

Legislative Reference Guide for Auditors

The Election Financing Act

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

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Introduction

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

Sources of information

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

Elections Manitoba

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

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

The Participants

Political Party – a political party is an association, organization or affiliation of voters one of the purposes of which is to nominate and support candidates at elections. Often a political

party will have related organizations and, for reporting purposes, the political party entity should include such related organizations.

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

- Allowing the party name on the ballot;
- Issuing tax receipts for contributions; and
- Receiving reimbursement for election expenses and an annual allowance [s.4].

Constituency Association –an association or group that, in relation to a registered party, is recognized by the party as its official association of the party in an electoral division, or, holds itself out as the official association of the party in an electoral division [s.115].

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

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

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

Financial Officer – the individual responsible for the financial affairs of a registered party.

Leadership Contestant – a person seeking the leadership of a registered party at a leadership contest called by the party for that purpose [s.115].

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

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

Participants' responsibilities

Pursuant to the EFA, the CEO has prescribed certain forms and financial statements that must be audited and filed with Elections Manitoba for purposes of public disclosure and compliance. The nature of these forms and financial statements and their filing deadlines are outlined in *Audit Guide – Auditing For Purposes of The Election Financing Act*, Section 100, and Section 200. Section 500 of *Accounting Guide – Accounting For Purposes of The Election Financing Act* provides guidance on the reporting periods and the nature of the items to be included in these financial statements. [s.62 – 67].

The **responsibilities** of the official agent and the financial officer are fairly specific and are as follows [s.21, s.23, s.25]:

1. Opening and maintaining a campaign account in a financial institution
2. Ensuring that records are kept of all financial transactions, including non-monetary contributions and transfers
3. Ensuring that records are kept of all financial balances (i.e. assets, and liabilities)
4. Issue tax receipts in the prescribed form, where appropriate
5. Keeping detailed records of contributors and contributions
6. Paying all expenses [s.55(3)]
7. Authorizing advertisements and promotional material [s.61]
8. Making sure that the campaign does not spend more than the election expense limit or the advertising election expense limit [s.99(3)]
9. Preparing and filing the required financial statements and other information, in the prescribed form, with the CEO
10. Receiving any expense reimbursement cheques and using the funds to first pay off any amounts still owing from the campaign [s.73(3)]
11. At the end of the campaign, paying the surplus (if one exists) to the party or to the Chief Electoral Officer, as required [s.74(3)]
12. Providing additional information or clarifications to Elections Manitoba when requested

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

EFA – Terms and Concepts

I. Time Periods

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

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

Year – the calendar year.

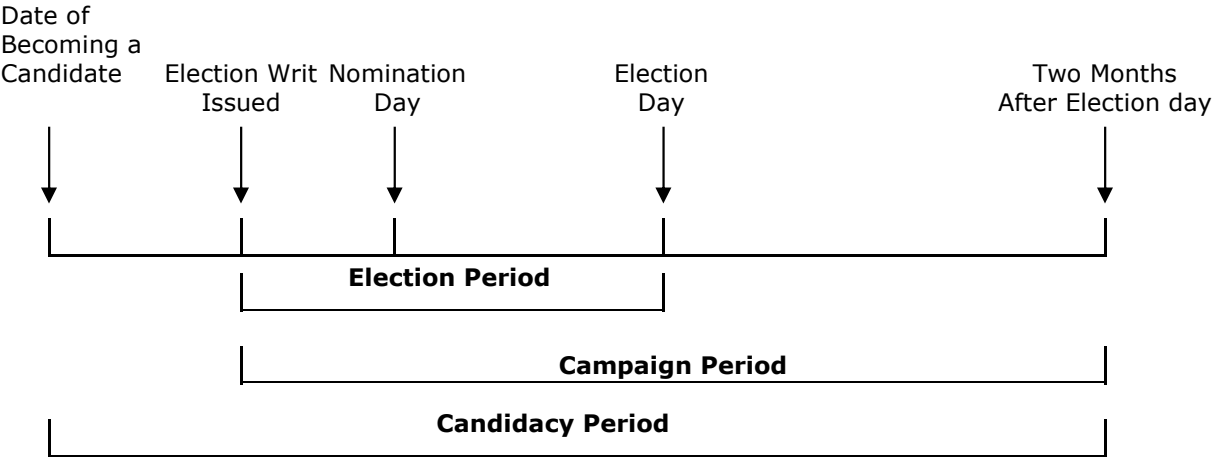
Candidacy period – the period that begins the day that an individual becomes a candidate in an election and ends two months after election day or, if the candidate withdraws, on the day of the withdrawal.

Campaign period – the period starting on the day the election is called and ending two months after Election Day.

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

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

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



A. Election Calendars

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

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

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

B. Summary Table

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

C. Filing Deadlines

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

Form 922 has to be completed and sent in to Elections Manitoba **no later than four months after election day** [s.63(1)].

Registered political parties must complete (and submit to Elections Manitoba) both Forms 920 and 921. **Form 920 is due 3 months after the end of the calendar year** while **Form 921 is due four months after Election Day** [s.62].

Leadership contestants are also subject to similar filing deadlines. Leadership contestants are required to complete **Form 947** and send it to Elections Manitoba **within 30 days of the end of the leadership contest period** [s.65(1)].

D. Reporting if By-election is Cancelled

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

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

In this situation, the statement of a registered party for a by-election period is due at the same time as the party's filings for the general election [s.66].

II. Income

The types of income that normally arise are:

- a) Contributions (both monetary and non-monetary contributions);
- b) Transfers (of cash, property, and services);
- c) Fundraising (including raffles);
- d) Sale of merchandise; and
- e) Other income.

All monetary income must be deposited into the financial account of the party/candidate/leadership contestant and all disbursements must be supported by an invoice or voucher as proof of payment [s.27].

A. Contributions

The following are contributions when provided to a recipient or for a recipient's benefit (s. 32(1)):

- a) Money provided without compensation (**monetary contribution**).
- b) Property or services provided free of charge or at less than market value (**non-monetary contribution**).

Examples of contributions include (s.32(3)):

- a) Fees paid for membership in a political party.
- b) Fees paid to attend a political party conference or convention, including a leadership convention, that exceed the reasonable expenses of the conference or convention
- c) An amount determined to be a contribution under section 32(6) (fundraising events)
- d) An amount determined to be a contribution under subsection 32(7) (selling items)
- e) The value of services provided free of charge by a self-employed individual who normally charges for them.
- f) Money, property or services that a candidate or leadership contestant provides in support of his or her own election campaign.
- g) An amount determined to be a contribution in relation to a loan under section 45.

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

A.1. Monetary Contributions

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

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

Monetary contributions include contributions in the form of money, cheque, credit card payment or other similar instrument.

Key point to remember: Tax receipts may only be issued for monetary contributions (provided that a candidate is registered to issue such receipts).

