

# Official Agent's Guide

## The Elections Finances Act (Manitoba)

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

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# Table of contents

About the guide.....	1
Checklists.....	1
EFA terms and concepts .....	1
Appendices.....	1
Checklists .....	2
Checklist #1: Considerations before appointment.....	2
Checklist #2: Immediately upon appointment.....	3
Checklist #3: Getting ready for the election .....	4
Checklist #4: Writ day (the election is called).....	5
Checklist #5: During the election period .....	6
Checklist #6: Election Day (the election period ends) .....	7
Checklist #7: After the election .....	8
EFA – Terms and concepts .....	9
I. The Official Agent .....	9
II. Maintaining a financial account .....	12
III. Record keeping [s.10(4)] .....	15
IV. Time periods .....	19
V. Income 22	
A.1. Cash contributions .....	23
A.2. Donation in kind contributions .....	23
A.2.1. Value of donation in kind.....	24
A.2.2. Discounted donation in kind.....	25
A.2.3. Donations in kind of less than \$25.....	25
A.2.4. Indirect contributions.....	25
A.2.5. Campaign workers (other than permanent employees of a registered political party).....	26
A.2.6. Forgiven or unpaid trade payables .....	26
A.3. Deemed contributions.....	26
A.4. Who can contribute .....	26
A.5. Collections of contributions.....	27
A.5.1. Responsibilities of an individual collecting contributions .....	27
A.5.2. The role of professional fundraisers.....	28
A.6.1. Contributions to candidates before candidacy period.....	29
A.6.2. Use of force or intimidation.....	29
A.7. Reporting contributions.....	29
A.7.1. Public disclosure (Form 922).....	29
A.7.2. Tracking contribution limits (Detailed Contributors' List – Form 932) .....	30
A.8.1. How does the candidate register to issue income tax receipts?.....	30
A.8.2. Once registered, do I have to issue a tax receipt for every eligible contribution received? .....	30
A.8.3. When can you start issuing receipts? .....	31
A.8.4. Reconciliation of tax receipts .....	31
A.9. Additional information and discussion of contribution concepts.....	31
VI. Loans 39	
VII. Expenses .....	42
VIII. Annual advertising expense limit In fixed date elections .....	56
IX. Inventory [s.10(4)(f)] .....	58
X. The auditor [s.10.2 – s.10.5].....	62

XI. Reporting [s.64, ss.6(e), 61(1), 98(a)] .....	63
XII. Reimbursement of election expenses .....	70
XIII. Advisory opinions [s.77.4].....	73
XIV. Consequences/penalties.....	74
Appendix A – Contribution limits clarifications .....	77
Appendix B – Form 922: Candidate’s financial statements and supporting schedules.....	81
Appendix C – Inventory count sheets.....	89
Appendix D – Use of automobiles in a campaign.....	91
Appendix E – Manitoba tax credit program.....	93
Appendix F – Sample memorandum .....	95
Appendix G – Sample invoice.....	97
Appendix H – Travel/mileage .....	99

# About the guide

This guide is intended to assist you as you progress through all the stages of your role as an Official Agent. While the Guide will help to simplify and explain some of the more difficult concepts of *The Elections Finances Act (EFA)*, it is meant to provide you with far more than merely a legislative reference or interpretation manual for the EFA. The *Official Agent's Guide* has been written with the help of information received from interviews conducted with experienced official agents.

## Checklists

Checklists have been provided that breakdown the responsibilities of an official agent into manageable time periods. These checklists will help you to identify what is expected and required of you at each phase of the campaign. It is not necessary that you understand every aspect and detail of your role at the outset of the campaign. However, it is important that you are familiar with your responsibilities during each particular period.

## EFA terms and concepts

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 an official agent and the relevance of specific concepts to your candidate's campaign, 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. This is particularly important as a result of the passing of the Elections Finances Amendment Act (EFAA) in 2009 which introduces several new requirements into the EFA.

## Appendices

The appendices provide information that is more selective than the reference material. In other words, the extent to which you look at the appendices depends on your individual skills and comfort level with the tasks that you are expected to perform as an official agent. Some may find the appendices very helpful, whereas some may not need this additional information. Appendices are referred to directly from the reference material.

**Please note:** The Official Agent's Guide is a summary of, but does not take precedence over *The Elections Finances Act*. This guide should be read in conjunction with the Act.

# Checklists

## **Checklist #1: Considerations before appointment**

If you have been approached to be an official agent, consider the following:

- Whether or not you are eligible to be an official agent. [p.9]
- Whether or not you will be able to handle the role and responsibilities of an official agent. (Consider contacting Elections Manitoba if you have questions about the responsibilities of an Official Agent. Elections Manitoba also offers information seminars (some by teleconference) in most areas of the province on how to perform the duties of this position. [p.11]
- Whether or not you will be able to commit the time required to fulfill the responsibilities of this position. (While it is normally a volunteer position, it is a significant one and requires time before, during, and after an election.)
- Whether or not you understand and accept that there may be consequences for you and/or the candidate if the job is not done as required. [p.74]
- Whether or not you have the candidate's and the campaign's commitment that you will have timely and appropriate access to and disclosure of all financial matters of the candidate required under the EFA.

## Checklist #2: Immediately upon appointment

The following must be done within days of becoming an official agent:

- Sign and date Form 907 *Notice of Intent to Appoint Official Agent* which gives your consent to act in this capacity. Your candidate will provide this form to you. (If you are appointed after the election has already begun you do not have to sign this form). [p.10]
- Open a campaign account in a financial institution **immediately**. You will use this account to deposit all money received and pay all expenses of the campaign – **everything must go in and out of this account**. [p.12]
- Make preliminary arrangements to count inventory *on the day the election is called (writ day)*. If writ day has already passed, see *Checklist #4 Writ Day (The Election is Called!)* for guidance. Further, count the inventory today and keep this record. [p.58]
- Encourage the candidate to appoint an auditor (Form 908) if one has not yet been appointed. An auditor must be appointed and notice filed by the time a candidate's nomination papers are filed with a returning officer in an election. It is strongly recommended that this appointment be made at the earliest date possible. [p.62]
- At a minimum, understand terms and concepts from the *EFA*. This material is technical but essential. It will probably be the most time consuming aspect for you in your capacity as an official agent. **Contact Elections Manitoba if you require further assistance**.
- Review *Accounting Guide – Accounting For Purposes of The Elections Finances Act* so that you know what is in it. This is more of a reference to look things up if you are not sure how to record something. Contact Elections Manitoba or your auditor if you need additional help.
- Review a blank Form 922 Candidate's Financial Statements and Supporting Schedules. [p.81]
- Familiarize yourself with the recordkeeping tool that Elections Manitoba has developed to assist official agents in their responsibilities of tracking and reporting income and expenses and completing Form 922 more accurately and efficiently.
- Meet with the campaign's auditor to discuss the auditor's role, your role in the audit, planning of the audit, and the key reporting dates. The auditor can be used as a resource for information concerning a record keeping system. The auditor will receive an additional public treasury subsidy of up to \$500 for consulting with you on your record keeping system. [p.15]
- Set up a record keeping system. [p.15]
- File any loan agreements with Elections Manitoba immediately after the loan is made. [p.39]

### Checklist #3: Getting ready for the election

Do the following before the election begins (if the election has already begun, do these things immediately!):

- Meet with the candidate and the campaign to remind them of financial requirements:
  - a) Only the official agent (or someone designated by the official agent) may make a payment for a campaign election expense (especially important considering that the campaign must comply with spending limits). [p.46]
  - b) There are contribution limits (a source limit and an amount limit). This is especially important for those who are receiving contributions on behalf of the candidate's campaign. [p.28]

**Note: Only individuals normally resident in Manitoba** may contribute and these individuals are subject **to a maximum of \$3,000** of contributions to political candidates, parties, constituency associations and leadership contestants (outside the leadership contest period) **in a calendar year**.

- c) There should be a campaign budget. Although not a requirement, a campaign budget is strongly recommended especially considering the limits on election expenses and advertising expenses. [p.51]
  - d) The official agent must authorize all signs, advertisements and promotional material that will be used. A statement of the authorization must also be displayed. [p.52]
  - e) The official agent must be informed of all financial transactions and campaign decisions having a financial implication. [p.9-18]
  - f) There is a limit on the amount that candidates can spend on advertising outside of the election period during the year of a fixed date election. [p.56]
- Understand how to calculate the overall election expense limit and the advertising election expense limit. [p.49]
- Finalize your record keeping system and how you will track money received and paid, and goods and services that are received and used during the election (donations in kind). Make sure you know when an expense is an election expense or a non-election expense, and how to record it. Understanding what is on Form 922 is necessary to do this step!
- Only you can issue tax receipts, unless you appoint a Deputy Official Agent (Form 902B) to assist in this task. However, in order to be able to issue tax receipts, your candidate must first register to do so. [p.30]

**Critical requirement:** To register and be eligible to issue tax receipts, candidates must have submitted *Form 911: Candidate's Application for Registration to Issue Income Tax Receipts* prior to the end of the candidacy period (which is the registration deadline) [ss.25, 33(2)].

**If Form 911 is not submitted prior to the deadline, you will not be permitted to issue income tax receipts to contributors.**

- File any loan agreements with Elections Manitoba immediately after the loan is made. [p.39]

#### **Checklist #4: Writ day (the election is called)**

The following has to be done on writ day.

- Visit the campaign office to remind everyone that you must be kept informed of all decisions having a financial implication for the campaign. You should also let them know that if an individual spends independently resulting in the campaign exceeding a spending limit, there may be consequences for the individual responsible and/or for the candidate.
- Make sure that **all** signs, advertisements and promotional material that will be used during the election for your candidate are authorized by you. Your authorization must also appear with all advertisements and promotional material. [p.52]

## Checklist #5: During the election period

The following has to be done during the election period (up to Election Day):

- If you have just being appointed the official agent, please review the prior checklists for information and requirements.
- Sign and date Form 400 (*Nomination Paper*) to consent to your appointment as the official agent. (*This form is required by The Elections Act.*)
- Remind the campaign about prohibited contributions.

### Reminders:

- The campaign cannot accept prohibited contributions; and
- You must return any prohibited contributions that are accepted even if you only learned they were prohibited after the fact.

If your candidate is registered to issue income tax receipts (i.e. the candidate has completed and submitted Form 911 to Elections Manitoba), issue tax receipts (signed by you) for all monetary contributions of over \$10.

### Reminders if registered:

- It is recommended, however, that tax receipts be issued for all monetary contributions regardless of size.
  - You must issue a tax receipt for small contributions if the contributor requests one.
  - You are not permitted to issue income tax receipts for donation in kind contributions. [p.30-31]
- Be aware of expense limit updates and ensure that campaign does not overspend. [p.52]
  - Meet regularly with the candidate and the campaign to discuss comparisons of budgeted versus actual spending (in the context of the expense limits).
  - File any loan agreements with Elections Manitoba immediately after the loan is made. [p.39]
  - Keep your books and records up-to-date, including separating election expenses from non-election expenses.

**Suggestion:** Spend time on this regularly (weekly or even daily); the job will be much easier at the end if you take the time now. [p.16]

- Record beginning inventory items used as expenses (election or non-election) at the value they were recorded at during your count on writ day. [p.58-61]
- Make sure all advertising and promotional material has been authorized by you during the election period. [p.52]
- Call Elections Manitoba if clarifications are needed. This will save time!

### **Checklist #6: Election Day (the election period ends)**

The following has to be done on Election Day (the last day of the election period):

- Count and value any remaining inventory on hand as of 8 p.m.

#### **Notes:**

1. Your auditor may want to be part of this count so keep him or her informed.
2. Make a written record or document and keep this record. [p.59]

#### **Reminders:**

- This is the last day of recording election expenses. After 8 p.m., goods and services used are non-election expenses (including expenses incurred for a social function or "thank-you" notices). [p.49]

## Checklist #7: After the election

- Continue recording income received and expenses incurred for the campaign until the end of the candidacy period.
- Collect all outstanding invoices and, pay them if funds are available.
- If your candidate has not already registered to issue tax receipts (by completing and submitting Form 911 to Elections Manitoba), ensure that your candidate does this prior to the deadline, which is the end of the Candidacy Period (i.e. two months after Election Day).
- Determine the final inventory for your financial statement. [p.59]
- Confirm with the auditor the day that you will be providing the completed Form 922 and the books and records. [p.62]
- Finalize Form 922 and the Detailed Contributors' List (Form 932).
- Make copies of all expense invoices for filing with Form 922.
- Give the completed Form 922, along with your books and records, to your auditor and meet to answer any questions.
- File the following with Elections Manitoba within four months of election day:
  - Form 922;
  - The Auditor's Report and invoice;
  - All unused and voided tax receipts, as well as Elections Manitoba's copies of all issued tax receipts;
  - Invoices, vouchers, and other documentation supporting the expense amounts included on Form 922;
  - Any clarifying explanations for items reported on Form 922;
  - Form 932 – Candidate's Detailed Contributors' List.
  - Copies of loan agreements not filed earlier.
- Respond to questions from Elections Manitoba within 30 days of a request. [p.69]
- If your candidate is entitled to a reimbursement of election expenses, deposit the reimbursement cheque into the campaign account and use these funds to first reduce or eliminate any amounts still owing. [p.70]
- Pay the campaign surplus (if any) as directed by Elections Manitoba. [p.71]
- Turn over the campaign books and records to the candidate who must keep them for at least 5 years from the date that Form 922 was filed [s.58].

**Note:** At the end of each year following the review of Form 922 the candidate will have to complete Form 925 (if there is a deficit and/or an outstanding loan balance).

