

Legislative Reference Guide for Financial Officers

The Election Financing Act

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

Current as of September 2017

Table of Contents

About This Guide	1
Checklists	2
Appointment of Financial Officer (FO).....	2
Financial Officer Responsibilities	2
A. Accounts and records	2
B. Reporting	3
EFA – Terms and Concepts.....	4
I. Time Periods	4
A. Basic Terms	4
B. Election Calendars	5
C. Summary Table.....	5
II. Maintaining a Financial Account	6
A. Petty Cash Disbursements	7
III. The Auditor	7
A. Auditor Payments	8
IV. Income.....	9
A. Contributions	9
B. Transfers.....	20
C. Fundraising Events	23
D. Sale of Merchandise	25
E. Other Income.....	28
V. Income Tax Receipts	29
A. Income Tax Receipt Guidelines for Registered Parties.....	30
VI. Loans.....	31
A. Loans Deemed to be Contributions	32
B. Loans Deemed to be Transfers	32
C. Reporting for Loans Outstanding	33
D. Loan Summary Table	33
VII. Expenses	34
A. Election Expenses	35
B. Non-election Expenses	41
C. Transfers.....	42
VIII. Advertising Expenses.....	43
A. Components of Advertising Expense	43
B. Authorization of Advertising	45
IX. Election Expense Limits	46
A. Total Election Expense Limit.....	46
B. Advertising Election Expense Limit.....	47
C. Expense Limit Calculations.....	48
D. Per Diems.....	49
E. Penalties	50
F. Advertising Blackouts During an Election	50
X. Pre-election Period Advertising Expense Limit in Fixed Date Election Years	51
A. Revised Amount of Annual Advertising Expense Limit.....	52

B. Reporting	52
C. Authorization of Annual Advertisements	53
D. Penalties	53
XI. Annual and Election Reporting	53
B. Filing	54
XII. Reimbursement of Election Expenses.....	56
A. Candidate’s Surplus or Deficit	56
XIII. Annual Allowance for Registered Parties.....	57
A. Appointing an Allowance Commissioner	57
B. Determining the Annual Allowance.....	57
XIV. Advisory Opinions.....	58
Appendix A – Examples of Contributions, Non-contributions, and Prohibited Contributions	60
Appendix B – Manitoba Tax Credit Program	63
Appendix C – Travel/Mileage	64
Contacting Elections Manitoba	65

About This Guide

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

Checklists:

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

Reference Material:

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

Checklists

Appointment of Financial Officer (FO)

- Every registered party must appoint a FO. A candidate is not eligible to be appointed. [s.20, 26].
- Upon appointment of a FO, the leader of the registered party must notify Elections Manitoba in writing of the name and address of the FO, and submit to Elections Manitoba the FO's written consent to act in that capacity (Form 901) [s.20(1), 26(1)].
- A deputy financial officer may be appointed to act in the issuing of tax receipts for contributions received by the registered party. Elections Manitoba must be notified by the FO of the name and address of the deputy, and must be provided the deputy's written consent to act in that capacity [s.20(2)].

Financial Officer Responsibilities

A. Accounts and records

- Accounts are maintained in a financial institution in the name of the registered party [s.21(1)].
- All money provided to the registered party is deposited into the party's account [s.27(a)].
- Only money relating solely to the registered party is deposited into the account [s.27(b)].
- All disbursements for the registered party are made from the account [s.27(c)].
- Disbursements are substantiated by an invoice or voucher as proof of payment [s.27(c)].
- The production and distribution of advertising, promotional material, signs and banners for a party both inside and outside of an election period is authorized in writing by the FO and that a statement of this authorization appears with the advertising and promotional material [s.61].
- Only the FO, or an individual acting on behalf of the party with the knowledge and consent of the FO, makes a payment for an election expense or an annual advertising expense of a registered party [s.55(3)].
- Records are kept of all receipts, including contributions, transfers, and other income [s.21(1)(b)].
- Records are kept of all expenses, including election expenses, annual advertising expenses, and transfers [s.21(1)(b)].
- Records are kept of all assets and liabilities [s.21(1)(b)(iv)].

