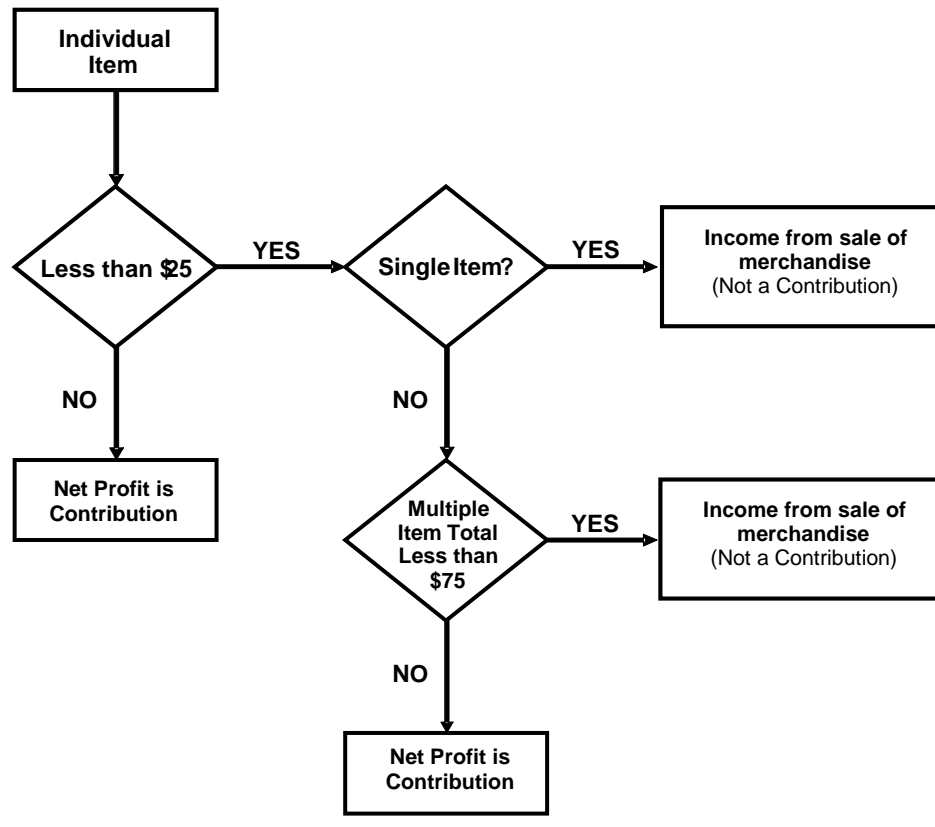
### D.1.2. Exception for nominal amounts: sales of items with prices less than \$25

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.2. Sale of merchandise income classification decision tree



**Example:** During a campaign period, a registered political party 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 10 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/shirt x 10 shirts = \$120 → Reported as sale of merchandise income to the extent of the acquisition cost.

Total Acquisition Cost = \$8/shirt x 10 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 noted 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), 10.2(2), 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.

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 as it impacts on spending limits and on the amounts reimbursed by the public treasury to parties and 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 1:** A registered political party 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.

**Example 2:** A service that is acquired and provided in the pre-election period may still represent an election expense. Assume that a registered political party engaged a writer to write advertising scripts in the pre-writ period. Further assume that the ads were written and provided to the party in the pre-writ period. The cost associated with the writer would be an election expense if the scripts were used in ads that aired during the election period. If not, they would represent a non-election expense if the ads aired in the non-election period.

Goods or services used in an election period are acquired in various ways. For instance, a registered political party may obtain goods or services through:

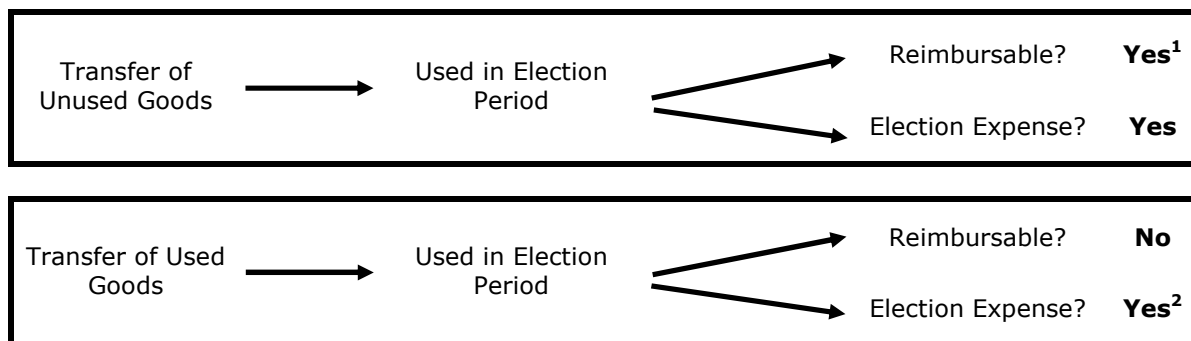
- A cash purchase or a trade payable by the party;
- A donation in kind contribution where goods or services are received;
- A donation in kind contribution where there has been payment for goods or services on behalf of the party with the knowledge and consent of the party; or
- A transfer of goods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