# EFA – Terms and concepts

## I. The Official Agent

### A. Who is an “Official Agent” and what does he or she do?

Every candidate has to have an official agent [ss.10(3.3)]. An official agent is normally a volunteer and is responsible for the finances of a candidate’s campaign. Specific **responsibilities** include the following [ss.10(4)];

1. Opening and maintaining a campaign account in a financial institution;
2. Ensuring that records are kept of all income, expenses, transfers, assets, and liabilities of the campaign;
3. Issuing tax receipts to individuals for monetary contributions (if the candidate is registered) [s.35];
4. Making sure that detailed records of contributions received are kept [s.10(1)(b)];
5. Paying all of the campaign expenses [s.55(3)];
6. Authorizing advertisements and promotional material [s.48];
7. Making sure that the campaign does not spend more than the election expense limit or the advertising election expense limit [s.86];
8. Preparing the financial statements for the campaign (Form 922), arranging for the statements to be audited, filing them with Elections Manitoba [s.61(1)];
9. Filing the Candidate's Detailed Contributors' List [s.10(4)(b.1)];
10. Receiving any expense reimbursement cheques and using the funds to first pay off any amounts still owing from the campaign [s.73.3(2)];
11. At the end of the campaign, paying the surplus (if one exists) to the party or to the Chief Electoral Officer [s.75(2)].

As an official agent, you are responsible for all of the above throughout the entire candidacy period, regardless of when you were appointed [ss.10(5)]. Even if your candidate received money or incurred expenses before you were appointed you are still responsible for accounting for these items once you are appointed. As such, when you are appointed your candidate should provide you with all the books and records related to the campaign prior to your appointment.

Your candidate can withdraw from the election up to Election Day (the last day of the election). However, even if your candidate withdraws, you are still responsible for filing the financial statements (Form 922) for the campaign with Elections Manitoba [ss.66(1)].

### B. Are you eligible to be an Official Agent?

There are no restrictions on who may be an official agent unless you are a candidate or an auditor of a candidate or party [ss.8.1(2), 10.2(3)]. There is no formal training required to serve effectively as an official agent and there are no specific qualifications. However, given the responsibilities of the position, you would probably find it beneficial to have:

1. Some basic accounting or bookkeeping skills and the ability to understand a simple financial statement (or have access to someone who does);
2. Organizational and communication skills; and
3. Most importantly, a desire to do the job correctly.

As an official agent, you will need to have a solid grasp on your responsibilities and role early in the campaign process. Your work in this position is critical to ensuring that the requirements of the EFA are met.

A final consideration in determining whether you can effectively perform the role of an official agent is to consider the time requirements. You must have the necessary time available before, during, and after an election to complete all of the requirements (as there may be penalties or other consequences for you and/or the candidate for failing to do so – see section XIII. Consequences/Penalties). It is important to note that most campaigns spend less than \$25,000 in total and have less than 50 transactions. Thus, the vast majority of campaigns are not overly demanding from the perspective of volume of activity.

### **C. What do you do with Forms 907 and 400?**

In the period prior to an election being called (the pre-writ period), once a candidate has been nominated by a constituency association or registered political party, or has declared an intent to run in an election (i.e. an independent candidate), the candidate has 15 days to file Form 907 (*Notice of Intent to Appoint Official Agent*) to let Elections Manitoba know who they *intend* to appoint as their official agent [ss.10(3.3)]. When you are being appointed as the official agent, you are required to complete and sign a section of this form [ss.10(3.4)].

Given the nomination process of many constituency associations and political parties, in many cases, candidates will be nominated and have to provide this notice (i.e. Form 907) many months in advance of the election being called.

#### **Note:**

- Form 907 must only be filed by candidates who are nominated or declare their candidacy before the election is called (writ day).
- Candidates nominated or declaring their candidacy after the writ day are only required to file Form 400.

During the election, all candidates must file Form 400 (*Nomination Paper*) which:

1. Officially nominates or declares the candidacy of your candidate; and
2. Officially appoints you as the official agent.

Regardless of whether you have signed and submitted Form 907, Form 400 must be completed and filed as it is a requirement of *The Elections Act*.

### **D. What else should you know?**

As an official agent, you will need to learn some of the basic concepts and requirements of the EFA. There are three avenues available to help you work towards this end:

1. Reading and understanding the concepts discussed in this guide;

2. Attending a campaign information seminar put on by Elections Manitoba (approximately 2 hours); and
3. Consultation with Elections Manitoba (available by phone, by email, and in person).

**Keys to performing your role effectively:**

1. Maintain an account in a financial institution.
2. Create records (and maintain documentation) for all transactions.
3. Communicate with your candidate openly and regularly.
4. Attend all campaign meetings.
5. Communicate with other campaign workers.
6. **Be Proactive** – establish spending guidelines and other procedures early.
7. Contact Elections Manitoba promptly if you have any questions or require clarification.

You may face pressure at times to approve additional spending even when the campaign already close the expense limits. Being prepared (by understanding your role and responsibilities, as well as the rules provided by the EFA) and taking a preventative approach to such situations will be critical to ensure your success.

Be aware that decisions can and are made very quickly during an election. You will need to be aware of all decisions that will have an impact on the finances of the campaign. As such, it would be very helpful to attend all campaign meetings that involve spending decisions so that you can provide input before the decisions are being made, rather than after the fact.

**E. Compliance with the Act**

You, the candidate, and other officers of a candidate all play a major role in ensuring that the candidate's campaign and all related activities comply with the requirements of the Act. However, you may encounter or discover instances where the activities are not in compliance with the Act. If reasonable attempts to correct the non-compliance are not successful, you should report all such instances to Elections Manitoba. Should the matter not be satisfactorily resolved, you should use judgment to determine whether resignation is appropriate or necessary [s.83.1; s.84; s.86; s.88].

**F. Requirements of others related to your role**

As an Official Agent, your ability to have access to all pertinent information about the contributions to and expenses of your candidate's campaign is critical. In order to ensure that this is possible, the Act states that if at any time, you (or the candidate him or herself) provide an individual with a written request for a record or information related to a contribution that the individual collected or expense that the individual incurred or approved related to the candidate (or leadership contestant, if applicable), that individual is required to provide the requested information [s.87.2]. If the individual fails to do so, then he or she would be guilty of an offence.

## II. Maintaining a financial account

One of the first and most important tasks is to open an account in a financial institution. It should be opened as soon as possible after a person becomes a candidate even if an election has not been called.

### A. What does The Elections Finances Act require?

*The Elections Finances Act* (Manitoba) requires the following of you in your capacity as an official agent concerning the account:

- To open and maintain an account in a financial institution in the name of the candidate [s.10(4)].

**"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

- That all monetary receipts and disbursements of the candidate's campaign flow through the account before, during and after an election [s.10.1(1)].
- That each disbursement is substantiated by an invoice or a voucher [s.10.1(2)].
- That only money pertaining to the candidate's campaign is deposited into the account [s.10.1(3)].

### B. Why is it important for receipts and disbursements to go through the account?

It is essential that all money received and spent in relation to the campaign goes through one account for the following reasons:

1. It helps you to stay on top of the "financial position" of the campaign. At all points of the campaign you should know:
  - a) How much money is available to be spent;
  - b) How much money has already been spent; and
  - c) The nature of the existing expenditures.
2. You will be able to report more confidently during the election especially concerning spending in relation to the election expense spending limits.
3. It will allow for a more efficient audit and may mean that Elections Manitoba needs less time to complete the review of the candidate's financial statement and to process any applicable reimbursement of election expenses.

### C. What will the financial institution require?

To open an account the financial institution will normally need to know or have the following:

- **The type of account needed:** 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 your books and records and you may be asked to provide copies of these documents to our office. [s.98(c)]

- **Information about yourself and the candidate:** You may be asked to provide additional personal and financial information which may include your date of birth, social insurance number, occupation, home and business addresses and phone numbers. You may also be asked for authorization to complete a credit bureau check.
- **Evidence that it is a 3<sup>rd</sup> party account:** Be prepared to provide evidence that you are opening an account for a third party (i.e. for your candidate) which would include the name, address and phone number of the candidate, the nature of the principal business or occupation of the candidate, as well as the nature of the relationship between you and the candidate.

You may be asked to provide a letter from the candidate confirming your appointment as his or her official agent. It is your responsibility to determine the requirements of the financial institution in question. A sample memorandum form is provided for your convenience (see Appendix F) which might be suitable depending on the requirements of the financial institution. You will need to check this beforehand. The financial institution may wish that the form be sworn by the candidate before a notary public or other person authorized to take oaths in the province. A copy of Elections Manitoba Form 907 might also be acceptable to the financial institution. Form 907 is the official agent appointment form that must be signed by the candidate and the official agent. This requirement is applicable to candidates that are nominated by constituency associations prior to an election call; however, there is nothing that prevents the use of the form for those candidates nominated after an election is called.

- **Account name:** Assuming that the official agent is John Smith and the candidate is Jane Doe, some suggested names for the account would be:
  - Jane Doe, Campaign Account;
  - John Smith, Official Agent for the Jane Doe Campaign;
  - John Smith, Official Agent for Jane Doe.
- **Signing authority:** The institution will want to know who will be able to sign cheques against the account, so consider this beforehand. You must have control of the account.

**Note:** For financial control and accountability purposes it is recommended that the account require two signatures and that one of the signatures must always be that of the official agent. In other words, if there are several signing officers it is recommended that the official agent always be one of the signers.

- **Personal identification:** The financial institution will need to obtain and record personal identification from each signing officer on the account. If the signing officer is new to the financial institution two pieces of identification may be required. If a signing officer has a valid account or credit card from the financial institution one additional piece of information may be sufficient. Acceptable identification includes:
  - A valid driver's licence issued in Canada;
  - A passport issued in Canada;
  - A birth certificate issued in Canada;

- A Social Insurance Number (SIN) card issued by the Government of Canada;
- An Old Age Security card issued by the Government of Canada;
- A Certificate of Indian Status issued by the Government of Canada;
- Any similar official document or card issued by a federal, provincial or state government;
- Credit and debit card with your signature issued by a reputable financial institution;
- Provincial health insurance card;
- Employee identification card, which includes your photo and name, issued by a reputable employer.

### III. Record keeping [s.10(4)]

Record keeping refers to the recording of every transaction in a manner that is:

- Accurate;
- Organized; and
- Timely.

#### A. What is a transaction?

Your job is to record transactions. A transaction has occurred every time:

1. The candidate's campaign receives money, goods or services;
2. The campaign spends or transfers money or incurs a liability; or
3. The campaign uses goods or services.

When any of the above takes place, you have something to record.

#### B. What is accurate recording?

Accurate recording means making sure that you track every transaction and that none are missed. It also means that when you record a transaction, you call it what it is and you put it in the right place in your records. There are rules that have to be followed for every transaction that you record. The rules are set out by the *EFA* and are clarified in this Guide and the *Accounting Guide – Accounting For Purposes of The Elections Finances Act*. You should be fairly comfortable with the rules after spending some time reviewing the technical material (and maybe talking to Elections Manitoba or attending an information session).

An example will help to clarify what is meant by "accurate" recording:

Assume that the campaign spends \$1,000 for office rent for a rental period that is outside of the election period. If you record this as:

1. A \$1,000 election expense: You **have not** recorded this accurately;
2. A \$750 non-election expense: You **have not** recorded this accurately;
3. A \$1,000 non-election expense but call it "office supplies": You **have not** recorded is accurately; but
4. A \$1,000 non-election expense categorized as "office rent": You **HAVE** recorded this accurately.

The same is also true for recoding non-cash transactions such as donations in kind. You need to know the rules and follow them as you decide the type and amount of the transaction.

#### C. What is recording in an organized way?

You need some way of tracking all these transactions that makes it easy for you to get the information that you need for Form 922. You want to track these things in a way that does not take a lot of your time and that you can be easily understood. There are many ways of doing this and the system you use does not have to be much more involved than what you might use for your own chequing account. You could choose to record transactions using a manual system (i.e. recording them in a book) or an

electronic system (i.e. using a computer). The best method for you to use is whatever method you find to be the most comfortable.

#### **Keys to being organized:**

1. Use an organized accounting system;
2. Maintain the organization of all the papers and documents that support each transaction (e.g. purchase invoices). This is as simple as keeping a file folder for each type of expense and filling it with the papers that support each respective expense.

Regardless of your method, your record of the transactions combined with all of the supporting documentation is what comprises your "books and records".

#### **D. Recordkeeping tool**

Elections Manitoba has developed a recordkeeping tool to assist official agents in their responsibilities of tracking and reporting income and expenses and completing Form 922 more accurately and efficiently.

There are 2 versions of the recordkeeping tool. The first is an excel based electronic recordkeeping tool and the other is a recordkeeping book where transactions are recorded manually in a paper based system. The electronic tool is designed so the official agent only has to input the information once. The transactions are updated and sorted into the worksheets by one click of a button. The electronic tool is compatible with Form 922 filing disk so the transactions can be imported with ease.

#### **E. What is recording on a timely basis?**

The sooner you record a transaction after it has happened, the greater the likelihood that it will be properly recorded (or recorded at all). Taking a little bit of time each week to update your books and records is a good idea and helps to keep you on top of things. **Waiting to record everything at the end of the candidacy period is not advisable and is strongly discouraged.** Doing this would require a lot more time and will cause much more stress. By keeping records up to date, you will be able to identify spending limit concerns when corrective action can be taken, rather than finding out that a spending limit has been breached after the elections is over.

#### **F. The election ends...but keep recording**

The candidacy period does not end until two months after Election Day. While there may not be much activity following the election it is still important to continue recording income and expenses as they occur until the end of the candidacy period. Remember that expenses are automatically non-election expenses in the period following 8 p.m. on Election Day (e.g. "thank-you" notices sent out the next day). Within this period, you should try to get all of your expenses and income cut-off as soon as you can because you will have to complete Form 922 and have the auditor examine it fairly quickly in order to meet the filing deadline (which is four months after Election Day, or two months after the end of the candidacy period).

#### **G. What other things should I know?**

The basis of every good record keeping system is that every monetary transaction goes through the financial institution account. This is required under the EFA and it makes it easier for you to record. If a transaction goes through the account, then there is a record of it on your bank statement, and on your cheque or deposit slip. Thus, as noted previously, your account statements, cancelled cheques, and deposit slips form an important part of your books and records.

However, if the transaction involves a donation in kind, then this transaction cannot go through the account and so you will have to make sure that you have prepared a way to accurately and reliably track these transactions.