- Tax receipts are issued and accounted for [s.21(1)(c)].
- Records on which a statement, return or other information is filed are preserved for at least five years from the date of filing or for any additional period considered necessary by the Chief Electoral Officer [s.72(1)(a)&(b)].

B. Reporting

- Within three months after the end of a calendar year, an audited annual financial statement in prescribed form is filed with Elections Manitoba (Form 920) [s.62(1.1)(a)-(d)].
- Within three months after the end of a calendar year, records of all contributions are filed with Elections Manitoba that include the name and address of each contributor and the value of the contributions, by individual, during the year (Form 930 - Detailed Contributors' List) [s.62(1.2)].
- Within 30 days of a request, information necessary to verify or clarify a party's filed statement is provided to Elections Manitoba [s.67(1)&(2)].
- Upon learning of a prohibited contribution accepted by or on behalf of the party, the prohibited contribution (or an amount of money equal to the value of the contribution) is forthwith returned to the contributor [s.38].
- Within four months of Election Day an audited election financial statement in prescribed form is filed with Elections Manitoba (Form 921). This financial activity is not to be included in the annual return [s.62(2)&(3)].
- The party does not overspend the annual advertising spending limit or the election period spending limits [s.99(3)].
- 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(1)&(2)].
- Within 30 days of a request, Elections Manitoba receives a list of financial officers of constituency associations [s.26(1)].
- Elections Manitoba receives notification forthwith (Form 904) when a constituency association of a registered party nominates a candidate [s.21(2)].

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

EFA – Terms and Concepts

I. Time Periods

A. Basic Terms

It is essential to understand the different time periods in the Act in order to keep records and report as required. The following periods are defined under the EFA: [s.115]

Year – the calendar year.

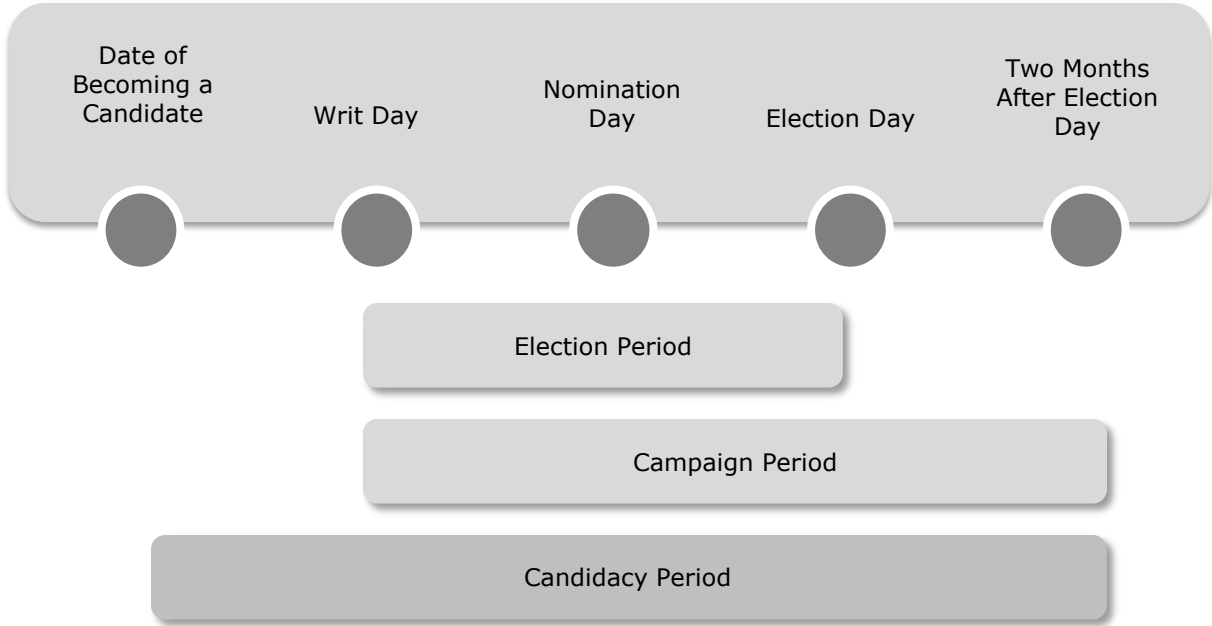
Candidacy period – the period that begins the day that a person becomes a candidate and ends two months after election day, or if the candidate withdraws, on the day of the withdrawal.