A.2. Non-monetary Contributions

A non-monetary contribution is the provision of property or services provided free of charge or at less than market value to or for the benefit of a recipient. There is no compensation to the contributor, and the transaction is not a loan or a transfer.

A non-monetary contribution **includes**:

- a) The market value of property used as election expenses in a previous campaign where the property is 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 non-monetary contribution **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 financial officer of a registered party, official agent for a candidate, or legal counsel for a party or a candidate.

Examples of non-monetary contributions are:

- Free office rent;
- Free use of cars or motor homes (for travel in the electoral division during a campaign);
- An individual providing furniture or equipment for a party's office at no charge (such as the provision of a computer printer by an individual, without charge, to a registered party);
- Signs or pamphlets provided without charge;
- Services of a self-employed computer technical support person providing technical computer support; and

- Campaign signs or lumber purchased and used in a previous election that is being re-used in a subsequent election.

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

A.2.1. Value of Non-monetary Contributions

The value of a non-monetary contribution is the market value of the property or services at the time the contribution was made [s.32(2)].

Market value is defined as the lowest price generally charged by the supplier for an equivalent amount of the same property or services at or about the time and in the market area in which the property or services are supplied [s.115]. Where a non-monetary contribution is the service of a self-employed individual, the value of the contribution is the regular fee or amount that the self-employed individual would charge.

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

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

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

It is important to note that if the office had been owned by a corporation rather than a sole-proprietor, this contribution would have violated the contribution limit provisions of the EFA as only individuals normally resident in Manitoba may contribute to a party, candidate, leadership contestant or constituency association [s.33].

A.2.2. Discounted Non-monetary Contributions

If property or services are provided to a recipient at less than market value, the provider of the property or service is considered to have made a contribution equal to the difference between the market value and the amount charged [s.32(2)].

Example: A printer makes campaign signs and charges the party \$1,000. Normally, the printer would have charged \$2,500 for an identical printing order. Thus, in this case, the printer has made a non-monetary contribution of \$1,500 (\$2,500 - \$1,000). The \$1,500 must be recorded and reported as a contribution from the printer. A tax receipt cannot be issued because the contribution is non-monetary [s.39(4)(d)].

Again, it is critical to note that if the printer is a corporation, this contribution would be in violation of the contribution provisions of the EFA as only individuals normally resident in Manitoba may contribute to a party, candidate, leadership contestant or constituency association [s.33].

It should also be noted that in the above example, if the signs were used during the election period, the full market value of \$2,500 would be recorded and reported as an election expense (only \$1,000 would be subject to reimbursement).

A.2.3. Non-monetary Contributions of Less than \$25

Individuals normally resident in Manitoba (and only such individuals) may make two non-monetary contributions of less than \$25 in a year to a candidate, constituency association, registered party or leadership contestant without the contributions having to be recorded under the Act. A third such contribution by an individual in a year, regardless of value, must be reported [s.32(5)].

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

A.3. Indirect Contributions

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

Example: The purchase of a newspaper advertisement by an individual on behalf of and with the knowledge and consent of a registered party is a contribution of the individual where the individual is not reimbursed for the expense. [s.32(1)(a)]

A.4. Deemed Contributions

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

- Where there is a lower than market rate of interest (i.e. less than the prime rate of the government's principal banker) [s.45(1)];
- Any payment on the loan that is not made by the debtor would result in a deemed contribution in the amount of the loan payment [s.45(2)]; and
- Any amount of the loan that remains unpaid 6 months after becoming due results in a deemed contribution in the amount of the unpaid amount (provided there were no legal proceedings initiated) [s.45(3)].

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

A.5. Forgiven or Unpaid Trade Payables

A registered party or candidate may arrange for property 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 property or services (i.e. non-monetary contributions) and therefore a prohibited contribution unless the property 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 non-monetary contributions, but should instead be considered and reported as a payable (liabilities still outstanding).

A.6. Who Can Contribute?

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

- A party registered in Manitoba;
- Any provincial candidate;
- Any constituency association of a 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 [s.32(3.6)].

A.7. Collections of Contributions

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

1. The individual can make the contribution directly to the recipient; 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 recipient 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 recipients. [s.37(1)]

A.7.1. Responsibilities of an Individual Collecting Contributions

When an individual decides to undertake the responsibility of collecting contributions for a party or other recipient, 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 name of the individual serving as the collector;
2. The name of the recipient;
3. The contributor's name and residential address;
4. The amount or value contributed;
5. The date the contribution was collected or received;
6. The signature of all contributors providing cash in excess of \$100. [s.37(2)]

Requirement 2 - Forwarding Contributions: If the collector is receiving cash contributions, then after collecting, must either forward the cash directly to the recipient 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 recipient. This cheque or money order needs to be forwarded to the recipient 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 recipient, and must be forwarded to the recipient 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 recipient or deposit the amount in his or her own bank account and then make a cheque or money order payable to the recipient and forward it to the recipient on a timely basis; and
 - ii) Forward a contribution record to the recipient at the same time. [s.37(3)]
- 2) If an individual collects cheques or credit card payments:
 - i) Cheques and credit card payments must be made payable directly to the recipient;
 - ii) Contributions must be forwarded to the recipient on a timely basis; and
 - iii) Contribution records must be forwarded at the same time. [s.37(3)]

A.7.2. The Role of Professional Fundraisers

S.37(1) permit professional fundraisers, event organizers, call centres, and other similar entities that are retained by the recipient for fundraising purposes to:

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

A.8. Contribution Limits and Restrictions

The Election Financing Act limits contributions as follows:

- Only individuals normally resident in Manitoba may contribute to a provincial candidate or leadership contestant, or to any registered party or constituency association of a party registered in Manitoba [s.33];
- The total value of all contributions (other than contributions to a leadership contestant during a leadership contest period) made in a year by an individual must not exceed \$3,000 [34(1)];
- The total value of all contributions made by an individual to one or more leadership contestants during a particular leadership contest period must not exceed \$3,000 [34(2)];
- 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.35(3)];
- 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.35(5)];
- 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.35(4)];
- 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.36(2), 37(4)];
- Anonymous contributions of more than \$10 must not be used and must be returned [s.42] except for some non-monetary contributions as outlined in s.32(5) (see "*Non-monetary contributions of less than \$25*"). If the contributor cannot be identified, the contribution must be turned over to the Minister of Finance;

A contribution has not been made if a cheque is not honoured on presentation (i.e. it has been returned marked "not sufficient funds" or "payment stopped" or something similar).