A good source of additional information on the topic of record keeping is Section 400, "Maintenance of Appropriate Records" in the *Accounting Guide – Accounting For Purposes of The Elections Finances Act*.

#### **H. Subsidy to consult auditor on record keeping**

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

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

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

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

1. Meet with you shortly after being appointed auditor and perform the following:
  - Provide a basic overview of the accounting requirements of *The Elections Finances Act* (EFA) and the *Accounting Guide – Accounting for the Purposes of The Elections Finances Act*.
  - Discuss the specific EFA accounting requirements and accounting recommendations concerning:
    - Prohibited contributions (source and amount);
    - Tax receipt requirements and reporting;
    - Election vs. non-election expenses;
    - Overall spending limits;
    - Advertising spending limits;
    - Definition of advertising expenses;
    - Allocation of expense restrictions;
    - Required inventory counts;
    - Reporting of inventory;
    - Reporting of capital assets; and
    - Reporting of accounts payable.
  - Evaluate the accounting system to ensure that it will provide:
    - A suitable system to maintain an organized accounting system;

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

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

## IV. Time periods

### A. Basic terms

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

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:

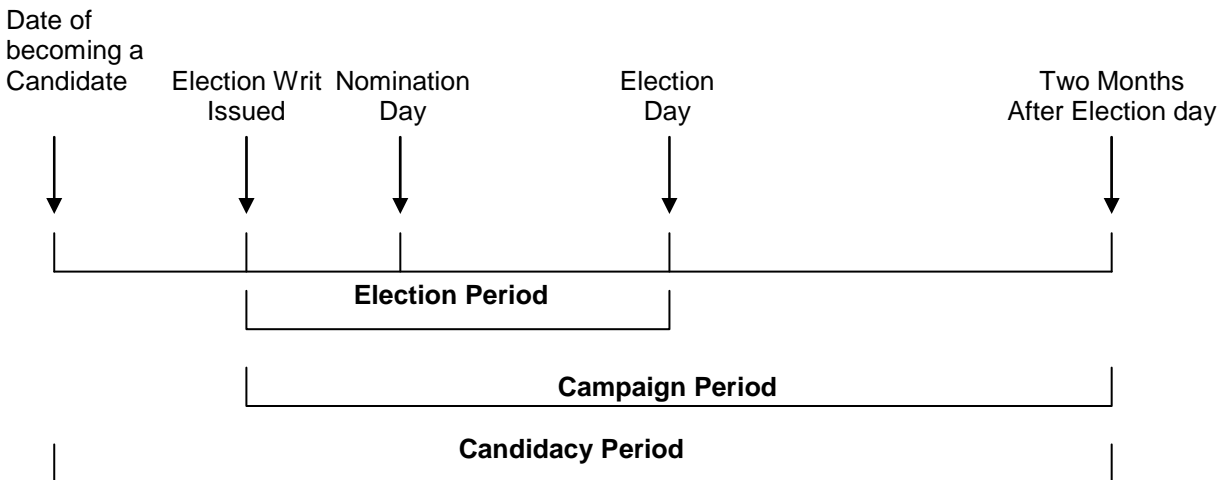
1. By being nominated by a registered political party or a constituency association of a registered political party, or by filing nomination papers with a returning officer during an election (whichever is the earliest). Most candidates in elections are affiliated with registered political parties.
2. 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 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.

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



### B. 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.

**C. Summary table**

<b>Time period</b>	<b>Start date</b>	<b>End date</b>
Candidacy period	<p><b>Endorsed Candidate</b> – 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><b>Independent Candidate</b> – 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
Election period	Day the writ is issued (Writ Day)	Election day
Campaign period	Day the writ is issued (Writ Day)	Two months after election day
Reporting period	First day of Candidacy Period (as described above)	Two months after election day

**D. Filing deadline**

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

Form 922 has to be completed and sent in to Elections Manitoba **no later than four months after Election Day [s.61(1)]**. (Further discussion of Form 922 is provided in Section XI. Reporting and in Appendix B.)

## **V. Income**

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

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

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

### **A. Contributions**

While contributions only comprise one component of total income obtained during a campaign, due to the complexity of the concepts involved and the importance of these concepts not only under the EFA but also to your candidate's campaign, this section has been set apart from the other sections of this guide with its own table of contents. The Contributions section has been broken down extensively into its component sections in the hope that this will allow you to easily reference the relevant aspects of the contribution rules as required. More importantly, this breakdown of and elaboration on the contribution section has been provided to ease your understanding of this complicated topic.

The importance of your understanding of this topic cannot be stressed enough. Should you have difficulty with any of the following concepts and would like further clarification please refer to Appendix A which provides additional clarification of certain contribution topics, or contact Elections Manitoba.

### **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 candidate's campaign that is:

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

Cash contributions include contributions in the form of money, 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**:

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

Examples of donation in kind contributions are:

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

### A.2.1. Value of donation in kind

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

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

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

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

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

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

It is important to note that if the office had been owned by a corporation rather than a sole-proprietor, this contribution would have violated the contribution limit provisions of the EFA as only individuals normally resident in Manitoba may contribute to a party, candidate, leadership contestant or constituency association [ss.41(1)].

### A.2.2. Discounted donation in kind

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

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

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

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

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

### A.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 without the contributions having to be recorded on the candidate's financial statements or the individual having to be included in the contributors' lists. A third such contribution by an individual in a year, regardless of value, must be reported on Forms 922 and 932 [ss.40.1(1)].

**Key action to remember:** You must keep track of the number of donation in kind contributions of less than \$25 made by an individual in a year so that you can determine when the threshold for not recording such donations has reached.

### A.2.4. Indirect contributions

Money spent on behalf of a candidate, or goods or services provided for the benefit of a candidate with the knowledge and consent of the candidate are donation in kind election expenses (assuming this occurs in the election period) and would also be donation in kind contributions.

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

### **A.2.5. Campaign workers (other than permanent employees of a registered political party)**

There are some recording issues (contributions and expenses) related to donations in kind with respect to payments made to individuals working for a candidate's campaign. Individuals may be paid by the campaign, paid by another person, or not paid at all. Each of these circumstances is reported differently (*Please refer to Section VII Expenses, Subsection A.5. Campaign Workers*).

### **A.2.6. Forgiven or unpaid trade payables**

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

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

### **A.3. Deemed contributions**

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

### **A.4. 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 having 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.5. 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 V. Income, Subsection A.5.2. The role of professional fundraisers*).

##### **A.5.1. Responsibilities of an individual collecting contributions**

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

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

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

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

cheque or money order, the contributions must be accompanied by the contribution record kept by the collector.

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

**Key things to remember about forwarding collected contributions:**

**1. If an individual collects cash, he or she must:**

- 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.5.2. 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.6. Contribution limits and restrictions**

The Elections Finances Act limits contributions:

- Only individuals normally resident in Manitoba may contribute to a provincial candidate or leadership contestant, or to any registered political party or constituency association of a political party registered in Manitoba [s.41(1)];
- The combined total of all contributions made by an individual to all recipients (including contributions to leadership contestants after the leadership contest period ends) may not exceed \$3,000 per calendar year [s.41(1.1)];
- 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 (*Donations in kind of less than \$25*);

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.6.1. Contributions to candidates before candidacy period**

A candidate that is nominated by a constituency association may have received contributions before the beginning of his or her candidacy period while contesting the constituency nomination. Under s.41(5) these are deemed to be contributions to the candidate's constituency association (not the candidate) and thus tax receipts may not be issued for such contributions.

#### **A.6.2. Use of force or intimidation**

One final note is necessary concerning a matter taken very serious with regards to the contribution process. No one is permitted to directly or indirectly, use or even threaten to use force or violence, or threaten to inflict injury, damage, harm or loss, upon another person in order to get them to make (or to get them not to make) a contribution. Engaging in such behaviour is considered a general offence [s.78.1].

#### **A.7. Reporting contributions**

Reporting of contributions received is required for:

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

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

##### **A.7.1. Public disclosure (Form 922)**

For every contributor who made one or more contributions in the candidacy period to a candidate totalling in aggregate \$250 or more (cash and donation in kind), the following information must be disclosed for the period [s.64; s.68(3)]:

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

Information to be disclosed above is reported on a candidate's Form 922 and is available for public inspection.

### **A.7.2. Tracking contribution limits (Detailed Contributors' List – Form 932)**

Candidates must also disclose to Elections Manitoba information concerning all contributions (both cash and donation in kind) received during a candidacy period. Accordingly, records must be maintained for all contributions (cash and donations in kind), and would include [s.10(4)(b.1)]:

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

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

### **A.8. Tax receipts**

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

A tax receipt is similar to a charitable donation receipt; if you have one you can get a credit against the tax you have to pay on your income tax return. An individual making a contribution to a *registered* candidate may be issued a tax receipt for the amount of the contribution so that the individual can claim an income tax credit. If you want to know how much may be claimed see Appendix E – 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 even if they receive monetary contributions [s.34].

For a candidate, only you (or deputy official agent appointed under s.8 of the *EFA*) may issue tax receipts [ss.33(1)]. A deputy official agent can be appointed by you to help with the issuance of tax receipts. Complete Form 902B and send to Elections Manitoba if you want to appoint someone.

#### **A.8.1. How does the candidate register to issue income tax receipts?**

Registration is voluntary but a candidate must be registered in order to issue tax receipts. Your candidate cannot register until he or she has filed Form 400 *Nomination Paper* and Form 911 *Application for Registration* (registration is different from nomination) with a returning officer in an election period. Form 911 may also be filed with Elections Manitoba before the end of the candidacy period. Candidates are not permitted to register to issue tax receipts after the end of the candidacy period [s.25].

If your candidate is not registered, you still have to report contributions on Form 922 in the same way as a registered candidate. You simply cannot issue tax receipts.

#### **A.8.2. Once registered, do I have to issue a tax receipt for every eligible contribution received?**

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* that is greater than \$10, if your candidate is registered [s.35]. You do not have to issue an income tax receipt for monetary contributions of \$10 or less (unless you are requested to do so by the contributor) but it is strongly advised that you do. Do not issue income tax receipts for donation in

kind contributions. Since all cash contributions have to be deposited into the campaign bank account, each tax receipt should also be supported by a deposit slip(s) [ss.10.1(1)].

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

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

### **A.8.3. When can you start issuing receipts?**

No tax receipts can be issued until after the candidate has been registered. After registering, Elections Manitoba will provide you with blank tax receipts which must be used. The official agent can then issue tax receipts for contributions received on or after the day the person became a candidate (see Section IV Time Periods). This means that tax receipts can be issued for cash contributions received during a candidate’s candidacy period but the tax receipts will not be available until the candidate becomes registered (which will be well into the candidacy period). The registration period ends two months after Election Day which is the same time that the candidacy period ends. Contributions to a candidate after this period are not eligible for tax receipting.

For example, assume that a candidacy period begins on February 1 and an election is called on April 25. The candidacy period ends on June 25 (assuming the end date is not a holiday). The candidacy period is from February 1 to June 25 and tax receipts may be issued for monetary contributions received in this period even though the candidate cannot become registered until after April 25.

### **A.8.4. Reconciliation of tax receipts**

The booklets of pre-numbered tax receipts provided by Elections Manitoba to all registered candidates and the actual tax receipts issued must be reconciled. This reconciliation is prepared on Schedule 5 of Form 922 and includes the following information:

1. Total number of tax receipts received from Elections Manitoba;
2. Total number of tax receipts issued to contributors;
3. Total number of voided or cancelled tax receipts; and
4. Total number of unused tax receipts.

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

**Key Action:** Keep the books of tax receipts in a secure location as you will be required to reconcile your receipts and account for all of the receipts originally provided to you!

### **A.9. Additional information and discussion of contribution concepts**

Appendix A provides additional clarification on many of the contribution topics discussed above including:

- Examples of contributions, non contributions, and prohibited contributions
- Guidelines in determining when a contribution is made

- Identification of contributors
- Receiving a prohibited contribution

## B. Transfers (received)

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

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

**Key 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.

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 to a candidate's campaign by his or her registered political party or constituency association and the campaign pays for these goods or services, these transactions do not represent **transfers, but** rather, expenses to the candidate's campaign that are treated similarly to 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 candidate (during the candidacy period), and the value of the transfer is \$250 or more, the constituency association must advise the 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 candidate must disclose this information from the constituency association on Form 922.

### **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. (See Section VI – Loans)

### **C. Raising funds through a sale of merchandise**

When an item is sold for the purposes of raising money for a candidate's campaign it is necessary to determine how the resulting income should be classified. What is critically important is the extent to which a commercial sale may be considered a contribution. Any portion considered a contribution 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).

#### **C.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.

#### **C.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 candidate's campaign at a price of \$350, where the market value cost to acquire the merchandise was also \$350, would **not** result in a contribution.

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

**SP > AQ → Contribution**

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

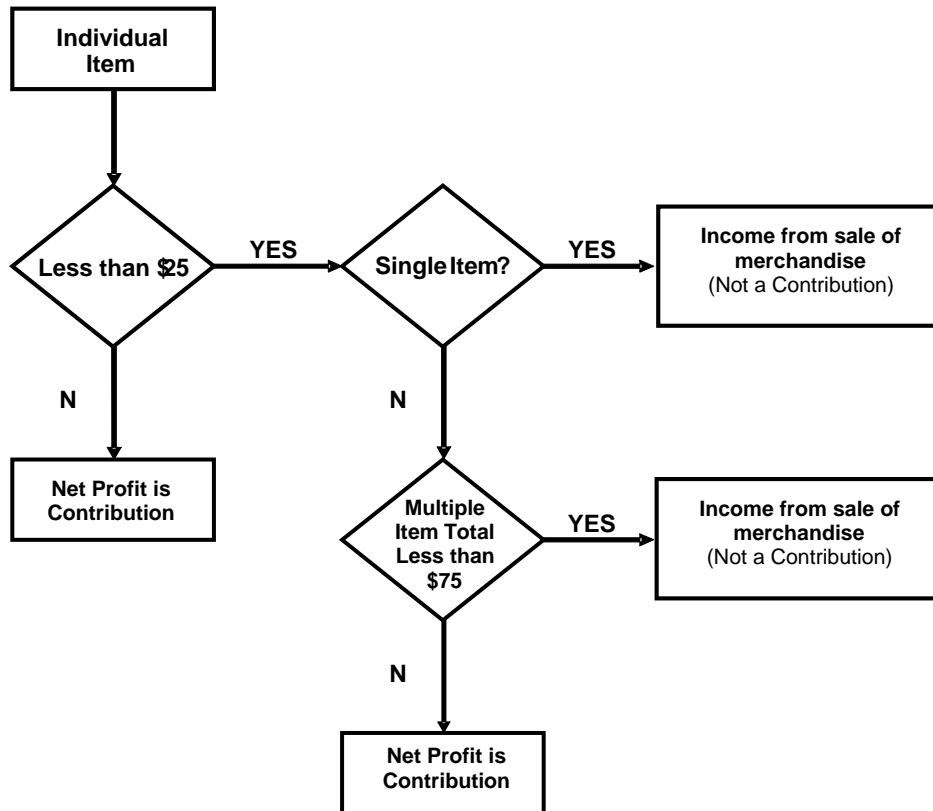
**C.1.2. Exception for nominal amounts: sales of items with prices less than \$25**

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.