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

Election period – the period starting on the day an election is called and ending on election day.

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

Any period that ends on a holiday is extended until the next day that is not a holiday.



B. Election Calendars

The timeline over which an election unfolds is dependent upon the manner in which the election is set. In Manitoba, an election must be held at least every four years unless an election is called at 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. The writ is issued in accordance with the Fixed Date Election provision of the Elections Act.

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.

If a fixed date election scheduled for October will conflict with a federal fixed date election, Manitoba's election is postponed to the following spring.

C. Summary Table

Time period	Start date	End date
Candidacy period	<i>Endorsed Candidate</i> – Earlier of: 1. Date of nomination (Form 904); and 2. Date of filing of the nomination papers (Form 400). <i>Independent Candidate</i> – 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
Reporting period	First day of candidacy period (as described above)	Two months after election day

II. Maintaining a Financial Account

The *Election Financing Act* requires the FO of a party to:

- Establish and maintain an account at a financial institution;
- Deposit into this account all money provided to the registered party, including contributions, loan proceeds, and transfers; and
- Make all disbursements for the registered party, including transfers, from this account.

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

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

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

Depending on the financial institution, the account must be like a business account or a not-for-profit or community account. Do not open a personal account (i.e. you do not want a normal savings account that just has a pass book). An account must return all cancelled cheques, and statements that show what went through the account. Some financial institutions provide photocopies of the front and the back of every cheque and this is acceptable. Bank statements, cancelled cheques, and deposit slips will form an important part of the party's books and records and you, as the FO, may be asked to provide copies of these documents to Elections Manitoba [s.109 (c)].

"Financial Institution" means:

- a) A bank;
- b) A credit union;
- c) A trust company or loan company authorized under law to accept money for deposit and carrying deposit insurance in accordance with the *Canada Deposit Insurance Corporation Act* [s.115].

A. Petty Cash Disbursements

It may not be practicable in all cases to disburse cash directly from the account. For such items as meals or transportation, the supplier may not be willing to accept a cheque as payment. Nevertheless, a FO must ensure that there is proper documentation and support for disbursements as required by s.21 of the *EFA*. Petty cash procedures may be necessary.

For those petty cash disbursements where it is not practicable to disburse funds directly from the account, an advance may be provided from the account to the responsible person prior to incurring the expense. Invoices and vouchers should be provided to support each disbursement. Unused funds should be deposited back into the account.

For purposes of controlling finances, it is recommended that approval be given in advance for all credit card purchases prior to incurring the credit card expense. Ultimately, the reimbursement of the credit card voucher must be made directly from the party bank account. A credit card voucher that is not paid directly from the party bank account is a non-monetary contribution [s.21(1)(a), 27(a)-(c)].

III. The Auditor

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

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

Example: A "cheque exchange" must be recorded as a non-monetary transaction and not as a cash transaction.

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

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

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

A. Auditor Payments

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

- To audit a party's annual financial statement under s.30(a) - \$16,000 or such lesser sum as deemed reasonable by the Chief Electoral Officer.
- To audit a party's election financial statement under s.30(b) - \$30,000 or such lesser sum as deemed reasonable by the Chief Electoral Officer.
- To audit a candidate's election financial statement under s.30(c) - \$1,500 or such lesser sum as deemed reasonable by the Chief Electoral Officer.
- To audit a leadership contestant's election financial statement under s.30(d) - \$1,500 or such lesser sum as deemed reasonable by the Chief Electoral Officer.