A.8.1. Issues Related to the Annual Limits on Contributions

The timing of when a contribution is recognized could have a significant impact on an individual's compliance with the dollar-value contribution limit, especially in instances where a contribution is "in-transit" at the time a new calendar year arrives. **The date of contribution is the date of payment by a contributor.** Generally, the date of payment is the date that a contribution is delivered to a recipient (i.e. a registered party, candidate, constituency association, or leadership candidate) or a recipient'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 party on March 15th, the contribution date is March 15th. This is true, even if the cheque is forwarded to the party and does not arrive until April 2nd and/or is not cashed until April 10th.
- If a contributor mails a cheque on December 20th (dated December 20th); the cheque arrives on January 4th of the following year; and the cheque is deposited on January 12th; the contribution date will still be December 20th as that is the date that the payment was made.
- If a contributor mails a cheque on December 20th; the cheque arrives on January 4th of the following year; and the cheque is post-dated for January 12th; the contribution date will be January 12th.

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

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).

A.9. Reporting contributions

Reporting of contributions received is required for:

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

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

A.9.1. Public disclosures

For every contributor who made one or more contributions (monetary and non-monetary) in the candidacy period to a registered party, constituency association, candidate, or leadership contestant, totalling \$250 or more, the following information must be disclosed for the period [s.62(1d), 63(1f), 64(1.3), 65(1.1d)]:

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

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

A.9.2. Tracking Contribution Limits (Form 930, 932, 934, detailed contributors list)

Registered parties, candidates, and constituency associations must disclose to Elections Manitoba information concerning all contributions (both monetary and non-monetary) received during a calendar year. Accordingly, records must be maintained for all contributions (monetary and non-monetary), 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.

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

A.10. Penalties

Any violation of the contribution provisions could result in the following maximum fines [s.99(1), 100(1)]:

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

An additional fine may be imposed of up to twice the amount of the prohibited contribution [s.100(2)].

B. Transfers

A “**transfer**” means a transfer of money, property or services among registered parties, candidates, constituency associations and leadership contestants without compensation from the entity or person receiving the transfer [s.115]

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.

B.1. Prohibited Transfers

A person or entity listed in Column 1 of the following table **must not** transfer money, property or services to a person or entity listed opposite in Column 2:

Column 1	Column 2
A registered party	A leadership contestant
A candidate	A registered party, other than the party that has endorsed the candidate A Constituency association Another candidate A leadership contestant
A constituency association	A registered party, other than its registered party Another constituency association A candidate, other than the candidate it has nominated A leadership contestant
A leadership contestant	A registered party except when there is a surplus Another leadership contestant A constituency association A candidate

A leadership contestant may only make a transfer when, after the leadership contest is over, there is a surplus that is required to be transferred to his or her party [s.42(2)].

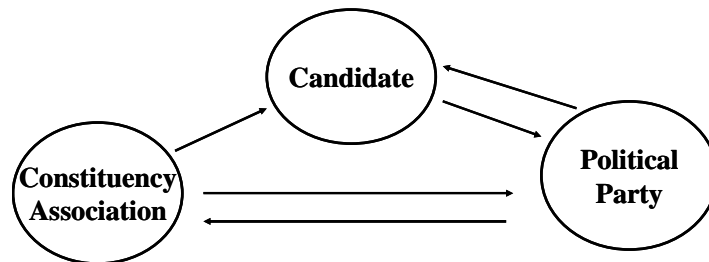
Since federal political parties and federal riding associations are not registered under the *EFA*, the provision of money, property, or services from such organizations are not transfers. Rather **they are contributions but would be prohibited** under the contribution limit provisions of the *EFA*. [s.115 "organization"; "transfer"]

B.2. Permitted Transfers

A person or entity listed in Column 1 of the following table **may** transfer money, property or services to a person or entity listed opposite in Column 2. Such a transfer is not a contribution [s.41(1)].

Column 1	Column 2
A registered party	A constituency association of the party A candidate endorsed by the party or nominated by a constituency association of the party
A candidate	The registered party that has endorsed the candidate
A constituency association	Its registered party The candidate nominated by the constituency association or endorsed by its registered party

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



B.3. Effect of a Transfer on Election Expenses

When property or services are provided by a registered party, constituency association, candidate, or leadership contestant but are ultimately paid for by the receiver of the property or services, these transactions do not represent transfers, but rather expenses to the receiver of the property or services. These transactions should be treated in the same way as any other supplier expense [s.43].

Example: In order to take advantage of bulk purchase discounts, a registered 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.4. Constituency Associations – Source of Transfer

Where a constituency association makes a transfer to a registered party (during a campaign period) or to a candidate (during the candidacy period), and the value of the transfer is \$250 or more, the constituency association must advise the party or candidate of the following [s.41(2)]:

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

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

B.5. Deemed transfers

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

- Where there is a lower than market rate of interest (i.e. less than the prime rate of the government's principal banker) [s.49(a)];
- Any payment on the loan that is not made by the debtor but is instead made by a registered party, constituency association, or candidate would result in a deemed transfer in the amount of the loan payment [s.49(b)]; and
- Any amount of the loan that remains unpaid 12 months after becoming due results in a deemed transfer in the amount of the unpaid amount [s.49(c)].

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

C. Fundraising Events

A “**fundraising event**” is a social function or other event held for the purpose of raising money for a registered party, candidate, leadership contestant, or constituency association [s.115].

Examples: Dinners, dances, luncheons, and raffles.

Depending on the circumstances, a portion of a fundraising event’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 fundraising event is that 75% of the ticket price or individual charge is deemed a contribution and 25% is fundraising income [s.32(6)]. 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 fundraising event total less than \$75, all of the income reported is fundraising income [ss.32(6)] (i.e. **no portion is considered contribution income**). As a result, a prohibited contributor such as a corporation or union may purchase a single fundraising event 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.

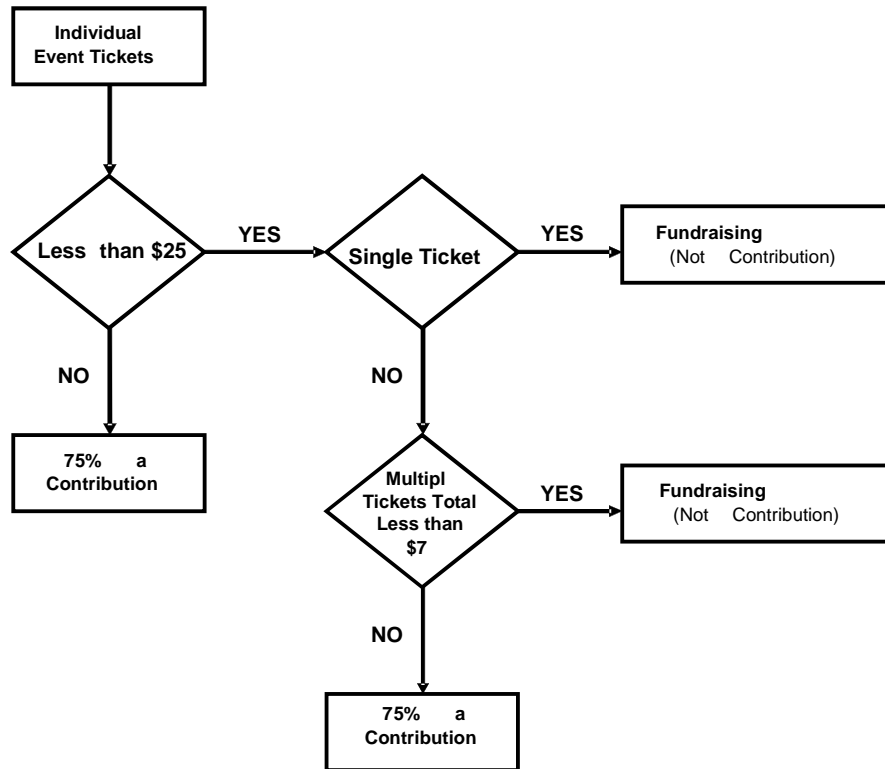
A prohibited contributor may not provide property or services (non-monetary contributions) for fundraising events, directly or indirectly, in any amount.