#### **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:



<sup>1</sup> Reimbursable to the source of the transfer (i.e. the political party or the constituency association)

<sup>2</sup> Expenses should be reported as *donations in kind*

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 fund raising 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?

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. The most frequently used and in most instances the simplest method for allocating expenses is to prorate an expense based on the time (days and/or hours) over which the good or service was provided.

**Simple calculation example:** As part of setting up a campaign office, initial set-up fees of \$250 are incurred for internet and telephone access. The campaign office uses internet and telephone service for two months (or 61 days) of which 33 days were considered to be the election period. The monthly charges for internet and telephone service were \$100 and \$80, respectively.

In order to properly apportion this expense between the election and non-election categories, the following calculations are necessary:

Initial set-up fee	\$ 250
Monthly service charges (\$180 x 2 months)	<u>360</u>
Total expense to be apportioned	\$ 610
Election expense prorating factor (33 days/61 days)	<u>x (33/61)</u>
Election expense (report in Column A on Sch.1)	\$ 330
Non-election expense (report in Column C on Sch.1)	\$ 280

While the above example demonstrates a simple prorating calculation, please note that ideally you would prorate the individual monthly service charges according to the days in each service month that fell within the election period.

**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.

Where there may be questions of apportioning expenses, in order to evaluate the appropriateness of an expense categorized as an election expense or a non-election expense, a chief financial officer should have the necessary documentation (invoices, calculations, etc.) available.

**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 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).

#### **A.4. Authorization and payment of election expenses**

In order to ensure the chief financial officer maintains control of the financial affairs of the registered political party, only the chief financial officer, or an individual acting on his or her behalf with his or her knowledge and consent, may make a payment for an election expense (or an annual advertising expense) [ss.55(3), 54.1]

#### **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 <i>(if services were provided during the election period)</i>	Non-election Expenses <i>(if services were provided outside the election period)</i>
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 <ul style="list-style-type: none"> <li>• No payment</li> <li>• Not a self-employed individual</li> </ul>	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 office staff 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 [ss.50(4)] and transferring resources used as election expenses [ss.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 political entity;
- A donation in kind contribution received; or
- A transfer of goods and services received.

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

**Note:** A candidate's advertising expenses incurred outside of an election period must be included in a registered political party's annual advertising spending limit if the candidate is affiliated with a registered political party.

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:**

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 Section II Income, Subsection C Transfers.

## VI. Election expense limits

The amount of election expenses that may be incurred by the party and 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:

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.

Any election expenses incurred by a candidate's constituency association must be included in a candidate's spending limit.

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 and parties 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 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 final 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 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; 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.

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).

### **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:**

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:**

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 to you 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:**

<b>Limit calculation</b>	<b>Voters list used and date of determination</b>
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:**

<b>Limit calculation</b>	<b>Voters list used and date of determination</b>
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)]

## **G. Advertising blackouts during an election**

*The Elections Finances Act (Manitoba)* and *The Elections Act (Manitoba)* do not have election advertising blackout restrictions for candidates or registered political parties. The *Broadcasting Act (Canada)* which regulates licensees of broadcasting undertakings, including radio and television stations, we understand also does not have any election advertising blackout restrictions for candidates and registered political parties. The *Broadcasting Act* is administered by the Canadian Radio-television and Telecommunications Commission (CRTC). Therefore, when an election is called, if you want to confirm the status of election advertising blackouts and the regulations for radio and television stations regarding a provincial election you may do so by contacting the Commission.

## VII. 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 they 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 limits 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)]

## **VIII. Reimbursement of election expenses**

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)]. However, reimbursement may not be paid for election expenses that have not been adequately supported or documented or that are not reasonable.