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

IV. 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 and all disbursements must be supported by an invoice or voucher as proof of payment [s.27].

A. Contributions

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

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

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

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

1. Fees paid for membership in a political party.
2. Fees paid to attend a political party conference or convention, including a leadership conventions, that exceed the reasonable expenses of the conference or convention
3. An amount determined to be a contribution under section 32(6) (fundraising events)
4. An amount determined to be a contribution under subsection 32(7) (selling items)
5. Money, property or services that a candidate or leadership contestant provides in support of his or her own election campaign.
6. An amount determined to be a contribution in relation to a loan under section 45.

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**:

- The market value of property used as election expenses in a previous campaign where the property is used again in the current campaign; and,

A non-monetary contribution **excludes**:

- 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;
- 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].

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). This concept is discussed more fully later in this Guide.

A.2.3. Non-monetary Contributions of \$25 or less

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 to Remember: Registered parties must keep track of the number of non-monetary contributions of \$25 or less 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)].

Key Point to Remember: Tax receipts should not be issued for deemed contributions.

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

A.5. Forgiven or Unpaid Trade Payables

A party 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)].

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

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

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

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

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

A.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.

Key Point to Remember: 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 - Recordkeeping: 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;

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 Points to Remember:

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 \$5,000 [s.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 [s.34(2)];
- An individual must not contribute cash in an amount that exceeds \$25 [s.35(3.1)];
- Individuals must use their own resources when contributing. A director of a corporation, for example, may not make a contribution using corporate funds, but may contribute using his or her own personal funds [s.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.37.4];
- 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.38] except for some non-monetary contributions as outlined in s.32(5) (see "*Non-monetary contributions of \$25 or less*"). 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. Use of Force or Intimidation

One final note is necessary concerning a matter taken very seriously with regards to the contribution process. No one is permitted to directly or indirectly, use or even threaten to use force or violence, or threaten to inflict injury, damage, harm or loss, upon another person in order to get them to make (or to get them not to make) a contribution. Engaging in such behaviour is considered a general offence [s.99(11)].

A.9. Reporting Contributions

Reporting of contributions received is required for:

- Public disclosure; and
- Tracking individual contribution limits of \$5,000 (not public).

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

A.9.1. Public Disclosure

For every contributor who made one or more contributions to a registered party totalling in aggregate \$250 or more (monetary and non-monetary), the following information must be disclosed for the period [s.62(1.1)].

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

Information to be disclosed above is reported on a registered party's Form 920 or 921 and is available for public inspection.

A.9.2. Tracking Contribution Limits

Registered parties must also disclose to Elections Manitoba information concerning all contributions (both monetary and non-monetary) received during a candidacy period. Accordingly, records must be maintained for all contributions (cash and non-monetary contributions), and would include [s.62]:

- A contributor's full name;
- The contributor's Manitoba residential address and postal code;
- The date of each contribution;
- The amount of the contribution (for a non-monetary contribution, documents supporting the valuation of the contribution should be maintained).

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

Contribution Summary

Who Can Contribute	<ul style="list-style-type: none">• An individual normally resident in Manitoba• Organizations are not allowed to contribute
Contribution Limit	<ul style="list-style-type: none">• \$5,000 maximum per calendar year (in aggregate to all political entities)• Cash contributions are limited to \$25 or less
Type	<ul style="list-style-type: none">• Monetary<ul style="list-style-type: none">- Cash, cheque, and credit card• Non-monetary<ul style="list-style-type: none">- Property or services provided free of charge- Valued at fair market value
Reporting	<ul style="list-style-type: none">• Contributor's name and residential address• Amount of contribution or value of non-monetary contribution• Date received

A.10. 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.

Key Point to Remember: 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.11. 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.

Further, 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 Point 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)].