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

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

A constituency association cannot issue income tax receipts when it holds a fundraising event, or for any contributions it receives [s.39(2)(b)]. However, if the requirements of the *EFA* above are met with respect to a fundraising event hosted by a constituency association, 75% of the ticket price or individual charge is recorded, and disclosed, as a contribution. No income tax receipt would be provided.

C.1. Fundraising Event Income Classification Decision Tree



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

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

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

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

Since the ticket price exceeds the \$25 threshold, each individual who purchased a ticket made a contribution of \$112.50 ($\$150 \times 75\%$) to the party. Contribution income would be reported in the amount of \$22,500 ($\112.50×200 tickets) and individual tax receipts totalling \$22,500 would be issued. Income in the amount of \$7,500 ($\150×200 tickets $\times 25\%$) would be reported as fundraising income.

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

D. Merchandise Sales

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

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

D.1. Contributions From a Sale of Merchandise

When, for the purpose of raising money, an item is sold by or on behalf of a candidate, leadership contestant, constituency association or registered party, the amount by which the proceeds from the sale exceed the item's acquisition cost is a contribution [s.32(7)]. 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).

D.1.1. Sales of Items with Prices Greater Than or Equal to \$25

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

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

SP = AQ → No contribution

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

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

SP > AQ → Contribution

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

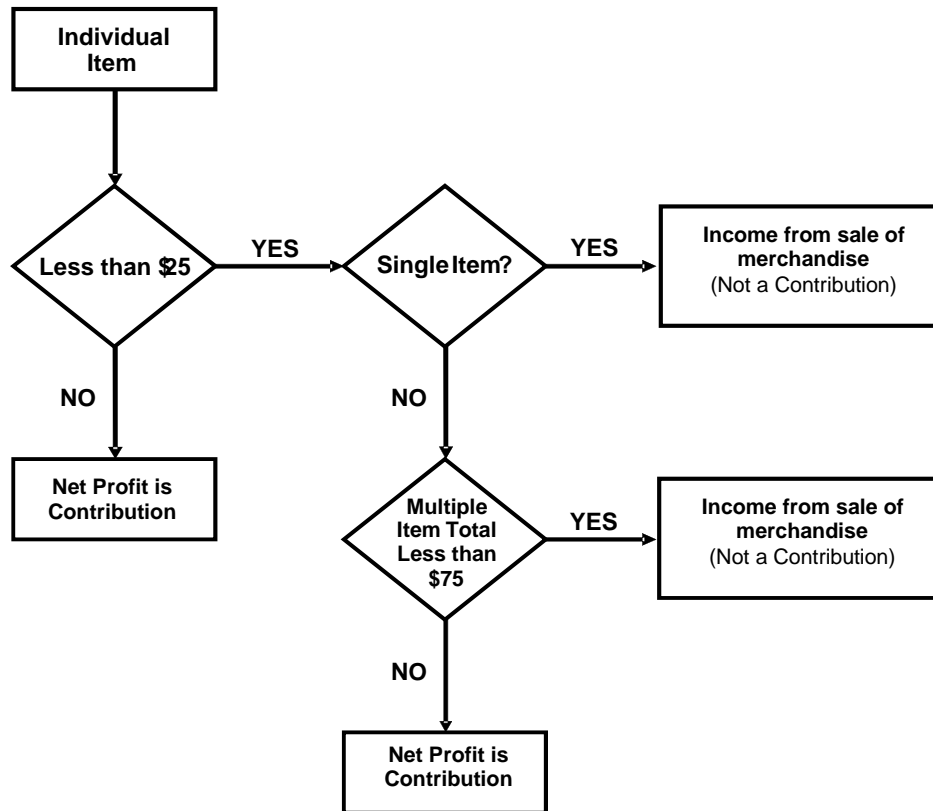
D.1.2. Exception for Nominal Amounts: Sales of Items with Prices Less Than \$25

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

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

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

D.1.3. Sale of merchandise income classification decision tree



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

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

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

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

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

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

Total Acquisition Cost = \$8/shirt x 10 shirts = \$80 → Reported as expense.

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

E. Other Income

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

Sources of other income include:

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

III. Income Tax Receipts

A tax receipt is a receipt issued for income tax purposes in respect of a contribution made to a registered party or a registered candidate [s.115].

An individual making a contribution to a registered party may be issued a tax receipt for the amount of the contribution so that the individual can claim an income tax credit. If you want to know how much may be claimed see Appendix B – Manitoba Tax Credit Program.

- Only political parties and candidates *registered* with the Chief Electoral Officer may issue tax receipts [s.39(1)&(2)].
- Constituency associations may not issue tax receipts for contributions to the constituency association [s.39(4)(b)]
- Leadership contestants also may not issue income tax receipts for contributions to the leadership contestant [s.39(4)(c)].

For a registered party, only the financial officer (or deputy appointed under s.20 of the *EFA*) may issue tax receipts.

Tax receipts may only be issued for contributions received in the form of money, cheque, or similar instrument. For contributions of this type, a tax receipt must be issued for every eligible contribution in excess of \$10 [s.39(1)(b)] but they may be issued for all monetary contributions regardless of the amount. Since all cash contributions have to be deposited into the bank account, each tax receipt should also be supported by a deposit slip(s) [s.27].

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

- a) A deemed contribution as a result of a loan [s.39(4)(a), s.45(4)];
- b) A contribution to a constituency association [s.39(4)(b)];
- c) A contribution to a leadership contestant [s.39(4)(c)];
- d) A non-monetary contribution [s.39(4)(d)]; or
- e) A transfer or deemed transfer [s.41(1)].

Reconciliation of Tax Receipts – Candidates

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

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

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

IV. Loans

The *EFA* sets out specific requirements regarding the lending of money. Candidates, leadership contestants, constituency associations, and registered 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.48(1)];
2. A leadership contestant may not loan money that has been raised for the purposes of the leadership contest [s.48(3)];
3. A constituency association may only lend money to its nominated candidate or its registered party [s.48(3)];
4. The maximum period of any loan made to a *political entity* (including refinancing loans) is 24 months [s.46(1)]; and
5. No person or organization shall, in a single year, provide a loan to a political entity in excess of \$3,000 [s.46(2)].