C.1.3. Sale of merchandise income classification decision tree



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

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

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

In a second transaction, an individual purchases 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.

#### D. Other income

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

Sources of other income include:

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

#### E. Fund raising functions [s.38]

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.

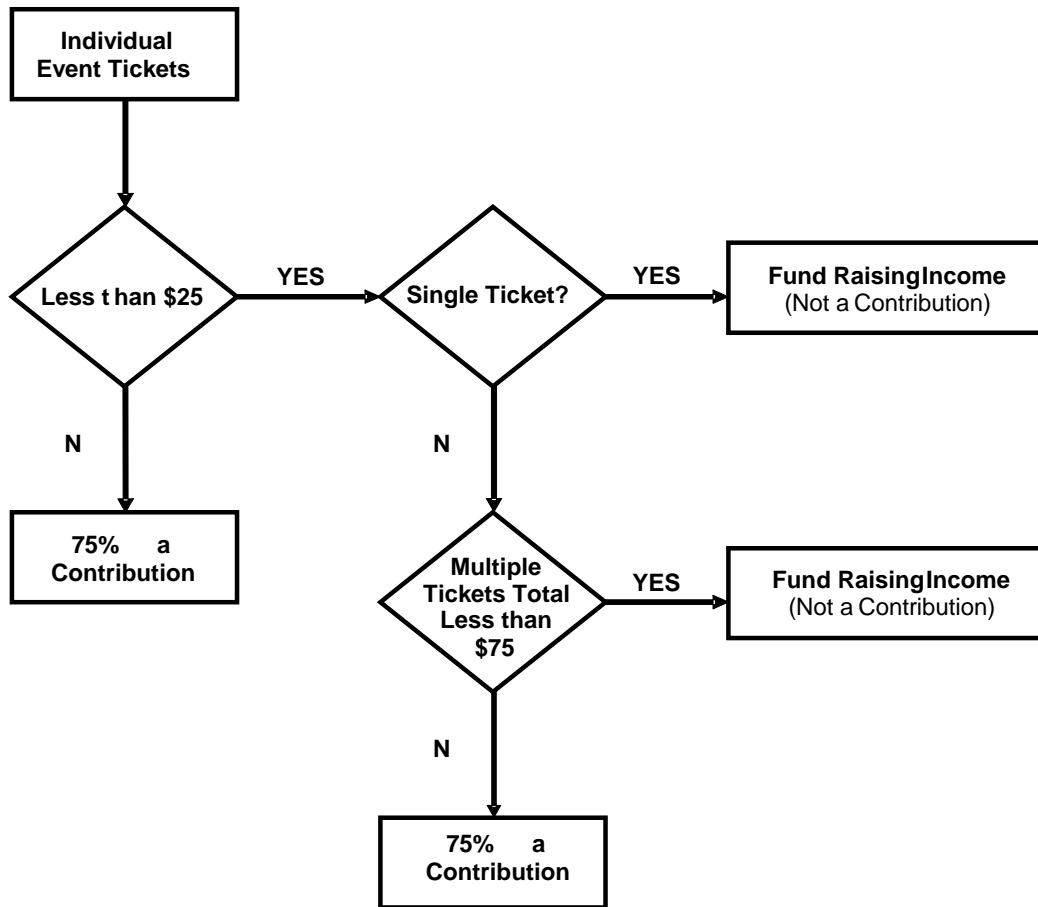
Where the ticket price or individual charge is less than \$25 or where multiple tickets, priced at less than \$25 each, purchased for a single fund raising function total less than \$75, all of the income reported is fund raising income [ss.38(3)] (i.e. **no portion is considered contribution income**). 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.

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



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

Since the ticket price was less than \$25, the forty-six individual tickets purchased would not result in contribution income. In addition, because the company purchased multiple tickets for an amount not exceeding \$60 and each ticket cost less than \$25 each, the company has not made a contribution and consequently, contribution income would not be recorded. Instead, the \$500 of income (\$10 x 50 tickets) would be recorded as fund raising function income.

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

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

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

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

## VI. 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 constituency association may only lend money to its nominated candidate or its registered political party [s.44.4];
3. The maximum period of any loan made to a *political entity* (including refinancing loans) is 24 months [ss.44.1(3.1)]; and

**Political entity:** A political entity is a broad term which refers to Provincial candidates, leadership contestants, registered political parties, and/or constituency associations.

4. No person or organization shall, in a single year, provide a loan to a political entity in excess of \$3,000 [s.44.1 (3.2)].

It should be noted that limitations 3 and 4 above are not applicable to loans made from financial institutions, registered political parties, or constituency associations [ss.44.1(3.3)].

### A. Requirements for a loan agreement

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. in the case of a candidate, the Official Agent or the candidate him or herself).

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

Loan proceeds received must be deposited into the candidate's campaign financial institution account.

### B. 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 prohibited contributor, a violation of the *EFA* has occurred.

### **B.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.

### **B.2. Uncollected loans [ss.44.1(4)]**

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

### **B.3. Loans settled by third parties [ss.44.1(3)]**

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

## **C. Loans Deemed to be Transfers**

Generally, loans from a registered political party or constituency association are not transfers. However, such loans may result in, or be deemed to be transfers (similar to loans that are deemed to be contributions).

### **C.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 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 transfer.

### **C.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)].

### **C.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)].

**D. Reporting for loans outstanding**

Where a loan to a candidate remains outstanding at the end of a year, and is \$250 or more, the candidate must report the balance within 30 days of the end of the year to Elections Manitoba (Form 925) [ss.44.2(2)]. The loan agreement does not have to be filed again.

## VII. 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 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 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 (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 incurring expenses (for which there is no reimbursement) on behalf of and with the knowledge and consent of candidates as such expenses would represent prohibited contributions.

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

- 1) The candidate 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.

All expenses reported on Form 922 (Candidate's Financial Statements and Supporting Schedules) must be accompanied by supporting documentation such as invoices, receipts, or vouchers providing evidence of the expenses or disbursements when form 922 is filed with Elections Manitoba.

### 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 thoroughly understood as it impacts on spending limits and on the amounts reimbursed by the public treasury to candidates (spending limits and reimbursements are discussed in another section).

In general, "election expenses" means

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

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

Essentially, an election expense is the use (i.e. consumption) of a good or service in an election period for an election purpose. **(Understanding the concept of use or consumption is critical in**

**understanding the definition of election expenses.)** Goods that are acquired in a pre-election period may still represent election expenses.

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

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

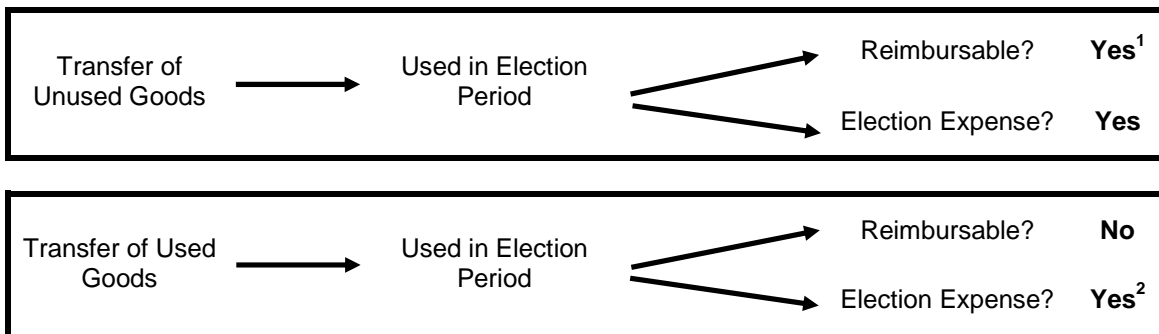
- A cash purchase or a trade payable by the campaign;
- A donation in kind contribution where goods or services are received;
- A donation in kind contribution where there has been payment for goods or services on behalf of a candidate's campaign with the knowledge and consent of the campaign; or
- A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

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

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

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

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



<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 under column C (goods and services used and received through transfers)

## 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.

**Note:** This can include lost wages of the candidate, but does not include salaries and wages paid to permanent staff members of a registered political party working in the office during the election period.

- Reasonable personal expenses incurred by a candidate in an election period to enable the candidate to campaign in an election;
- A reasonable portion of the cost of capital assets (see *Accounting Guide – Accounting For Purposes of the Elections Finances Act*, Section 650 "Capital Assets", paragraphs .08 to .11);
- The expenses incurred for a fundraising function;
- Goods which were acquired in a previous election and not used in the previous election but are used in the current election; and
- Costs for polling.

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

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 fees)	\$ 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 D 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 prorated based on the period of time that the service was provided;
- Monthly rent for office premises could be prorated 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 prorated 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, an official agent 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 official agent 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. Paying election expenses**

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

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

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

There are some recording issues concerning individuals working for candidates' campaigns. Individuals may be: 1) paid by the campaign; 2) paid by another entity; or 3) not paid at all. Each of these circumstances is reported differently.

##### **A.5.1. Campaign workers paid by the campaign**

If a candidate's campaign pays individuals working on the campaign (e.g. fees and/or expenses) then these costs are considered 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 the cost associated with that part of the service is considered to be a non-election expense.

##### **A.5.2. Campaign workers paid by another entity**

An individual may be working for a campaign and receiving compensation from a source other than a candidate's campaign. 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 candidate's campaign.

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.

##### **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 campaign must record a donation in kind contribution and a donation in kind election expense for the market value of the self-employed individual's services.

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

Source of payment for the services of campaign workers	Election expenses (if services were provided during the election period)	Non-election expenses (if services were provided outside the election period)
1. Paid by campaign	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 [s.46(6)].

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

candidate's campaign. For the time the employee is working for the candidate's campaign (in the candidate's campaign location), the campaign would report:

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

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

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

#### **B. Non-election expenses**

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

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

A candidate's campaign may obtain goods or services considered non-election expenses in a number of ways, including:

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

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

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

- A leadership contest, or other conference or convention of a registered political party;
- Meetings to nominate candidates;
- Reasonable expenses incurred in the operation of any permanent office of a registered political party, including salaries and wages paid to permanent staff members working in the office during the election period;
- Auditor's fees;

- Reasonable child care expenses incurred by a candidate in order to enable the candidate to campaign in an election period; \*
- Reasonable expenses incurred by a disabled candidate in relation to a candidate's disability to enable the candidate to campaign in an election period; \*
- Volunteer labour, unless provided by a self-employed individual where the service provided is normally part of the individual's self-employed business;
- Volunteer chief financial officer, official agent, auditor, or legal counsel to a registered political party or candidate; and
- Goods or services used after 8 p.m. on Election Day (i.e. after the election period).

**\* These expenses are 100% reimbursed.**

**Examples of non-election expenses:**

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

**C. Transfers (sent)**

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

**Key points about transfers:**

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

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

Transfers are discussed in more detail in *Section V Income, Subsection B Transfers*.

**D. Election expense limits**

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

1. Total Election Expenses; and

## 2. Total Advertising Expenses.

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

### D.1. Total election expense limit

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

#### Key points to remember:

1. Election expenses include all those expenses incurred by the candidate, the constituency association, or another individual who pays for expenses on behalf of the candidate (but with the candidate's knowledge and consent) [s.51(1); 51(2)].
2. Advertising election expenses subject to the Total Advertising Expense limit are included in the calculation of Total Election Expenses for the purpose of the Total Election Expense Limit as well.

### D.2. Advertising expenses and spending limit

#### D.2.1. 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 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)].

#### **D.2.2. Advertising election expense limit**

- Campaigns are also specifically limited with respect to the amount of advertising expenses that they can incur in the election period.

- The Advertising Expense Limit is calculated on the basis of the same two factors as the total election expense limit (i.e. the per-voter dollar amount and the number of the registered voters on the voters list) and is calculated at the same 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.

### D.2.3. Authorization of advertising and promotional material

As the official agent, it is necessary that you authorize **all advertising and promotional** material that is printed or distributed at any time of the year (i.e. both inside and outside of an election period) [ss.48(1), 54.2(1)]. (If you have not yet been appointed as the official agent then all advertising and promotional material used must be authorized by the candidate him or herself). Further, advertising done by third parties with the knowledge and consent of the candidate must be similarly authorized.

It is also necessary that your authorization appear on all printed advertisements or promotional material, or is announced or shown on all advertisements made through television, radio, or other electronic media [ss.54.2(2)].

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

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

#### Key points to remember:

1. All advertising and promotional material must be authorized by the official agent or candidate (if there is not official agent).
2. A public statement of authorization must appear with all advertising and promotional material.

### D.2.4. 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.

### D.3. Expense limit calculations

The expense limits (for both Total Election Expenses and Advertising Expenses) are calculated and communicated to you several times during a campaign.

The expense limits are calculated using the same formula:

$$\text{Expense Limit} = \text{Per voter dollar rate} \times \text{the number of voters on the voters list.}$$

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

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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.