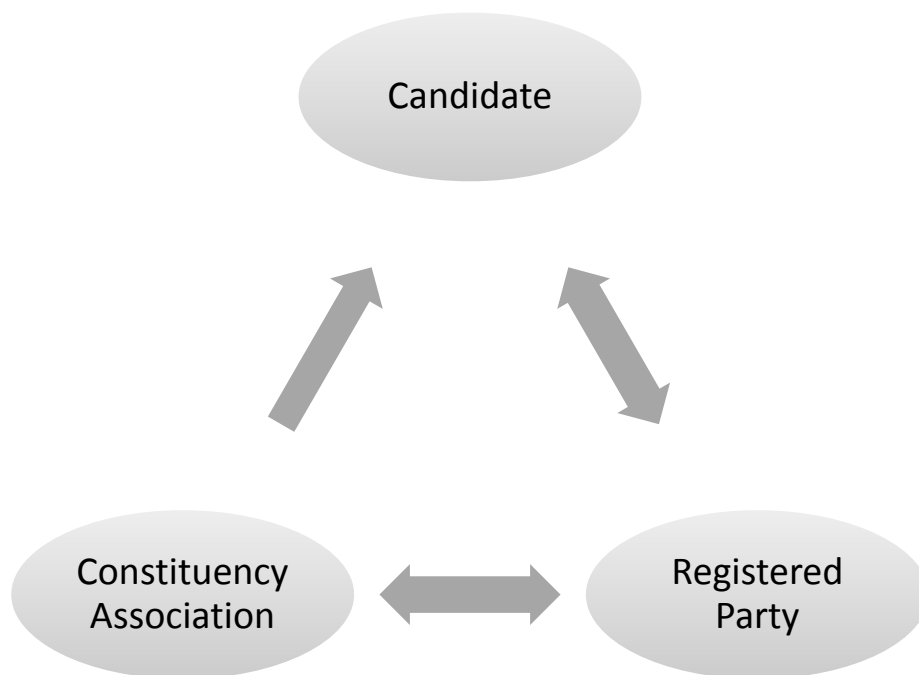
Since federal political parties and federal riding associations are not registered under the *EFA*, the provision of money, property, or services from such organizations are not transfers. Rather **they are contributions but would be prohibited** under the contribution limit provisions of the *EFA*.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

Transferred from	Transferred to
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)].

Key Point to Remember: Candidates and constituency associations are not permitted to make loans to leadership contestants.

For more information consult the *Loans* section.

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

Where the ticket price or individual charge is \$25 or less or where multiple tickets, priced at \$25 or less each, purchased for a single fundraising event total \$75 or less, 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 \$25 or less, or multiple tickets totalling less than \$75 (the individual ticket price must be \$25 or less). The purchases would not be contributions under the Act and, therefore, there would be no requirement to record the contributors' information.