It should be noted that limitations 4 and 5 above are not applicable to loans made **by a financial institution**, by a registered party or constituency association to a candidate, or between a registered party and a constituency association [s.46(3)].

Where an eligible loan is entered into, which includes lines of credit and financial institution overdrafts, all such loan agreements must [s.47(1)]:

1. Be in writing;
2. Set out the amount and term of the loan;
3. Include the name and address of the lender and any guarantor;
4. Include the details of any agreements made to assign any portion of the election expense reimbursement;

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 [s. 47(2)].

Loan proceeds received must be deposited into the registered party's bank account.

A. Loans Deemed to be Contributions

Loan proceeds may be received to finance election or other expenses. Such loans are generally not contributions. However, there are circumstances where a loan results in, or is deemed to be a contribution. Loans deemed to be contributions are not eligible for tax receipts [s.39(4)(a), 45(4)]. Where any of the following deeming provisions apply, and the deemed contribution is from a corporation, union, or other prohibited contributor, a violation of the *EFA* has occurred.

A.1. Loans Made at Low Rates of Interest

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 [s.45(1)].

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

A.2. Uncollected Loans

A loan becomes a contribution if it is not paid within 6 months after becoming due and the creditor has not commenced legal proceedings to collect the debt (see also *Accounting Guide – Accounting For Purposes of The EFA*, Section 670, "Loans Payable") [s.45(3)].

A.3. Loans Settled by Third Parties

Where someone other than the debtor makes a payment on a loan to a registered party, that payment is deemed to be a contribution [s.45(2)].

B. Loans Deemed to be Transfers

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

B.1. Loans Made at Low Rates of Interest

Where a loan from a registered party or constituency association is at an interest rate that is lower than the prime rate of the government's principal banker at the time the interest rate on the loan is determined, the difference between the amount of interest that would be payable at the prime rate and the amount of interest that is actually payable in accordance with the loan agreement, is a deemed transfer [s.49(a)].

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

B.2. Uncollected Loans

A loan from a registered party or constituency association that remains unpaid 12 months after it becomes due is deemed to be a transfer [s.49(c)].

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

B.3. Loans Settled by Third Parties

Where a payment on a loan is not made by the debtor but rather by a candidate, constituency association, or registered party, that payment is deemed to be a transfer [s.49(b)].

C. Reporting for Loans Outstanding

Every year that the loan balance is outstanding, information regarding the balance remaining unpaid must be provided to the CEO with the financial statements filed by constituency associations, or registered parties (i.e. Forms 920, 921, 922, 924, 947), along with a copy of the loan agreement [s.63(3.1), 64(1.1), 62(1.1), 62(2.1)].

V. Expenses

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

- a) Election expenses [s.50(1)&(2)];
- b) Non-election expenses [s.50(3)]; and
- c) Transfers [s.43].

As with income from contributions and transfers, the three types of expenses or reductions of income are further defined as monetary (i.e. they are or will be paid with money or cash), or as non-monetary (i.e. the use of property or services provided and paid for by someone else). All monetary expenses must be disbursed from the financial account of the candidate's campaign, constituency association, leadership contestant or party, and must be supported by an invoice or voucher as proof of payment [s.27(c)]. A non-monetary expense may result only from the acceptance of a non-monetary contribution and the "using up" of the property or service contributed. This will be clarified further in this section.

Expenses may be incurred indirectly by individuals with the knowledge and consent of the candidate, leadership contestant, constituency association, or registered party (a transaction of this nature would be a non-monetary contribution and a non-monetary 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 political entities as such expenses would represent prohibited contributions.

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

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

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

Leadership contestants are not permitted to receive contributions or incur expenses until the leadership contest has been officially announced by the party [s.35(6) & s.99(4)].

A. Election Expenses

The concept of election expenses is one of the most important concepts in the EFA. The definition of election expenses [s.50(1)&(2)] is extensive and must be reviewed thoroughly as it impacts on spending limits and on the amounts reimbursed by the public treasury to parties and candidates (spending limits and reimbursements are discussed in another section).

In general, "election expenses" means

- a) Money spent or liabilities incurred; and
- b) The value of non-monetary contributions accepted;

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

The above points apply before or during an election period in respect of property or services used during the election period to support or oppose, directly or indirectly, a candidate or registered party in the election.

Essentially, an election expense is the use (i.e. consumption) of property or services in an election period for an election purpose. **Understanding the concept of use or consumption is critical in understanding the definition of election expenses.**

Property that is acquired in a pre-election period may still represent election expenses.

Example 1: A registered party received and paid for brochures in a pre-writ period. The cost of the brochures would be an election expense if they were used (i.e. distributed) in the election period. If they were used outside of the election period the cost of the brochures would be a non-election expense. If the brochures were not used at all they would be reported as inventory.

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

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

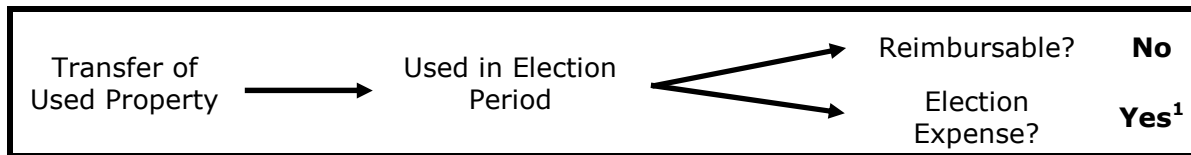
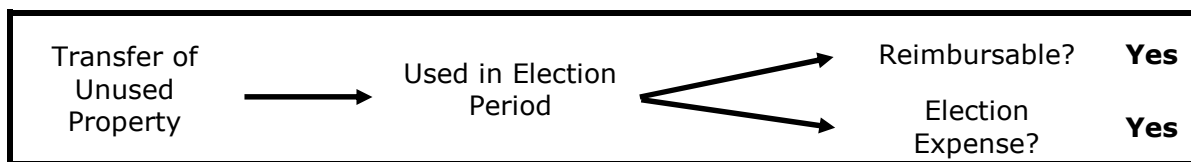
- A cash purchase or a trade payable by the party;
- A non-monetary contribution where property or services are received;
- A non-monetary contribution where there has been payment for property or services on behalf of the party with the knowledge and consent of the party; or
- A transfer of property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

A.1. Transfer of Property and Services – A Clarification

Where property 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 the property and services is the expense of the transferee. The expense, if it qualifies as an election expense, would be reimbursable to the transferee [s.43]. If the property 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 [s.43].