**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.

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:**

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

The final calculation of the spending limits is performed and the result communicated (approximately one (1) week) after Election Day. This limit differs from prior calculations in that it uses the **final voters list** for the current election. This list is not known with certainty until after election day as it must include all voters whose names were added to the list by enumeration, revision, and swear-ons at voting stations (regular and advance) and by all write-in ballots that are counted after election day. Again, this calculation will only affect the expense limits if the calculated limits are greater than the limits that have already been established as a result of the preceding calculations.

**Key note:** The final spending limit may increase during the election period (allowing for a greater amount of permitted spending), but it will never fall below the minimum limit calculated at the start of the election period.

If at any point during the election period you are not sure of the election expense limits, you can contact Elections Manitoba to obtain this information.

**E. Other expense considerations**

**E.1. 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.

## **E.2. 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.

## **E.3. Petty cash expenses**

Right from the start, you will want to let those involved in the campaign know that you need to be informed and that all financial transactions need to be routed through you. Where possible, try to have the campaign get advance approval from you before incurring expenses.

It may not always be practical for approval to be obtained in advance for every minor expense (e.g. when purchasing small office supplies such as staples or tape). However, you are still required to account for these expenditures and you still want the related payments to pass through the campaign bank account.

One way of accounting for such small and frequent purchases is to implement a petty cash system. This system can be as simple as:

1. Having you write a small cheque (for \$100 – \$200) to the person in the campaign who is responsible for buying the minor and miscellaneous items that will be needed during the campaign; and
2. Having the person receiving the cheque use the funds to purchase the needed small campaign items and then provide you with the invoices supporting the purchase and any remaining cash.

In other words, the purchaser has to account for their spending by showing you where the money went (with invoices) and returning whatever money was not spent. The total should agree with the original amount of the cheque. Once you know how the money was spent, you will be able to record it properly.

## **E.4. The campaign budget**

It is a good idea, where possible, for a campaign to have a budget prepared before the election starts. You should contact the candidate and the campaign to be sure that one will be prepared. You may even be the one who prepares it. Make sure that the expected spending is not greater than either of the election expense spending limits. If one or both of the spending limits are violated, make sure you point this out and call for changes to bring spending in line with both of the expense limits.

## VIII. Annual advertising expense limit In fixed date elections

In addition to the election expense advertising limit discussed in Section VI, the *EFA* also contains a provision which limits the amount that can be spent by candidates outside of the election period during the year of a fixed date election. This annual limit has been established at \$6,000 [ss.54.1(1)].

**Key note:** This limit also includes all advertising expenses incurred by an individual on the candidate's behalf with his or her knowledge and consent [ss.54.1(2)].

*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, in the year of a fixed date election, the definition of advertising expenses expands as described in the following box.

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 candidate may not "double up" the spending limits during an election. Election advertising costs may not be applied against the annual limit.

**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 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 the calendar year in which there is a fixed date election, 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. Authorization of annual advertisements [s.54.2]**

Consistent with the earlier discussion of advertising authorization, all advertisements outside of the election period display the authorization of the candidate's official agent. If the candidate has not yet appointed an official agent, then all advertisements would require the authorization of the candidate.

Authorizations are beneficial in that they assist the official agent/candidate in tracking advertisements that are subject to the expense limits.

**C. Penalties**

Exceeding the annual advertising spending limit could result in a maximum base fine to the official agent of \$5,000. However, an additional fine may be imposed of in the amount of up to twice the amount of the overspending.

## IX. Inventory [s.10(4)(f)]

**Inventory** refers to any goods or supplies that are on hand to be used or consumed.

*The most common types of inventory that are found in a campaign are signs and supports, banners, pamphlets, letterhead, and posters.*

The moment inventory is used it becomes an expense of the campaign. Inventory is an important concept because it affects the amount of election expenses reported and, because of this, the amount of reimbursement that an eligible candidate receives from the public treasury.

Inventory does not include **capital items**. Capital items are goods that are used over a long period of time, like a computer or desk. Capital items will be used during a campaign but will not be completely "used up".

### Key points:

1. Inventory has to be dealt with at both the start and end of the campaign.
2. Ensure that you have reviewed the rules relating to beginning and ending inventory as the rules are different.
3. Inventory should be valued at its market value at the time of acquisition [s.40(2); s.44(7)].

### A. Count beginning inventory

A candidate's beginning inventory is comprised of all goods and supplies that the candidate has on hand at the start of the election period. These goods might have been bought in a previous campaign (and may or may not have been used during the previous campaign) or may have been provided from other sources. You should discuss with the campaign workers and the candidate whether there are any supplies on hand (i.e. inventory) that are going to be used during the candidacy period.

**Key tip:** At this point, all you have to know about the campaign's beginning inventory whether any exists and whether it has already been used in a previous election campaign.

### A.2. On writ day

If you do have beginning inventory, or think that you do, then you will have to count and value it on the day the election is called (writ day). Prior to the calling of the election, all you have to do is to make preliminary arrangements to count inventory on the day that the election is called. When the election is called, before you count, make sure your auditor knows that you are doing the count as he or she may want to attend.

Once you have recorded the count of items, you then need to determine the value that should be attached to the items. The value of the inventory items depends on how and where the inventory was acquired.

The reason you want to count and value beginning inventory is because as you use the inventory throughout the election period, these values affect the amount of election expenses and reimbursement. Whether items are reported as monetary election expenses (that are reimbursable) or donation in kind election expenses (that are non-reimbursable) depends on the source of the inventory items:

- If the goods were **used in a previous election**, their value must be reported as a **donation in kind election expense**. These expenses will not be eligible for reimbursement since the goods were eligible for reimbursement in a previous election;
- If the goods were **purchased for a previous election but not used** in the previous election, or were **purchased for the current election**, the election expense should be reported as one for which money was paid or is owing (monetary). This includes goods transferred from the candidate's constituency association or registered political party. If the candidate qualifies for reimbursement then the value of this type of inventory used as an election expense is reimbursable at 50%. (*The inventory purchased in the previous election would not have been eligible for reimbursement in the previous election because it was not used*);
- If the goods were provided from an individual then the value would be reported as a donation in kind election expense (not reimbursable).

### A.3. Valuation of inventory

Was item used in a previous election?	Type of Election Expense	Value	Eligible for Reimbursement?
Yes	Donation in Kind	Market Value	No
No	Monetary	Amount paid/owed	Yes

### A.4. Count ending inventory

The election period ends at 8 p.m. on Election Day. If the campaign has any inventory on hand at this point, then it must be counted after 8 p.m. If this is the situation, please make sure that you let your auditor know that you will be doing a count as he or she will probably want to be there.

### A.5. What is ending inventory?

**Ending inventory** refers to any goods or supplies that are on hand at the end of the election period and were not used.

Ending inventory does not include "Capital items" such as computers, desks, or other office furniture, but rather includes all items purchased or otherwise acquired during the campaign that were not used.

**Example:** If a candidate purchased a large supply of sign supports during the campaign but never use many of the supports, at the end of the campaign, the unused supports would be included in ending inventory.

If they had been used, they would have been an election expense (and not recorded as ending inventory).

In most cases, the inventory you counted on Election Day is the inventory that you will use as your "final" inventory for Form 922 (however, this is only the case if no inventory is used between Election Day and the end of the candidacy period). If your inventory changes after Election Day (because some of it was used after Election Day) you will have to count your inventory again on the day the candidacy period ends (and you should inform your auditor of this). In this case, the result of this later count will be the final inventory figure that you report on Form 922. Any inventory was used (i.e. become an expense) between Election Day and the end of the candidacy period, should be recorded as a non-election expense because it falls outside of the election period.

**Ending inventory should be valued at its cost.**

“Cost” typically refers to the amount of money that is exchanged, or the amount of liability incurred, for an item of inventory, including duties, freight and other amounts (which should be directly supported by invoices or other records).

**A.6. Value of inventory items not purchased**

When inventory is contributed to a campaign without a charge, the inventory is considered to be a donation in kind. The “cost” of the inventory is considered to be market value of the inventory items at the time of the contribution or purchase. In the latter situation (i.e. where inventory is purchased for less than market value), the amount by which market value exceeds the purchase price must be reported as a donation in kind.

**A.7. Inventory records**

The following details should be included in the records that you maintain for the campaign’s inventory:

- a) Description of the goods and materials;
- b) The date acquired or received;
- c) The supplier name;
- d) The unit value;
- e) The quantity, and
- f) The total value.

**A.8. Source of additional guidance**

Section 640 of Accounting Guide – Accounting For Purposes of The Elections Finances Act gives some additional guidance on inventory.

**A.9. Goods used**

The following summary is provided to assist you in differentiating between the reporting of goods that are used (both inside and outside of an election period) and those that are not used at all. For the purposes of this summary, assume that the only goods under consideration are signs.

1. For signs purchased by the candidate's campaign, the acquisition market value of the signs is:
  - Recorded as an election expense (which is reimbursable) if used in the election period – only the portion actually used during the election period will be considered an election expense and would be reimbursable; and
  - Recorded as inventory if not used at all (or for that portion not used).
2. For signs purchased by the candidate's campaign in a previous election but never used in the previous election (i.e. never expensed), the acquisition market value in the previous election is:
  - Recorded as an election expense (which is reimbursable) if used in the current election period; and
  - Recorded as inventory if not used at all (or for that portion not used).

3. For signs purchased by the candidate's campaign in a previous election but used in the previous election (i.e. expensed) the acquisition market value of the goods in the previous election is:
  - Recorded as a donation in kind election expense (which is non-reimbursable) if used in the current election period; and
  - Recorded as inventory if not used at all (or for that portion not used).
4. If an individual donates signs or pays for signs on behalf of the campaign, the acquisition market value of the signs is:
  - Recorded as a donation in kind election expense (which is non-reimbursable) if used in the election period; and
  - Recorded as inventory if not used at all (or for that portion not used).
5. If the candidate's endorsing political party buys signs and transfers them to the candidate's campaign, the acquisition market value of the goods is:
  - Recorded as an election expense (which is reimbursable) if used in the election period; and
  - Recorded as inventory if not used at all (or for that portion not used).
6. Reclaimed signs – signs used during and then collected after an election:
  - No impact on the financial statements.

**Note:** For EFA purposes, inventory does not have an apparent future economic benefit; however, it must not be expensed but rather reported as an asset when filing Form 922.

## **X. The auditor [s.10.2 – s.10.5]**

Every candidate must appoint an auditor. The auditor examines Form 922 and the books and records that you keep for your candidate's campaign and then provides a report based on the examination. Basically, the auditor reviews the financial statements that you have prepared and then expresses an opinion regarding whether or not your statements have been prepared in accordance with the EFA.

### **A. Preliminary interactions with the auditor**

You should contact the auditor and set up a meeting in order to find out what is expected of you and when things will be needed from you in order to meet the required deadlines. It is a good idea to have the auditor explain his or her role so that matters are as clear as possible. The auditor will have a good understanding of accounting, bookkeeping systems, and the *EFA*, and is a great resource for you to get information. Auditors normally charge by the hour.

### **B. Subsidies available for an auditor**

There are two public treasury subsidies available to be paid to subsidize costs. Auditors receive a subsidy of up to \$1,500 for performing their audit of Form 922 and an additional subsidy of up to \$500 for consulting with official agents on record keeping. The auditing subsidy is not necessarily intended to cover the entire cost of the audit and thus you may receive an invoice for an amount greater than the subsidy.

### **C. The audit work**

When it comes time for the auditor's review of Form 922 you should contact your auditor and confirm the date that you will have the form 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:**

1. It is your job as the official agent to ensure that the form is correctly completed and filed. (If you do not believe that you have sufficient accounting knowledge then you may need to find knowledgeable person who can assist you in preparing the statements.)
2. It is the auditor's job to express an opinion regarding whether the forms present fairly the financial results and position of the campaign. It is not the auditor's job to correct the form!

Since the auditor is not as close to the campaign as the official agent it is normal to expect that the auditor may have some (or many) questions that they would like to discuss with you.

The ideal situation is for the auditor to review the form and supporting records and then simply prepare an audit report expressing an opinion whereby he or she in essence states that the financial statements report fairly the financial results and financial position of the campaign. If the auditor uncovers items that are not reported correctly and thus has to ask you to fix them, this adds significant costs to the audit in terms of dollars and in terms of your time. Thus, all efforts put into ensuring that the form is prepared correctly the first time may result in time and cost savings.

## **XI. Reporting [s.64, ss.6(e), 61(1), 98(a)]**

### **A. Pay all amounts owing**

As part of closing off your books and records, if you have any outstanding invoices that have to be paid, deposits to make, or tax receipts that have to be issued, this would be the time to finish these tasks. This will help to make things easier for you as you “close” off your books and records. You may not be able to completely close off matters if a reimbursement is expected since the reimbursement is used to pay outstanding accounts.

Before you can finalize your books and records and Form 922, you want to make sure that you have all of the invoices and expenses from all of the campaign workers. Whoever was responsible for petty cash and miscellaneous (small dollar) expenses should be called and their remaining cash and supporting invoices should be turned over to you to deposit back in the bank (for the cash). You can record the expenses based on the invoices given back to you. Contact each campaign worker, including the candidate and campaign manager, to collect any invoices that they may have paid through petty cash (i.e. reconcile your petty cash). Make sure you get the invoices for your records! Do this early in this period.

### **B. Complete and finalize form 922**

Form 922, *Candidate's Financial Statements and Supporting Schedules* is where you will report the financial results of the campaign once the election is over. All of the amounts that you have to track throughout the campaign are being tracked so that you can put them on this form. This is also the form that the campaign auditor will review, along with the books and records of the campaign, once you have completed it. Therefore, it makes sense for you take the time to understand the types of things that are on the form so you have some idea of what you have to track. It is your job to ensure that at the end of the campaign you have all the information you need to complete the form.

**Remember:** The filing deadline is 4 months after Election Day.

If you have developed your accounting system with Form 922 in mind, completing the form should not be too difficult. You will simply need to transfer amounts from your accounting system to the form and make sure that amounts flow from one page to the next as required. Many of the lines on one page flow to another line on another page – recheck these figures and make sure that all columns add and balance.