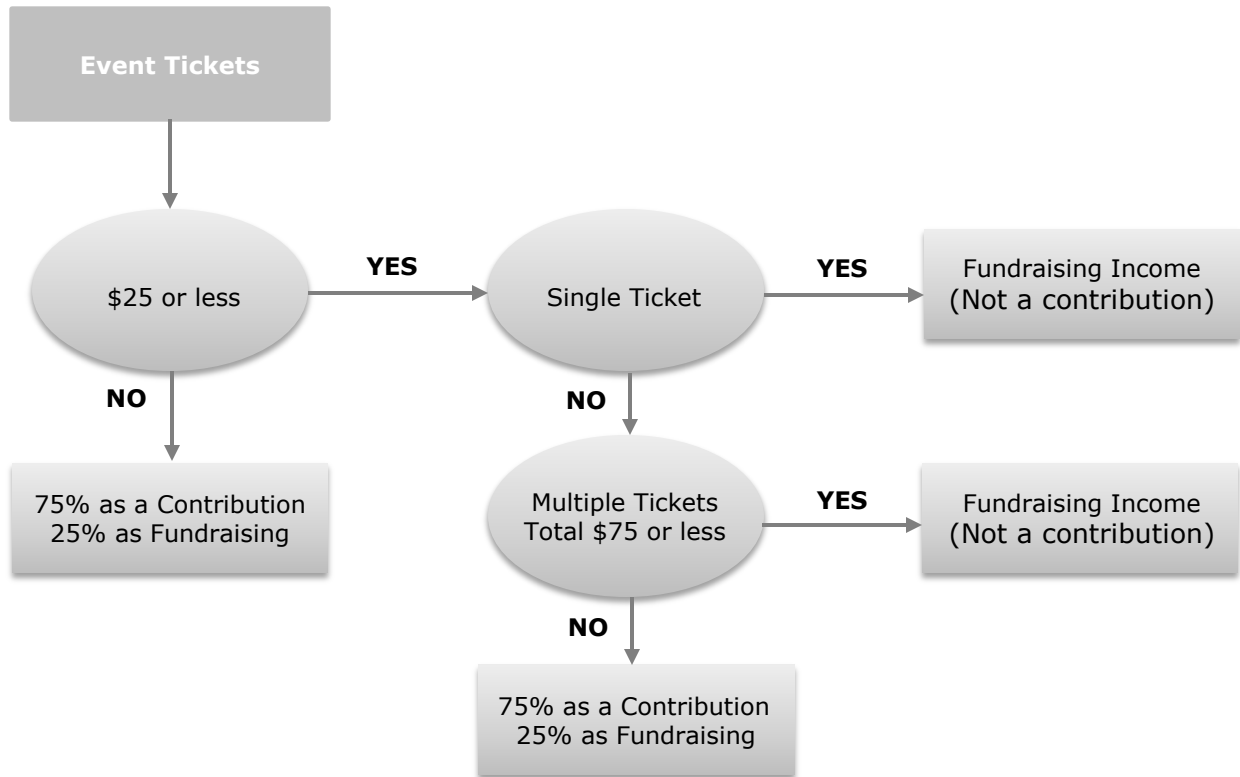
A prohibited contributor may not provide property or services (non-monetary contributions) for fundraising events, directly or indirectly, in any amount.

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 Flowchart



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 \$25 or less, 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 \$25 or less each, the company has not made a contribution and consequently, contribution income would not be recorded. Instead, the \$500 of income (\$10 x 50 tickets) would be recorded as fundraising event income.

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

Example 2: Two weeks before Election Day, a dinner was held for a registered 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. Sale of Merchandise

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:

- The issuance of income tax receipts;
- The contribution limits by source (only individuals); and
- The contribution limits by amount (maximum of \$5,000).

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

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

SP > AQ → Contribution

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

Key Point to Remember: Net profit is equal to sale proceeds less acquisition cost.