Example: Where brochures that have never been used are transferred from a registered 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 explains the treatment of transferred property in each situation:



¹ Expenses should be reported as *non-monetary contributions*

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

A.2. Election Expenses – Inclusions and Exclusions

Part 7 (Election Expenses) of the *Election Financing Act* provides a list of examples of various election expenses. 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 official agent, organizer, campaign manager, or office worker (this does not include salaries and wages paid to permanent staff members of a registered 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 Election Financing Act*, Section 650 “Capital Assets”, paragraphs .08 to .11);
- The expenses incurred for a fundraising event;
- Property which was acquired in a previous election and not used in the previous election but is used in the current election; and

- Opinion surveys and market research, including the cost of survey design and analysis.

The test for identifying election expenses: To what extent was the property/service used or consumed during the election period for the purposes of supporting or opposing a candidate or 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". Property or services used outside of an "election period" (for an election purpose) cannot be election expenses even though the expenses were only incurred because an election was anticipated. The basis used to determine the amount or partial amount of expense that is applicable to each time period must be reasonable, however, the specifics of the method are a matter of judgment. The most frequently used and in most instances the simplest method for allocating expenses is to prorate an expense based on the time (days and/or hours) over which the good or service was provided.

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

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

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

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

Examples of the expenses that need to be apportioned:

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

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

A.3. Non-monetary Contributions as Election Expenses

Election expenses include the value of non-monetary contributions 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 non-monetary contribution is the market value of the property 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 property or services at, or about the time, and in the market area in which the property or services are supplied [s.115].

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

Most property 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 non-monetary election expenses. Notable exceptions are:

- Volunteer labour [s.32(4.1)];
- Volunteer financial officer, official agent, auditor, or legal counsel [s.32(4.2)];
- Inventory acquired in a previous election but not used in the previous election [s.50(2.11)]. (This would be a transfer and a reimbursable election expense if used during the current election).

A.4. Authorization and Payment of Election Expenses

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

The only exception to this rule is in the event of a candidate's campaign where the official agent is unwilling or unable to authorize a payment for an election expense. In this case, the candidate may make or authorize payment. [s.55(3)]

A.5. Campaign Workers (other than permanent employees of a registered party)

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

A.5.1. Campaign Workers Paid by the Registered Party

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

A.5.2. Campaign workers Paid by Another Entity

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

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

A.5.3. Campaign Workers Volunteering Time

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

1. Paid by campaign/party	Yes (Monetary)	Yes (Monetary)
2. Paid by another entity	Yes (Non-monetary)	Yes (Non-monetary)
3. Volunteer Services <ul style="list-style-type: none"> • No payment • Not a self-employed individual 	No	No
4. Self-employed individual	Yes (Non-monetary)	Yes (Non-monetary)

A.6. Expenses to Operate a Permanent Office of a Registered Party

The term "**election expenses**" *does not include* expenses incurred in the operation of any permanent office of a registered party, including salaries and wages paid to permanent staff members working in the office during the election period [s.50(3.3)].

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 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.

Resources may have been transferred where a 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.51(4)] and transferring resources used as election expenses [s. 43]. 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 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 property or services used are:

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

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

- A cash purchase or a trade payable by the political entity;
- A non-monetary contribution received; or
- A transfer of property and services received.

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

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.50(3)]

- A leadership contest, or other conference or convention of a registered party;
- Meetings to nominate candidates;
- Reasonable expenses incurred in the operation of any permanent office of a registered 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 financial officer, official agent, auditor, or legal counsel to a registered party or candidate; and
- Property or services used after 8 p.m. on Election Day (i.e. after the election period).

Examples of non-election expenses:

- Victory and thank-you celebrations held for campaign workers after 8 p.m. on Election Day (regardless of when food or refreshments may have been purchased).
- Newspaper advertising published before the election is called.
- Thank-you notices published after 8 p.m. on Election Day.

C. Transfers

A "**transfer**" means money, property or services provided among registered parties, constituency associations, endorsed candidates and leadership contestants, without compensation from the entity or person that receives the money, property or services, and includes the market value of property provided from a previous election [s.115].

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

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.

VI. Advertising Expenses

Advertising expense means advertising that promotes or opposes (directly or indirectly) a registered party or a candidate or leadership contestant

- 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.

Advertising expenses do not include publishing a commentary, letter to the editor or a similar expression of opinion of a kind normally published without charge in a newspaper or other periodical publication or on the Internet, or normally broadcast without charge on television or radio.

Advertising expenses also includes direct production expenses [s.115].

A. Components of Advertising Expense

Direct production expense 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:
 - Project management (client service);
 - Art direction;
 - Design;
 - Copyright services;
 - Production management; and/or
 - Media planning or buying.
- Graphic design firms;
- Typesetting firms;
- Photographers or photo studios;
- Stock photography companies;
- Color houses (film output);
- Audio production houses;
- Video production houses;
- Talent (agency or direct pay);

- Printers – specific to outdoor, bus boards, transit;
- Website advertising designers.

Two other things to consider are that:

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

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

Examples of costs considered to be advertising expenses:

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

Examples of costs not considered to be advertising expenses:

1. The costs of operating/maintaining a website.
2. The costs associated with distribution of 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 [s.56].

B. Authorization of Advertising

A person or entity listed in Column 1 of the following table, or a person acting on their behalf with their knowledge and consent, must not publish, print or distribute advertising unless it is authorized by the person listed opposite in column 2 [s.61(1)].

Column 1	Column 2
A registered party	The party's financial officer
A candidate	The candidate's official agent The candidate, but only if the advertising is used before the candidate's official agent is appointed
A constituency association	The party's financial officer (in the year of a fixed date election) The constituency association's financial officer (at other times)
A leadership contestant	The contestant's official agent The contestant, but only if the advertising is used before the contestant's official agent is appointed

The person listed in column 2 must ensure that a public statement of the authorization appears with the advertising [s.61(2)].

The above requirements extend to any advertising done by a third party with the knowledge and consent of the party.

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

- Authorized by the financial officer for (*party's name*);
- Authorized by the financial officer (if the full name of the party is evident on the material).

Authorization is required:

- a) during an election period
- b) outside an election period in the year of a fixed date election, if the advertising is by or on behalf of a registered party, a candidate or a constituency association, and
- c) during a leadership contest period, if the advertising is by or on behalf of a leadership contestant.

VII. Election Expense Limits

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

3. Total Election Expenses; and
4. Total Advertising Expenses.

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

A. Total Election Expense Limit

The total value of all election expenses incurred during an election period must not exceed the calculated maximum amount (i.e. the Expense or Spending Limit) [s.51(1), 52(1)].

Election expense limits are determined using four factors:

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

Key points to remember:

Election expenses incurred by an individual on behalf of a party or a candidate, with the knowledge and consent of the party or the candidate, must be included in the party or candidate's spending limit.

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

Any expense incurred outside the election period by a constituency association but within the year of a fixed date election is included in the registered party's spending limit.

Advertising election expenses are included in both the Total Advertising Expense Limit and Total Election Expense Limit calculations.

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

A.1. Allocation of Election Expenses, Including Advertising

The *EFA* **does not allow** a 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 [s.51(4), 52(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 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.