**Using the filing disk:** Elections Manitoba strongly encourages you to make use of the filing disk provided to you as the files on this disk will help you to record your transactions and populate your financial statements with greater efficiency and accuracy.

**Note:** If you have used the campaign account as recommended previously and have a document supporting each transaction then it will likely not be difficult for someone with accounting knowledge to assist you in preparing the required statements.

### Questions to consider when completing Form 922:

1. Are you satisfied with the accuracy of what you have recorded as election expenses and donations in kind?
2. Have you accounted for all your tax receipts and contributions?
3. Have you answered all of the questions thoroughly and correctly?
4. Have you signed the form?
5. Have you made copies of all expense invoices?
6. Have you completed the form in **ink** as required (rather than pencil)?

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

**Example:** 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 campaign purchases goods from an individual and some or all of the money provided for the purchase is contributed back to the campaign by the individual.

A copy of Form 922 is included in the information package. Each page will be discussed briefly below in the order that it appears on the form. Refer to Appendix B, *Form 922, Candidate's Financial Statements and Supporting Schedules* for detailed explanations of the line items of Form 922 if you need more help.

#### **B.1. Cover page**

The cover of the form is straightforward. Names of the candidate, official agent, and auditor, in addition to the electoral division, are required. The front page also must specify the start and end dates for the candidacy period (i.e. the period that the form covers) and a declaration from the official agent (signature and date).

**Note:** The start date should be the same date that was reported Form 904 (for candidates endorsed by political parties) or Form 905 (for independent candidates).

#### **B.2. Statement of assets, liabilities and surplus as at the end of the candidacy period**

In accounting terms, this page is a balance sheet. This page essentially requires you to list the assets and liabilities of the campaign *as of the last day of the candidacy period*. Guidance on what an asset and liability are can be found in *Accounting Guide – Accounting For Purposes of The Elections Finances Act*, Section 300, "Assets and Liabilities".

**Helpful hint:** Each line item on the form is numbered and ties in directly to line item references in the *Accounting Guide* (Sections 610 to 680).

You should note that the candidacy period surplus or deficit that is reported on this page of the form is different from the campaign surplus or deficit that is described in the *Section XI Reimbursement of Election Expenses*. The surplus or deficit on the form is really just the "net income" or income less expenses for the campaign (and flows forward from the page behind it).

Something you should know about this page is that it asks for information as of a specific point in time. In other words, every line item on this page reports a balance of an account as of the day the candidacy period ends.

**Example:** The cash that the campaign has on hand (i.e. the balance of the bank account) is reported as of the day that the candidacy period has ended.

This page provides a “snapshot” of the remaining assets and liabilities of the campaign after everything is over.

### **B.3. Statement of income, expenses and transfers for the candidacy period**

This statement reports the results of the financial activities of the campaign *over the entire candidacy period*. This statement requires that all income items are listed first, followed by all expense items. The total income less the total expenses is the candidacy period surplus or deficit (which is carried forward to the Statement of Assets and Liabilities discussed above). Sections 690 and 695 of *Accounting Guide – Accounting For Purposes of The Elections Finances Act* provide further accounting guidance on these items.

It is critical to note the breakdown of income and expense items that is required for this statement. When you are deciding how you will track income and expenses of the campaign, you must consider how the items will be broken down for reporting purposes to ensure that your method of tracking will be able to provide the necessary detail.

**Example:** Income is broken down into contributions, transfers, fund raising, and other income. Your system of tracking will need to be set up so that you can separate amounts you receive from each of these income sources.

All income and expenses get reported on this page including:

- Donations in kind contributions;
- Donations in kind expenses; and
- Transfers-in and transfers-out (cash and goods and services).

### **B.4. Schedule 1 – Candidacy period expenses including donations in kind**

This schedule supports the “expense side” of the Statement of Income, Expenses and Transfers for the Candidacy Period. The purpose of this page is included to provide an even greater breakdown of the expenses of the campaign. This type of detail is needed to meet some of the requirements of the *EFA*. As you did with the prior page, look closely at the level of detail that you will need to provide on this schedule as that is what you need to track. Not only do you need a detailed breakdown of expenses, but you have to separate these expenses into election and non-election expenses (a good understanding of the “election period” and “election expenses” is necessary).

"Election expenses" means:

- a) Money spent or liabilities incurred, and
- b) The value of donations in kind accepted, before or during an election period for goods or services used during the election period to support or oppose, directly or indirectly, a candidate or registered political party in the election [s.1 "election expenses"].

Particularly important to remember when preparing schedule 1 is that "Election Expenses used in Election Period" is comprised of two components – Cash (and Credit) Paid and Donations in Kind received.

**"Non-election expenses"** refers to money spent, liabilities incurred, or donations in kind received outside of the election period or other expenses that are specifically restricted from being considered election expenses [s.1 "election expenses"].

*It should be noted that Schedule 1 does not require a breakdown of non-election expenses between those that were paid for with cash and those that were donation in kind collections. Instead all amounts of each type are aggregated and included in column D.*

Once you have distinguished between election and non-election expenses, you must then break the election expenses down even further into expenses that have been paid for or will be paid with cash (column A – cash/credit) and those that were donations in kind (column B). Thus, there are truly three categories of expenses about which you will need to maintain information. In order to be able to provide this level of detail it is necessary to ensure that you are using an accounting system that will be able to track these expenses accordingly.

In addition, if your candidate is eligible to receive reimbursement, then it is necessary for you to also complete the bottom two lines on this schedule by providing the amounts of Loan Interest and Bank Charges paid in the period from the close of the voting stations to four months after Election Day. This information is incorporated into the calculation of the amount of reimbursement that the campaign will receive.

#### **B.5. Schedule 2 – Contributions to a candidate (including donations in kind)**

This schedule gives the details behind the contribution number that you report on the Statement of Income, Expenses and Transfers for the Candidacy Period. Not only does it require that you break contributions into cash and donations in kind, but it also requires that contributions be further separated into categories based on their amounts (i.e. greater than \$250; between \$25 and \$250; and less than \$25).

This schedule also requires you to provide the details of all contributions made for more than \$250. Specifically, you must report the name and address of each contributor, and the aggregate amount that the individual has contributed.

#### **B.6. Schedule 3 – Transfers from candidate's endorsing political party**

If you receive transfers from your endorsing political party, the *EFA* requires that you provide further information on the type of transfers received (i.e. monetary, or goods and services). Completing this schedule will ensure that you have provided the necessary detail.

If your candidate is not endorsed by a political party (i.e. is an independent candidate), this schedule can be left blank.

### **B.7. Schedule 4 – Transfers from candidate’s constituency association**

If you receive transfers from your constituency association, the *EFA* requires that you provide further information on the type of transfers received (i.e. monetary, or goods and services). Where the total of all transfers is \$250 or more, further information must be disclosed, including detailed information regarding the contributors to the constituency association. Completing this schedule will ensure that you have provided the necessary detail.

Similar to schedule 3, if your candidate is not endorsed by a political party (i.e. is an independent candidate), this schedule can be left blank.

### **B.8. Schedule 5 – Reconciliation of income tax receipts**

If your candidate was registered to issue income tax receipts you will need to account for all of the receipts provided to you (i.e. the receipts used, unused, voided and cancelled). This page provides the necessary detail.

### **B.9. Schedule 6 – Accounts payable**

Line 200 of the *Statement of Assets, Liabilities and Surplus as at the End of the Candidacy Period* requires you to report the Accounts Payable at the end of the candidacy period (i.e. the amounts still owing to suppliers). When such amounts exist, under the *EFA* you are required to report details of these liabilities including the name of an amount owing to each supplier as well as a description of expense for which you still owe payment. By completing Schedule 6, you will be providing these required details.

### **B.10. Schedule 7 – Candidate’s disability expenses**

If your candidate is disabled, this is where you report any reasonable amounts that had to be incurred as a result of the disability to allow your candidate to campaign. Remember that the key word here is “reasonable”. Reasonable expenses are those expenses, incurred in the election period, that are over and above the costs that normally would have been incurred by the candidate.

### **B.11. Schedule 8 – Candidate’s child care expenses**

If your candidate has children, this is where you report any reasonable amounts of child care expenses (those expenses that are over and above the child care costs normally incurred) that had to be incurred to allow your candidate to campaign in the election period.

### **B.12. Schedule 9 – Annual Limit on Advertising Expenses**

This schedule must be completed if your candidate has incurred advertising expenses outside of the election period and in the year of a fixed date election. Completing this schedule will ensure that you have provided the necessary detail.

## **C. Filing form 922 with Elections Manitoba**

When you get Form 922 and the Auditor’s Report back from the auditor, sign the front page of the form, attach any additional information that is required (e.g. loan agreements not previously filed, copies of invoices, an inventory listing), and then send the entire set of documents to Elections Manitoba. This form, and related information, is due within four months of Election Day. Please note that it is not the auditor’s responsibility to file these documents.

A faxed report received before the deadline will be considered to have been filed on time but an original copy must be immediately mailed or sent by courier to Elections Manitoba. It is your responsibility to ensure that a facsimile copy was received as intended. Keep a copy of Form 922 for reference especially if there are questions for which you need to provide answers.

### **C.1. What if you cannot meet the filing deadline?**

An official agent may apply in writing to Elections Manitoba for an extension to a filing deadline. A request must include a brief explanation of circumstances that are reasonably beyond your control. An extension request received after the filing deadline cannot be considered [ss.57(3)].

### **C.2. What if you miss the deadline?**

Provided that you did not request and receive approval for an extension, if you fail to file the required forms prior to the deadline you will be subject to late-filing fees. As an Official Agent, you are responsible for ensuring that Forms 922 and 932 are submitted to Elections Manitoba within four months of Election Day. For each day that these forms are late, you will be charged a \$25 late-filing fee (up to a maximum of 30 days).

**Note:** If late filing fees are owed and the candidate is entitled to reimbursement, the Chief Electoral Officer has the authority to deduct the late fees from the reimbursement payable [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)].

While failing to file forms 922 and 932 is an offense that could lead to prosecution (Consequences/Penalties section below), such an outcome can be avoided by ensuring that these late-forms are still filed within 30 days of the filing deadline and that the appropriate late-filing fees have been paid.

### **D. Filing form 932 (Candidate's detailed contributors' list) [s.10(4)(b.1)]**

Candidates' campaigns must disclose to Elections Manitoba information concerning all contributions (both cash and donations-in-kind) received during a candidacy period. Accordingly, records must be maintained for all contributions, including:

- The 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; and
- If the contribution is a donation in kind, documents supporting the valuation of the donation contribution should be kept.

**Remember:** The filing deadline is 4 months after Election Day.

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

The additional disclosure requirements outlined in the previous paragraph do not alter the public reporting requirements for candidates (Form 922). A contributors' list detailing contributions of \$250 or more must still be provided on Form 922.

## **E. Elections Manitoba may have questions**

The work that a campaign's auditor does may provide a good level of compliance assurance; however, sometimes more information is needed. Elections Manitoba is responsible for making sure that the information on Form 922 is correct and in compliance with the *EFA*. Elections Manitoba may request additional information if it is needed to clarify or verify the information contained in a candidate's Form 922 [ss.57(2)]. Elections Manitoba will make the request in writing to the official agent who must provide the requested information within 30 days of receiving the written request.

### **E.1. Extension to filing deadline (statements, returns and other information) [s.57(3)]**

If you cannot file Form 922, Form 932, or any of the other required information within the stipulated time period you can request an extension from Elections Manitoba in accordance with the following:

- Requests should be made in writing by the person responsible for filing;
- Requests must be received before expiration of filing deadline; and
- Requests must include a reason – circumstances reasonably beyond the control of the person responsible for filing (policy).

You should also be aware that Elections Manitoba will sometimes perform more detailed audits and inspections to ensure compliance with the *EFA*. If your campaign is selected at random for a detailed review, you may be asked to provide all of the books, records, bank statements and other information collected during and about the campaign [s.70.1]

## **F. 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 are still required to complete and file Form 922, Form 932, and any other required information with Elections Manitoba within four months of the day the general election was called. (Under the *EFA*, the "election day" of the by-election is deemed to be the day the general election was called.)

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

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

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

## **XII. Reimbursement of election expenses**

### **A. Reimbursement and candidate eligibility**

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

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

Further, even if the campaign is eligible to receive reimbursement for election expenses incurred, **reimbursement may not be paid in relation to specific election expenses if those expenses have not been adequately supported or documented or they are not reasonable.** A final factor in the determination of reimbursement is the surplus/deficit calculation discussed below in paragraph C.1 of this section [ss.75(1)].

### **B. Reimbursement amounts**

#### **B.1. Expenses eligible for 50% reimbursement**

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

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

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

**Key note:** The above paragraph highlights another reason why it is strongly advised that you ensure that your candidate's campaign does not exceed the established expense limits. Not only may there be fines for overspending but doing so will also reduce the amount of reimbursement provided.

#### **B.2. Expenses eligible for 100% reimbursement**

The EFA allows for an additional reimbursement for some expenses that are not considered to be election expenses. Reasonable child care and disability expenses incurred to allow the candidate to campaign in the election period are completely reimbursable (100%) even though these expenses are not considered "election expenses" [ss.71(2)(a)].

### **C. Distribution**

Before being able to discuss reimbursement amounts or payments, it is necessary to first examine a major contributing factor affecting reimbursement – a Candidate's Surplus or Deficit.

#### **C.1. Candidate's surplus or deficit [s.75(1)]**

The calculation of the candidate's surplus or deficit is defined under the *EFA* and determines *to whom* the candidate's reimbursement is paid. Depending on the level of surplus or deficit, it is possible that the candidate's campaign will not receive all of the reimbursement that would be calculated based on the candidate's eligible election expenses. This calculation is strictly formula-based and will be performed by Elections Manitoba.

## **C.2. Reimbursement in a surplus situation [ss.75(2), 75(3), 76]**

If the candidate is endorsed by a registered political party: *The* candidate's official agent is required to pay the surplus amount (as calculated according to the formula prescribed in s.75) to the chief financial officer of the party. Further, all reimbursement of election expenses must also be paid directly to the chief financial officer.