### **A. Candidate's surplus or deficit**

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. Upon calculating a candidate's surplus or deficit under subsection 75 of the *EFA*, the following rules apply on payment of the (a) surplus and (b) the reimbursement of election expenses:

#### **A.1. Reimbursement in a surplus situation [ss.75(2), 75(3)]**

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.

#### **A.2. Reimbursement in a deficit situation [s.73.1]:**

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.

## IX. 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:
  - i. \$1.25 x Number of valid votes received by each candidate endorsed by the party in the most recent general election (see note below)
  - ii. \$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:

<b>Lesser of:</b>	
a) Lesser of:	
i) $\$1.25 \times 180,000 =$	\$ 225,000
ii) Maximum value	<u>250,000</u>
	225,000
b) Paid expenses for administration and functions	200,000
<b>Annual Allowance per formula</b>	<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 2<sup>nd</sup> 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.

<b>Prorated Valid Votes:</b>	
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>
<b>Lesser of:</b>	
a) Lesser of:	
i) $\$1.25 \times 223,443 =$	\$ 279,303
ii) Maximum value	<u>250,000</u>
	250,000
b) Paid expenses for administration and functions	420,000
<b>Annual Allowance per formula</b>	<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)].

## **X. 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 [ss.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 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 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 (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 a 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)].

## XI. Tax receipts

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

An individual making a contribution to a registered political party 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 B – 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.

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 party 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)]; or
- c) A transfer or deemed transfer (because this does not meet the definition of a contribution) [s.44(5)].

### A. Income tax receipt guidelines for political parties

It is the responsibility of the registered political party to print receipts for income tax purposes. The Chief Electoral Officer pursuant to s.35 of *The Elections Finances Act* must approve the form of the receipt. The precise form of the receipt is left to the discretion of the registered political party but must include the following:

1. The name and address of the contributor;
2. Amount of the contribution;
3. The date the receipt is issued;
4. The date the contribution was received;
5. A statement or indication that the receipt is an official income tax receipt for contributions to a registered political party in Manitoba;

6. The full name of the registered political party;
7. The signature of the Chief Financial Officer or authorized deputy;
8. The political party's registration number; and
9. The sequential serial number of the receipt.

The receipts may be printed in English and French (translation of the information into French is available from the Office of the Chief Electoral Officer). A record must be kept of all receipts which are printed and issued. Prior to printing the receipts please forward a copy of the design to the Chief Electoral Officer for approval.

## **XII. Advisory opinions [s.77.4]**

If you are unsure about whether a particularly act or omission or proposed act or omission complies with the requirements of the Act, you can obtain clarification in the form of a written opinion from the CEO by requesting what is called an *Advisory Opinion* [s.77.4(1)]. The only people who are permitted to make such requests of the CEO are chief financial officers (for political parties), financial officers (for constituency associations), and candidates, leadership contestants, and their official agents [s.77.4(6)]. Make requests in writing in order to provide a clear explanation of the issues as well as the facts and assumptions that are underlying the issues.

In response to a request for an opinion, the CEO may either:

1. Provide a written advisory opinion; or
2. When declining to provide an opinion, provide a written explanation of the reasons for declining [ss.77.4(2)].

Once an opinion has been issued there is a deemed non-contravention of the Act when the act or omission is performed provided that:

1. The opinion states that the act or omission (or proposed act or omission) will not contravene the EFA; and
2. In requesting the advisory opinion, the requesting individual disclosed all relevant material facts to the CEO. [ss.77.4(3)]

It should be noted that even after the CEO has issued an opinion, the CEO maintains the right to revoke or amend it as he or she feels is necessary [ss.77.4(4), 77.4(5)]. Such actions may be taken on the basis of the CEO's own initiative, or they may be upon the requests of political entities. There are many reasons why such actions may be necessary, for example, if the facts upon which the advisory opinion was based changed, then the CEO may need to revoke or amend the issued opinion.

If the CEO revokes the opinion, it can no longer be relied upon [ss.77.4(4), ss.77.4(5)]. When a previously issued advisory opinion is subsequently revoked or amended (regardless of the reason), the person who originally requested the opinion will be provided with written notification.



# Appendix A – Examples of contributions, non-contributions, and prohibited contributions

## 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)].
- A provincial candidate (or another individual) providing money to eliminate the candidate's campaign deficit.
- 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)].



## Appendix B – 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:

<b>Total contributions (T)</b>	<b>Political Contribution Credit (PCC)</b>
\$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 C – 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)].