B. Advertising Election Expense Limit

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

C. Expense Limit Calculations

The expense limits (for both Total Election Expenses and Advertising Expenses) are calculated and communicated to the official agents, candidates, and financial officers five 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.54(2)]:

$$\text{Per Voter Rate} = \text{Per-voter rate specified in the EFA [s.51, 52]} \times \left[\frac{\text{Consumer Price Index (CPI) for the City of Winnipeg in the second month preceding the month in which the writ is issued}}{\text{CPI for Winnipeg in January 2012}} \right]$$

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. Candidates in electoral divisions with areas less than 30,000 square miles: \$2.91 per name on the voters list; or
2. Candidates in electoral divisions with areas of 30,000 square miles or more: \$4.64 per name on the voters list.
3. Parties in a general election: \$1.92 per name on the voters lists for all electoral divisions in which the party endorses candidates.
4. Parties in a by-election: \$3.45 per name on the voters list for the electoral division.

Total advertising expense limit:

1. All candidates, regardless of the size of their electoral division: Total advertising expenses of a candidate are not to exceed \$0.60 per name on the voters list.
2. Parties in a general election: \$0.99 per name on the voters lists for all electoral divisions in which the party endorses candidates.
3. Parties in a by-election: \$1.72 per name on the voters list for the electoral division.

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

In a fixed date election:

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 2 weeks after election day.

In a non-fixed date election:

Limit calculation	Voters list used and date of determination
Minimum or base	Final voters list in the preceding general election. Established and communicated within three days of Writ Day (i.e. the day the election is called).
Second	Preliminary voters list. Established and communicated within three days of the end of the enumeration period (approximately 10 days into the election).
Third	Revised voters list. Established and communicated within three days of the end of the revision period (approximately 17 days into the election).
Fourth	Final voters list. Established and communicated approximately 2 weeks 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.

D. Per Diems

You should be aware that per diems paid to campaign workers **will not be eligible for reimbursement** (as an election expense).

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. Penalties

Any contravention of either of the election spending limits could result in the following maximum fines: [s.99(2), 100(1)]

- Candidate - \$5,000;
- Financial Officer - \$5,000;
- Official Agent - \$5,000;
- Other Officer - \$5,000;
- Registered party - \$50,000.

Further, an additional fine may be imposed of up to twice the amount of the overspending. [s.100(2)]

F. Advertising Blackouts During an Election

The Election Financing Act and *The Elections Act* do not have election advertising blackout restrictions for candidates or registered 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 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.

VIII. Annual Advertising Expense Limit in Fixed Date Election Years

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

The limits on advertising expenses incurred outside of an election period in a calendar year are as follows [s.58(1) & (2)]:

5. Registered parties - \$268,000; and
6. Candidates - \$6,500.

Advertising expenses are discussed in greater detail in the *advertising expense* section of this Guide. However, it must be noted that in the year of a fixed date election, the definition of advertising expenses is expanded.

In the year of a fixed date election, the definition of *advertising expenses* also includes money spent or liabilities incurred, and the value of non-monetary contributions 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 party or candidate; that a registered 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 [s.57, s.115 "advertising", and "promotional material"].

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 [s.58(1) & (2)]. In other words, a political entity may not "double up" the spending limits during an election. Election advertising costs may not be applied against the annual limit.

Included within a party's annual limit are advertising expenses incurred outside of an election period by [s.58(4)]:

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

Similarly, included within a candidate's annual limit are advertising expenses incurred by an individual on the candidate's behalf and with his or her knowledge and consent [s.58(4)].

Note: For candidates of a registered 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 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 or political party.

Allowances paid under *The Legislative Assembly Act* for expenses incurred by a member of the Assembly or by the caucus of a party are not advertising expenses for the purposes of the annual advertising spending limit [s.60(2)].

A. Revised Amount of Annual Advertising Expense Limit

At the beginning of the 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 2012 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* [s.59(1) & (2)].

B. Reporting

A registered party must report annual advertising expenses on the party's annual financial statements separately from other expenses. The amount reported must include:

- advertising expenses conducted by the party;
- advertising expenses conducted by individuals and constituency associations [s.62].

Since advertising expenditures incurred by candidates and by others on behalf of candidates are subject to the candidate limit, these expenses do not need to be included in the party advertising expense total (otherwise such expenditures would be effectively double counted). However, these expenditures must be reported separately on the party's annual financial statements (Form 920).

C. Authorization of Annual Advertisements

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

D. Penalties

Overspending the annual advertising spending limit could result in the following maximum fines: [s.99(2), 100(1)]

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

An additional fine may be applied of up to twice the amount of the overspending. [s.100(2)]

IX. Reimbursement of Election Expenses

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

A. Reimbursement to Registered Party

A registered party is entitled to receive a partial reimbursement of election expenses incurred during an election period where the total votes for candidates endorsed by the party equals 10% or more of all the valid votes cast in the province during the election [s.74(1)]. The amount of the reimbursement is 50% of the lesser of:

1. The total election expense limit of the party; and
2. The actual election expenses incurred (excluding non-monetary contributions) [s.74(2)].

The amount of reimbursement of election expenses calculated above for a registered party is reduced \$1 for every \$1 by which the greater of the actual election expenses or the actual election advertising expenses, exceeds the permitted spending limits [s.73(2)].

The reimbursement is paid directly to the financial officer of the registered party [s.73(3)]. However, reimbursement may not be paid for election expenses that have not been adequately supported or documented or that are not reasonable.

B. Reimbursement to Candidate

A candidate may be entitled to receive a partial reimbursement of the election expenses (and full reimbursement for some non-election expenses) that were incurred by his or her campaign. In order for the candidate to be eligible for this reimbursement he or she **must receive at least 10% of all valid votes** cast in the candidate's electoral division [s.74(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 [s.63(1)].

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 non-monetary expenses**); and
2. The total election expense limit of the candidate [s.74(2)].

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 [s.74(2)].

B.2. Expenses Eligible for 100% Reimbursement

Reasonable expenses incurred in relation to a disability or child care to enable a candidate to campaign in an election are specifically excluded from the definition of "election expenses". These expenses are excluded so as not to unfairly inflate the election expenses of this candidate with respect to the candidate's election expense limit. However, the *EFA* allows for a 100% reimbursement for these reasonable expenses, over and above the election expense reimbursement [s.74(2)].

B.3. Candidate's Surplus or Deficit

The calculation of the candidate's surplus or deficit is defined under the *EFA* and determines *to whom* the candidate's reimbursement is paid. Depending on the level of surplus or deficit, it is possible that the candidate's campaign will not receive all of the reimbursement that would be calculated based on the candidate's eligible election expenses. Upon calculating a candidate's surplus or deficit under subsection 74 of the *EFA*, the following rules apply on payment of the (a) surplus and (b) the reimbursement of election expenses:

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

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

1. Non-monetary contributions and non-monetary expenses;
2. Transfer income and transfer expenses in the form of property and services;
3. Election expenses that result from property and services transferred; and
4. Most non-election expenses.