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

## **C.3. Reimbursement in a deficit situation**

If the candidate is endorsed by a registered political party [ss.77(1), 77(2)]: The reimbursement of election expenses will be paid directly to the official agent of the candidate up to and including the amount of the deficit. If any amount of the reimbursement exceeds the deficit, this amount is to be paid directly to the chief financial officer of the registered political party.

If the candidate is not endorsed by a registered political party (i.e. is an independent candidate): The reimbursement of election expenses will be paid directly to the official agent of the candidate up to and including the amount of the deficit. Excess reimbursement is treated in the same way as reimbursement in a surplus situation. That is, the excess amount will be retained by the CEO to be held in trust for the candidate. This excess amount and accumulated interest will be paid out to the candidate if he or she runs in the following election. However, if he or she does not run, then the amount in trust is turned over to the Minister of Finance to be paid into the Consolidated Fund [ss.73.1(4), 73.1(6), 77(1), 77(2)].

## **C.4. Notification of reimbursement**

Regardless of whether it is a surplus or deficit situation, Elections Manitoba will notify a candidate's official agent of any reimbursements to be received on any surplus payments that may be required.

## **D. First Use of Reimbursement**

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

## **E. Advance on reimbursement**

Elections Manitoba processes candidates' Form 922's so that reimbursement cheques can be issued as soon as reasonably possible. If a candidate's Form 922 appears to be complete and accurate, Elections Manitoba may issue an advance payment of 50% of the estimated reimbursement amount within 15 days of the statement being filed [ss.72(2)]. You will be advised if an advance payment will **not** be made.

If the candidate has assigned any or all of the reimbursement (see below for discussion of assigning reimbursement), the advance will first be paid to the assignees. The final payment of the reimbursement is reduced by the amount of the advance. If the advance is more than the total reimbursement payable, the official agent must immediately repay the overpayment.

## **F. Assigning a reimbursement**

The reimbursement amount (or a portion of it) may be “assigned” (or paid directly) to someone other than the official agent (for independent candidates) or chief financial officer (for endorsed candidates) only when the campaign has received a loan to finance some of the election expenses [ss.73.2(1), 73.2(2)]. To assign a reimbursement, the official agent needs to:

- File a copy of the loan agreement with the CEO (this should have been done at the time the loan was first received);
- Confirm the balance owing on the loan; and
- File a completed Form 923B.

Form 923B is a simple form that requires an authorized signature from the candidate, the official agent, and the lender to assign the payment directly to the lender.

If all of the above steps are completed, Elections Manitoba will send a cheque in the amount specified directly to the lender.

If the reimbursement amount has been assigned to multiple individuals, the official agent must provide directions to the CEO regarding the order in which the assignees are to be paid out of the reimbursement amount.

Only reimbursements which would otherwise be payable to the candidate’s official agent can be assigned. The candidate cannot assign the portion of any reimbursement payable to the registered political party of the candidate.

## **G. Campaign deficit**

This deficit amount is different from the candidate’s deficit amount noted earlier for the calculation of potential reimbursement. Campaign Deficit refers to the amount of money that is still owed by the campaign after all reimbursement has been received. If such a deficit exists at year end, your candidate must report this deficit amount to the CEO within 30 days of the end of the year by submitting Form 925. Late filing fees are applicable if Form 925 is not submitted prior to the deadline.

**Key note:** A candidate may request an extension of the deadline by filing an application for extension with the CEO. A suitable written reason must accompany the request. A suitable written reason would normally be a brief explanation of circumstances which are reasonably beyond the control of the person responsible for making the request. Verbal requests will not be considered.

The application must be submitted prior to the filing deadline for Form 925 (or prior to the expiry of any extensions previously granted).

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

If you are unsure about whether a particular 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 the candidate and you (as the official agent) [ss.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 prompted by 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.

## **XIV. Consequences/penalties**

If the rules are not followed there may be consequences. The areas of the *EFA* that can result in consequences for you, specifically, are outlined below. While they are fairly straightforward, it is recommended that you take time to review these provisions to ensure that you understand them clearly.

As an official agent, please make sure that you abide by the following:

- Do not complete or partially complete any form, financial statement, or other document with information that you know is false (i.e. it is expected that every piece of information that you provide is accurate and factual) [s.81];
- Do not withhold any information, record, or document that Elections Manitoba has requested as this may be considered "obstruction" [s.78];
- File all forms and financial statements required by Elections Manitoba on time and ensure that these submissions are complete [s.83];
- Do not issue tax receipts unless your candidate has received a monetary contribution which meets all of the contribution rules as outlined in the *EFA* (i.e. do not issue tax receipts for donations in kind, prohibited contributions, or deemed contributions) [s.79, 83.1(1)]; and
- Do not allow your candidate's campaign to spend more than the established election expense limit or the advertising expense limit [ss.51(1), 51(2),84(1), 84(2), 86].

In addition, no one is permitted to directly or indirectly, use or threaten to use force or violence, or threaten to inflict injury, damage, harm or loss, upon another person in order to get them to make (or to get them not to make) a contribution [s.78.1].

Failure to abide by any of the above rules could result in further proceedings as discussed in the following subsections. Overwhelmingly, however, most matters of non-compliance are resolved without further legal proceedings.

### **A. Late-filing fees**

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)]. Late-filing fees are applicable when the following forms are not submitted prior to the deadline [ss.69.1(2)]:

1. Form 922 – Financial statements (responsibility of the Official Agent);
2. Form 932 – List of all contributors (responsibility of the Official Agent);
3. Form 925 – Loan and deficit return (responsibility of the Candidate).

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)].

The Chief Electoral Officer may recover the late-filing fee by deducting the late-filing fee amount from the amount that may be payable under the Elections Finances Act to the late-filer. [s. 64(1)(4.1)]

## **B. Other potential consequences**

In addition to late-filing fees there are other enforcement provisions available to the commissioner (who is appointed by the Chief Electoral Officer under the terms of the *Elections Act*) in the event of appearance of an offense. 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.

# Appendix A – Contribution limits clarifications

## I. Examples of contributions

- Services provided at no charge by a self employed individual if the services are normally sold or charged for by the individual [s.1 "donation in kind"].
- Contributions to individuals contesting a constituency association candidacy nomination are deemed to be contributions to the constituency association [s.41(5)].
- Expenses incurred by individuals on behalf of and with the knowledge and consent of candidates, political parties and constituency associations [s.1 "contribution", 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", 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 candidate would include expenses incurred by or on behalf of the candidate by a federal political party or a federal riding association. The sharing of goods or services between a candidate and a federal political party may not meet the requirements of The Elections Finances Act (EFA) unless the expenses of the candidate can be determined with certainty and are supportable. Allocation of shared expenses, as being federal or provincial, based on a general guideline would not be sufficient to meet the requirements of the EFA.

### III. Examples of non-contributions

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

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

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

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

#### Examples that illustrate the contribution date:

- If a contributor gives cash to a representative of a registered political party on March 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).

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

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

- Cash contributions of \$10 or less where the contributor is not known (contribution amount must still be recorded but not the identity of contributor).
- Individuals normally resident in Manitoba (and only such individuals) may make two donation in kind contributions of less than \$20 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 \$20 made by a single individual in a year to know when the threshold of two has been reached.

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

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

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

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

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

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

**Note:**

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

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

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

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

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

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

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

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

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

# Appendix B – Form 922: Candidate’s financial statements and supporting schedules

## Statement of assets, liabilities and surplus as at the end of the candidacy period

### Line 100 Cash

On this line you must report your campaign financial account balance, (i.e. the bank account) if there is a balance remaining. To determine the amount that you have to report:

1. Take the balance that you find on the statement for your account that includes the day that the candidacy period ends;
2. Subtract the cumulative amount of cheques that have been written before that date but have not yet cleared the account; and
3. Add any deposits that were deposited before that date but have not cleared as of that date.

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*(References: EFA – s.1 “financial institution”, ss.10(4), 10.1(1), 10.1(2), 10.1(3); Accounting For Purposes of The Elections Finances Act – Section 610)*

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### Line 110 Accounts receivable

Amounts that are owing to the campaign on the day that the candidacy period ends should be reported on this line. Because contributions, transfers, and fund raising income cannot be reported until received, accounts receivable will normally be nil.

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*(References: EFA – s.1 “contribution”, “donation in kind”, “transfer”; Accounting For Purposes of The Elections Finances Act – Section 620)*

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### Line 120 Inventory

You will have counted your unused inventory as of 8 p.m. on Election Day, and perhaps again on the last day of the candidacy period (if it had changed since Election Day). Once you have valued the inventory quantities that you had counted and recorded these amounts on your inventory list, you should total the inventory figure and put it on this line.

**Remember:** If you originally recorded all your purchases of supplies as expenses, then at the end of the candidacy period you must remove from the expense lines (and include in the inventory account balance) the cost of the items that you still have on hand (i.e. still have in inventory) as these costs are not actually expenses since the items were not used.

Although amounts recorded as inventory may never be used now that the election is over, and may therefore appear to be obsolete or as having no value, you still record it and value it as though it will be used again.

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*(References: EFA – s.1 “election expenses”, “market value”, “donation in kind”; Accounting For Purposes of The Elections Finances Act – Section 640)*

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**Lines 130 and 140 Other assets**

Record the amount of any other asset that is held by the campaign, if any, on this line. The portion of capital assets that has not been expensed as an election expense (i.e. or not been used during the election period) should not be reported here, but instead be expensed as a non-election expense.

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*(References: Accounting For Purposes of The Elections Finances Act – Sections 630 and 650)*

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**Line 150 Total assets**

This line is the sum of lines 100 to 140.

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*(References: EFA – ss.61(1)(d))*

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**Line 200 Accounts payable**

Any amounts that the campaign owes to others, including suppliers, on the last day of the candidacy period, should be put on this line. Only bona fide amounts owing that can reasonably be expected to be paid should be reported. As will be discussed later, Schedule 6 requires that you report all amounts owing to suppliers at the end of the candidacy period. The total at the bottom of this schedule, line 840, is the amount to be included on line 200.

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*(References: EFA – n/a; Accounting For Purposes of The Elections Finances Act – Section 660)*

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**Line 210 Overdraft/line of credit**

The campaign may have arranged for a line of credit or overdraft protection that could be drawn on during the election as a source of cash. Any amounts outstanding as of the last day of the candidacy period as a result of these arrangements should be reported on this line.

While it should have been done at the time of obtaining the line of credit or overdraft protection, if you have not already filed a copy of the agreement between the campaign and the financial institution that set up these amounts, you **must** do so now when submitting Form 922.

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*(References: EFA – ss.44.1(1), 44.1(2), 44.1(3), 44.1(4), 44.1(5), 44.1(6), 44.2(1), 44.2(2), 44.3, 44.4, 44.5; Accounting For Purposes of The Elections Finances Act – Section 670)*

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**Line 220 Loans**

Loan balances outstanding on the last day of the candidacy period should be reported on this line. Similar to line of credit and overdraft protection agreements, if you have not already filed any signed loan agreements with Elections Manitoba (which should have been done immediately after obtaining the loan) you **must** do this now when filing Form 922.

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*(References: EFA – ss.44.1(1), 44.1(2), 44.1(3), 44.1(3.1), 44.1(3.2), 44.1(3.3), 44.1(4), 44.1(5), 44.1(6), 44.2(1), 44.2(2), 44.3, 44.4, 44.5; Accounting For Purposes of The Elections Finances Act – Section 670)*

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**Lines 230 and 240 Other liabilities**

Record the amount of any other liability that is payable by the campaign, if any, on this line.

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*(References: EFA – n/a; Accounting For Purposes of The Elections Finances Act – Section 660)*

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**Line 250 Candidacy period surplus/(deficit)**

This line is a carry-forward of an amount reported on line 440 (from the following page) and is basically the net amount of income (and transfers) after deducting expenses (and transfers).

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*(References: EFA – n/a; Accounting For Purposes of The Elections Finances Act – Section 680)*

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**Line 290 Total liabilities and surplus**

This line is the sum of lines 200 to 250.

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*(References: EFA – s.61(1)(d.1))*

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**Statement of income, expenses and transfers for the candidacy period**

**Line 300 Contributions**

Report the campaign's total contributions received on this line (including donations in kind). This line is carried forward from Schedule 2, line 630, column C.

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*(References: EFA – s.1 "contribution", "donation in kind", "fund raising function", "market value", ss.10(4)(b), 10(4)(b.1), 38(1), 38(2), 38(3), 39(1), 39(2), 40(1), 40(2), 40(3), 41(1), 41(1.1), 41(1.2), 41(2), 41(3), 41(4), 41(5), 41.1, 41.2, 41.3, 42, 44.1(1), 44.1(2), 44.1(3), 44.1(4), 61(1)(a), 64, 68(3); Accounting For Purposes of The Elections Finances Act – Section 690)*

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**Line 310 Transfers from endorsing political party**

Transfers received from the candidate's party are reported on this line. This includes transfers of goods and services as well as money. This line is a carry forward from line 720 on Schedule 3.

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*(References: EFA – s.1 "transfer", ss.44(1), 44(2), 44(3), 44(4), 44(5), 44(6), 44(7), 44.5, 61(1)(c), 64(d); Accounting For Purposes of The Elections Finances Act – Section 690)*

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**Line 320 Transfers from candidate's constituency association**

Transfers received from the candidate's constituency association are reported on this line. This includes transfers of goods and services, in addition to money. This line is a carry forward from line 760 on Schedule 4.

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*(References: EFA – s.1 "transfer", ss.44(1), 44(2), 44(3), 44(4), 44(5), 44(6), 44(7), 44.5, 61(1)(c), 64(d); Accounting For Purposes of The Elections Finances Act – Section 690)*

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**Line 330 Fund raising**

Amounts recorded as fund raising income should be reported on this line. The total reported here does not include the portion of fund raising income that is categorized as contribution income. Make sure these amounts are appropriately separated.