This calculation is performed as follows [s.74(9)]:

Surplus/(deficit)

Less:	Total gross income for candidacy period Non-monetary contributions Transfer income from property and services
Subtotal:	Adjusted gross income
Less:	Adjusted election expenses (<i>from below</i>) Loan interest (close of polls to end of the filing deadline) Bank charges (close of polls to end of the filing deadline) Transfers (monetary)

Equals: Surplus/(deficit)

Adjusted Election Expenses:

Less:	Total election expenses Non-monetary election expenses Election expenses resulting from transfers of property or services received (and used during election period)
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Equals: Adjusted election expenses

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

B.3.1. Reimbursement in a Surplus Situation

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

If the candidate is not endorsed by a registered 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) [s.74(3)].

B.3.2. Reimbursement in a Deficit Situation

If the candidate is endorsed by a registered party [s.74(3)]: 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 financial officer of the registered party.

If the candidate is not endorsed by a registered 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 [s.74(3)].

C. Campaign Deficit

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

D. First Use of Reimbursement

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

X. Annual Allowance for Registered Parties

The *EFA* entitles registered parties to receive an annual allowance out of the Consolidated Fund to assist with expenses for the parties' administration and functions. The allowance is essentially a reimbursement of expenses incurred by a party for its functions and administration.

A. Appointing an Allowance Commissioner

Within six months after each general election, The Lieutenant Governor in Council is to appoint a commissioner to decide on the amount of the allowance [s.80(1)]. An appointment may be made only after consultation with the leaders of the registered parties [s.80(2)].

B. Determining the Annual Allowance

The allowance commissioner must decide the following:

- the amount to be paid to registered parties as an allowance, and how those amounts are to be determined
- when the allowance is to be paid, and whether it is to be paid once each year or in instalments
- whether the allowance should be adjusted for changes in the cost of living
- whether the allowance needs to be adjusted for any other reason and, if so, when and how and other related matter the allowance commissioner considers necessary or desirable [s.81(1)]

The allowance commissioner may consider any factors considered relevant by the commissioner including:

- the expenses that parties incur for administration and operating costs (other than for advertising and polling)
- how much public support a registered part has, as determined by the number of votes the party received in the last general election, the number of seats held, the number of candidates endorsed in the last general election [s.81(2)]

Within three months after being appointed, the allowance commissioner must submit a report to the Speaker setting out his or her decisions [s.81(4)]. After submitting the report to the Speaker, the allowance commissioner must make regulations to implement his or her decisions. The regulations made by a commissioner come into force on January 1 following election day for the last general election [s.81(5)].

Appendix A – Contributions

I. Examples of Contributions

- Services provided at no charge by a self-employed individual if the services are normally sold or charged for by the individual [s.32(1)(b)].
- A provincial candidate (or another individual) providing money to eliminate the candidate's campaign liability.
- Expenses incurred by individuals on behalf of and with the knowledge and consent of candidates, political parties and constituency associations
- Where a payment on a loan is made by someone other than the debtor, a non-monetary contribution is deemed to have been made [s.45(2)].
- Where loans have been uncollected, unpaid, or forgiven the lender, in some cases, is deemed to have made a permitted contribution [s.45(3)].
- Membership fees are contributions [s.32(3)].
- 75% of the ticket price of a fundraising event where the ticket price is \$25 or more, or where multiple tickets are purchased for one fundraising event totalling \$75 or more [s.32(6)].
- 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 [s.32(7)].

II. Examples of Prohibited Contributions

- Money, property, or services provided from federal political parties, federal riding associations, and political organizations in other jurisdictions are prohibited contributions [s.115“organization”].
- Services of an employee provided by a prohibited contributor.
- Expenses incurred by organizations (other than a candidate's party or constituency association) on behalf of and with the knowledge and consent of candidates, political parties and constituency associations [s.33].
- A website provided to a registered party by a web development company at no charge (the company will have provided property or service to or for the benefit of the party which is essentially the definition of a non-monetary contribution).
- Where property or services are provided by a prohibited contributor at a price below market value, a non-monetary contribution has been made to the extent that the market value exceeds the price charged [s.32(2)].

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

III. Examples of Non-contributions

- A service provided without compensation by an individual outside his or her working hours unless he or she is self-employed and normally sells or otherwise charges for the services [s.32(1)(b)].
- A candidate on paid leave under a collective or other employment agreement is not a contribution.
- The services of a person who acts without compensation as a financial officer, auditor, or an official agent or legal counsel to a candidate or registered party [s.32(4.2)].
- A fundraising event ticket purchased where the individual ticket price is less than \$25 is not a contribution [s.32(6)].
- Multiple fundraising event tickets purchased for a fundraising event totalling less than \$75 where the individual ticket price is less than \$25 is not a contribution [s.32(6)].
- A sale of a single item of merchandise where the price of the item is less than \$25 is not a contribution [s.32(7)].
- 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.32(7)].

IV. Identifying Contributors and Disclosing Contributions

Recipient entities must always know and be able to identify the source of a contribution otherwise the contribution cannot be accepted and used. 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 non-monetary contributions of less than \$25 in a year to each candidate, constituency association, registered 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.32(5)]. What this means is that the political entities must keep track of the number of non-monetary contributions of less than \$25 made by a single individual in a year to know when the threshold of two has been reached.

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

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

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

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.

V. Returning Contributions

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 non-monetary contributions of less than \$25 as outlined in s.32(5);
- 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 registered 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 registered party may wish to have contribution reporting systems in place between the registered 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 party. The political party, upon learning of the prohibited contribution, is required to return \$500 to the contributor.

In the above example, the registered party would likely become aware of the prohibited contribution as a result of Elections Manitoba reviewing the records of all contributions made. Although the registered 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 – Manitoba Tax Credit Program

Since 1980, contributions to registered 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:

\$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 non-monetary contribution (i.e. a monetary or cash contribution) in the year by the individual to a registered 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 financial officer of the registered party or the official agent of the candidate (depending on the recipient of the contribution).

Appendix C – Travel/Mileage

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

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

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

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

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

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

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

Unacceptable submissions

Only the value of fuel is an eligible reimbursable election expense. Failure to provide gas receipts at all will result in the claimed expenses being deemed as unsupported. No reimbursement will be provided for such expenses [s.63(1.3)].

Contacting Elections Manitoba

General inquiries:

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Toll Free in Manitoba: 1-800-282-6069
Facsimile: 204-945-6011

General Email Address: election@elections.mb.ca
Website: www.elections.mb.ca

Inquiries on *The Election Financing Act*:

Email: finance@elections.mb.ca

Inquiries on *The Elections Act*:

Email: operations@elections.mb.ca

Candidates, official agents, financial officers, and others are **strongly encouraged** to contact Elections Manitoba as often as necessary in order to understand the requirements of *The Election Financing Act* or *The Elections Act*.