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*(References: EFA – s.1 "contribution", "fund raising function", ss.38(1), 38(2), 38(3); Accounting For Purposes of The Elections Finances Act – Section 690)*

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### Lines 340 and 350 Other income

Report any other types of income (such as income from the sale of merchandise that is not included as contribution income) that the campaign may have received that cannot be classified as any of the other income lines.

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*(References: EFA – s.38.1(1), 38.1(2), 38.1(3); Accounting For Purposes of The Elections Finances Act – Section 690)*

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### Line 390 Total income and transfers

This line is the sum of lines 300 to 350 and reports the total income and transfers of the campaign. This is the amount from which the expenses and transfers of the campaign will be deducted in order to arrive at the Candidacy Period Surplus or Deficit.

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*(References: EFA – ss.61(1)(a), 61(1)(c); Accounting For Purposes of The Elections Finances Act – Section 690)*

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### Line 400 Election expenses

This line summarizes the total election expenses from line 595 on Schedule 1 (i.e. the total of line 590 in columns A (cash/credit election expenses), B (donation in kind election expenses) and C (goods or services used and received)). The amount eligible for reimbursement is calculated based on Schedule 1 and may differ from this amount.

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*(References: EFA – s.1 “advertising expenses”, “election expenses”, “election period”, “market value”, ss.51(1), 51(2), 51(3), 51(4), 52, 55(1), 61(1)(b), 72(1), 72(2), 72(3), 73(1); Accounting For Purposes of The Elections Finances Act – Section 695)*

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### Line 410 Non-election expense

Non-election expenses are summarized on this line and are carried forward from line 590, column D, Schedule 1.

**Remember:** You must record both cash/credit and donation in kind non-election expenses in column D.

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*(References: EFA – s.1 “advertising expenses”, “election expenses”, “election period”, “market value”, ss.51(1), 51(2), 51(3), 51(4), 52, 55(1), 61(1)(b), 72(1), 72(2), 72(3), 73(1); Accounting For Purposes of The Elections Finances Act – Section 695)*

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### Line 420 Transfers to endorsing political party

Transfers of money, goods, or services to the candidate’s political party are reported on this line.

**Remember:** Candidates cannot make transfers to constituency associations.

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*(References: EFA – s.1 “transfer”, ss.44(3), 44(6), 61(1)(c); Accounting For Purposes of The Elections Finances Act – Section 695)*

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### Line 430 Total expenses and transfers

This line is a sum of lines 400 to 420 and reports the total expenses and transfers of the campaign.

### **Line 440 Candidacy period surplus/(deficit)**

Line 440 reports the excess (or deficiency) of total income and transfers less total expenses and transfers for the campaign. Line 430 is subtracted from line 390 and reported on this line. The total on this line is also carried forward to line 250 on the Statement of Assets, Liabilities and Surplus as at the End of the Candidacy Period.

### **Schedule 1 – Candidacy period expenses (including donations in kind)**

This schedule breaks the expenses of the campaign into their accounts, or categories, by type of expense. Your accounting system should use these accounts as a means of categorizing the expenses and payments that are made from the campaign, as you can see in the sample system. For each expense type that you record (e.g. office supplies, telephone), you must then decide if it represents an election or non-election expense, or a little of both, and if it is an election expense, you must determine whether it was paid for with cash/credit or whether it was a donation in kind. Once you have determined its appropriate classification, you should record the appropriate amount in column A (for cash and credit election expenses), column B (for donation in kind election expenses), column C (for goods or services used and received) or column D (for non-election expenses – both cash/credit and donation in kind).

### **Lines 500 to 585**

These lines provide a place for you to record any type of expense that the campaign incurs. Where a category does not exist, include it on line 580 or 585 with an explanation as to what it is. Break each line into election and non-election portions and make sure that the total (column E) adds up to the total expense incurred.

Note: Lines 515 and 520 have greyed-in boxes under *Election Expenses* (i.e. columns A B and C) because reasonably disability and child care expenses cannot be considered election expenses regardless of when they are incurred. The amounts included on these lines in columns D and E are generated from line 850 on schedule 7 and 860 on schedule 8, respectively.

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*(References: EFA – s.1 “advertising expenses”, “candidacy period”, “election expenses”, “election period”, “market value”, “polling”, ss.51(1), 51(2), 51(3), 51(4), 52, 55(1), 61(1)(b), 72(1), 72(2), 72(3), 73(1); Accounting For Purposes of The Elections Finances Act – Section 695)*

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### **Line 590 Total expenses**

This line shows the sum of lines 500 to 585 for each of the columns (A, B, C, D, and E).

### **Line 595 Total election expenses**

This line reports the total election expenses incurred during the period. The amount included here is the sum of the amounts found on line 590 in columns A and B, C.

### **Line 597 Loan interest**

Amounts incurred for interest on loans payable for the period from the close of the voting stations to four (4) months after Election Day should be reported on this line. This figure is used by Elections Manitoba to calculate the surplus or deficit that will be used when determining the distribution of reimbursement payments.

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*(References: EFA – s.1 “candidacy period”, “election day”, ss.75(1))*

---

## Line 599 Bank charges

Amounts incurred for bank charges from the close of the voting stations to four (4) months after Election Day should be reported on this line. This figure is used by Elections Manitoba to calculate the surplus or deficit that will be used when determining the distribution of reimbursement payments.

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*(References: EFA – s.1 “candidacy period”, “election day”, ss.75(1))*

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## Schedule 2 – Contributions to a candidate (including donations in kind)

This schedule provides a little more detail on the amounts and source of the contributions received during the campaign and reported on line 300.

### A. Contributions summary:

Lines 600 to 630 breaks the contributions received into various dollar amount categories, and columns A and B split them further into cash contributions and donation in kind contributions.

### B. Contributions of \$250 or more:

Information about individuals who contribute \$250 or more, in aggregate, during the candidacy period must be reported in this table. The required information includes the contributor's name and address, and the aggregate amount that he or she contributed.

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*(References: EFA – s.1 “candidacy period”, “contribution”, “donation in kind”, ss.61(1)(a), 64)*

---

## Schedule 3 – Transfers from endorsing political party

Schedule 3 requests details on transfers received during the candidacy period from the candidate's endorsing political party. Specifically, lines 700 and 710 asks you to break down transfers received into (a) cash and (b) goods and services. Total transfers (cash plus goods and services) is reported on line 720 and carried forward to line 310.

Line 730 asks you to report the value of goods and services that you received as a transfer (if any) and used during the election period. In other words, line 730 reports the value of transferred goods and services that have been included in election expenses. This figure is used by Elections Manitoba in calculating the surplus/(deficit) in accordance with subsection 75(1) of the *EFA*, which ultimately impacts the distribution of the reimbursement of election expenses.

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*(References: EFA – s.1 “transfer”, ss.44(1), 44(2), 44(3), 44(4), 44(5), 44(6), 44(7), 44.5, 61(1)(c), 64(d), 75(1); Accounting For Purposes of The Elections Finances Act – Section 690)*

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## Schedule 4 – Transfers from candidate's constituency association

Schedule 4 requests details on transfers received during the candidacy period from the candidate's constituency association. Specifically, lines 740 and 750 asks you to break down transfers received into (a) cash and (b) goods and services. Total transfers (cash plus goods and services) is reported on line 760 and carried forward to line 320.

Line 770 asks you to report the value of goods and services that you received as a transfer (if any) and used during the election period. In other words, line 770 reports the value of transferred goods and services that have been included in election expenses. This figure is used by Elections Manitoba in calculating the surplus/(deficit) in accordance with subsection 75(1) of the *EFA*, which ultimately impacts the distribution of the reimbursement of election expenses.

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*(References: EFA – s.1 “transfer”, ss.44(1), 44(2), 44(3), 44(4), 44(5), 44(6), 44(7), 44.5, 61(1)(c), 64(d), 75(1); Accounting For Purposes of The Elections Finances Act – Section 690)*

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Part E of Schedule 4 requests further information (name, address, and amount of contribution) on contributors to the constituency association where the amount transferred to the candidate is \$250 or more.

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*(References: EFA – ss.64(d))*

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### **Schedule 5 – Reconciliation of income tax receipts**

Schedule 5 is to be completed only if the candidate is registered to issue tax receipts and requires you to account for all of the tax receipts that were issued from Elections Manitoba upon registration.

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*(References: EFA – s.1 “contribution”, “tax receipt”, ss.27, 29(3), 32(2), 33(1), 33(2), 35, 36(1), 36(2))*

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### **Schedule 6 – Accounts payable**

You are required to provide detailed information about any liabilities of the candidate at the end of the candidacy period. Schedule 6 collects the required information which includes the name of each supplier to whom the candidate owes money, a description of the expense for which the payment is still owing, and the amount that is still owing to each supplier. Line 840 of this schedule is the sum of all amounts owing and this sum is carried forward to line 200 on the Statement of Assets, Liabilities and Surplus as at the End of the Candidacy Period.

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*[References: EFA – ss.61(1)(d.1)]*

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### **Schedule 7 – Candidate’s disability expenses**

Schedule 7 should only be completed where a disabled candidate incurs reasonable expenses in relation to the candidate’s disability to enable the candidate to campaign in an election period. The total amount of expenses recorded on this schedule (line 850) is carried forward to line 515, column D.

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*[References: EFA – s.1 “election expenses”, ss.71(2)(a)(ii)]*

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### **Schedule 8 – Candidate’s child care expenses**

Schedule 8 should only be completed when a candidate incurs reasonable child care expenses in order to be able to campaign in an election period. The total amount of expenses recorded on this schedule (line 860) is carried forward to line 520, column D.

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*[References: EFA – s.1 “election expenses”, ss.71(2)(a)(i)]*

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As described in section 1.1 of the EFA, reasonable expenses are those that are over and above the expenses normally incurred by the candidate (when there is no election).

### **Schedule 9 – Annual limit on advertising expenses**

Schedule 9 should only be completed when a candidate incurs advertising expenses outside of the election period, but during the year of a fixed date election.

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*[References: EFA – s.1 “annual limit on advertising expenses”, ss.54.1(1)]*

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# Appendix C – Inventory count sheets

## Inventory Count Sheet

Type of Inventory Count: (check)  Start of Election Period (Writ Day)  
 End of Election Period (8:00pm on Election Day)  
 End of Candidacy Period (if necessary)

Auditor Present? (check)  Yes  
 No

Date of Count: \_\_\_\_\_

Time of Count: \_\_\_\_\_

**Inventory Count Results:**

Inventory Item	Item Unused? (check)	Supplier	Date Acquired	(1) Unit Quantity	(2) Cost per Unit (\$)	(1) x (2) Total Value (\$)
Signs						
Signpost lumber / supplies						
Letterhead						
Office supplies						
Other (please describe)						
<b>Total Inventory</b>						

## Appendix D – Use of automobiles in a campaign

Below are descriptions of three scenarios where automobiles might be used during an election period along with how you would record their use:

1. A vehicle is provided free of charge to a candidate's campaign by an individual:
  - A donation in kind contribution and donation in kind election expense would need to be recorded. No tax receipt could be issued, but the value of the contribution would be applied against the individual's \$3,000 limit (and reported on Form 922). Donation in kind election expenses are not reimbursable;
  - The contribution and expense would be valued at the amount that it would normally cost to rent the same vehicle (i.e. the number of days of vehicle use multiplied by the daily rental rate);
  - Any money spent by the campaign for fuel would be an election expense (reimbursable);
  - The value of fuel, if paid for by a volunteer and not reimbursed, would be recorded as a donation in kind contribution and donation in kind election expense. The election expense would be non-reimbursable and no tax receipt would be issued. Again, the value of the fuel would be applied against the volunteer's \$3,000 contribution limit.
2. A vehicle is rented by a registered candidate's campaign from an individual:
  - The amounts spent on rent would be recorded as an election expense (reimbursable), unless the amount paid was lower than a market rate. In this case, the difference between the market rate and the amount paid would also be recorded as a donation in kind contribution and donation in kind election expense;
  - Any money spent by the campaign for fuel would be an election expense (reimbursable).
3. A volunteer uses his or her own vehicle in a candidate's campaign and does not charge the campaign for its use or for the use of the fuel:
  - The value of the vehicle would not have to be valued and recorded as a donation in kind since this would be the use of personal property by a person in their capacity as volunteer (the vehicle is considered as part of the service provided by a volunteer);
  - The value of fuel, if paid for by the volunteer and not reimbursed, would be recorded as a donation in kind contribution and donation in kind election expense. The election expense would be non-reimbursable and no tax receipt would be issued. The value of the fuel would be applied against the volunteer's \$3,000 contribution limit. (If the fuel was paid for by the campaign then the election expense would be eligible for reimbursement and there would also be no contribution to report.)

There may be difficulties in determining the value of gas used by a volunteer especially since a volunteer may be using his or her vehicle for purposes other than volunteering for a campaign. Where this is the case, to assist in estimating the value of gas used, the following guideline is acceptable: multiply the number of kilometres a volunteer travels for a campaign by a rate of 7 cents per kilometre.

## Appendix E – 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 F – Sample memorandum

## MEMORANDUM

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**To:** Financial Institution Official

**From:** \_\_\_\_\_(candidate)

Principal business or occupation of candidate: \_\_\_\_\_

Home address and telephone: \_\_\_\_\_

Business address and telephone: \_\_\_\_\_

**Subject:** Appointment of Official Agent

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This is to advise of my intention to stand as a candidate in the next provincial election and to inform you that the following person has been appointed and has agreed to act as my official agent, and in this capacity is requesting access to services from your financial institution:

Official Agent Name: \_\_\_\_\_

Home address & phone: \_\_\_\_\_

Business address & phone: \_\_\_\_\_

*The Elections Finances Act* (Manitoba) requires a candidate's official agent to open and maintain an account in a financial institution for the sole purpose of the candidate's campaign. All transactions involving the receipt and disbursement of funds must be made through the campaign account. There may be serious consequences for an official agent who does not satisfy the financial account requirements of the Act. I would, therefore, ask for your assistance in facilitating access to services by my official agent.

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Candidate Signature/Date

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Official Agent Signature/Date



# Appendix H – Travel/mileage

In order 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 is required to 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, such logs are not required.

## 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)].