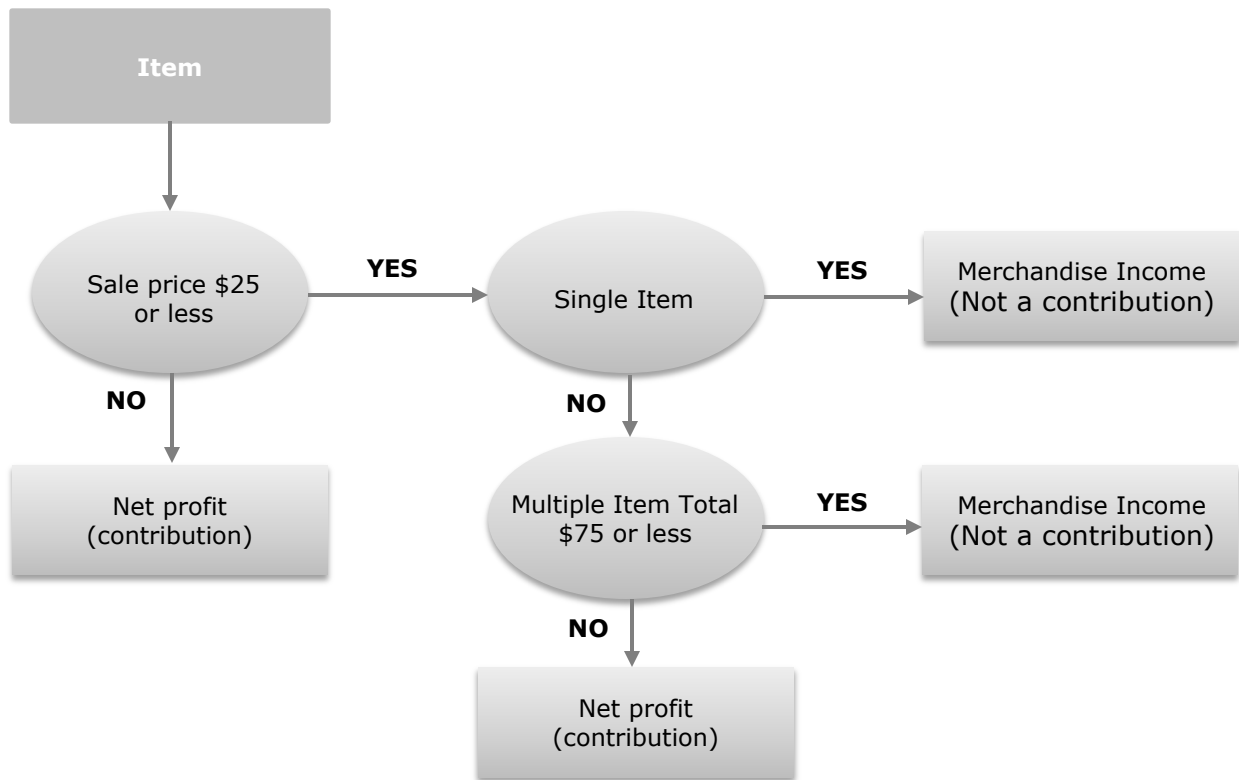
D.1.2. Sales of Items with Prices \$25 or less

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 \$25 or less; or
- Multiple sales of the same item totaling \$75 (where the individual item price is \$25 or less).

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

D.2. Sale of Merchandise Income Classification Flowchart



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

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

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

In a second transaction, an individual purchases 10 t-shirts. We will again consider each of the steps in the above decision tree:

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

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

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

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

E. Other Income

In addition to contributions, 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 noted in the section above, revenue from the sale of merchandise that is not in excess of the cost of the merchandise.

V. 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 party 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 (see *Accounting Guide – Accounting For Purposes of the Election Financing Act*, Section 670, “Loans Payable” [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 (because this does not meet the definition of a contribution) [s.41(1)].

A. Income Tax Receipt Guidelines for Registered Parties

It is the responsibility of the registered party to print receipts for income tax purposes. The Chief Electoral Officer pursuant to s.39 of *The Election Financing Act* must approve the form of the receipt. The precise form of the receipt is left to the discretion of the registered party but must include the following:

1. The name and address of the contributor;
2. Amount of the contribution;
3. The date the receipt is issued;
4. The date the contribution was received;
5. A statement or indication that the receipt is an official income tax receipt for contributions to a registered party in Manitoba;
6. The full name of the registered party;
7. The signature of the financial officer or authorized deputy;
8. The party's registration number; and
9. The sequential serial number of the receipt.

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

VI. 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)].

D. Loan Summary Table

Restrictions	<ul style="list-style-type: none">• Candidates cannot lend funds to any person or organization if the funds have been raised for election purposes• Constituency associations can only lend money to their nominated candidates and registered party
Loan Period	<ul style="list-style-type: none">• The maximum period is 24 months
Interest Rate	<ul style="list-style-type: none">• If a loan is made at less than the prime rate of interest, the lender makes a contribution which is the difference between interest payable at prime and the rate being charged
Amount	<ul style="list-style-type: none">• A loan cannot exceed \$3,000 unless it is issued by a financial institution, registered party, or a constituency association
Documentation	<ul style="list-style-type: none">• A loan agreement must be filed immediately after it is made• All loan agreements must be written documents

VII. 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.

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:

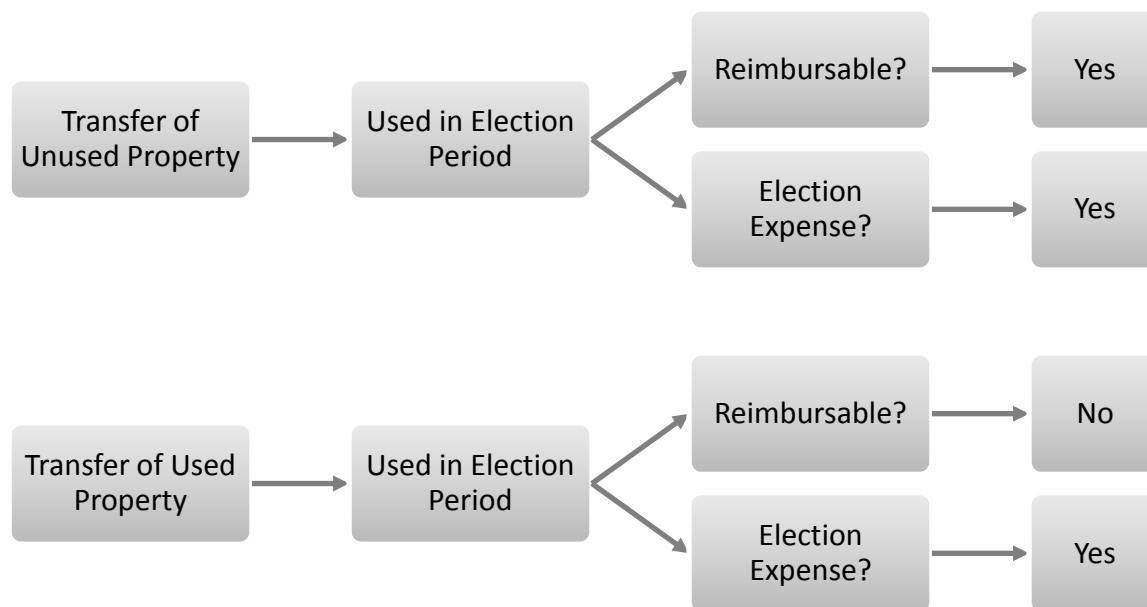
- A cash purchase or a trade payable by the party;
- A non-monetary contribution where property or services are received;
- A non-monetary contribution where there has been payment for property or services on behalf of the party with the knowledge and consent of the party; or
- A transfer of property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



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)]

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.

A.5.4. Summary Table of Treatment of Costs Related to Campaign Workers

Source of Payment for the Services of Campaign Workers	Election Expenses <i>(if services were provided during the election period)</i>	Non-election Expenses <i>(if services were provided outside the election period)</i>
1. Paid by campaign	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• Self-employed individual	No	No

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 Point 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;
- 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 to Remember:

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.

VIII. 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.

Key Point to Remember: 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 [s.61(3)]:

- a) At any time, if the advertising is by or on behalf of a registered party, a candidate or a constituency association, and
- b) During a leadership contest period, if the advertising is by or on behalf of a leadership contestant.

IX. 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:

- Total Election Expenses; and
- 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 Kewatinook.

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:

Spending limit	Voters list used and date of determination
Preliminary	Preliminary voters list. Established and communicated within two days after writ of election is issued.
Revised	Revised voters list. Established and communicated within three days of the end of the revision period and prior to advance voting.
Final	Final voters list. Established and communicated approximately two weeks after election day.

In a non-fixed date election:

Spending limit	Voters list used and date of determination
Preliminary	Preliminary voters list. Established and communicated within three days after writ of election is issued.
Revised	Revised voters list. Established and communicated within three days of the end of the revision period
Final	Final voters list. Established and communicated approximately 2 weeks after election day.

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.

X. Pre-election 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 90 days pre-election period [s.58(1) & (2)]:

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

Advertising costs include paid advertising only; promotional costs are not included.

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:

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

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)]

XI. Annual and Election Reporting

A.1. Annual Reporting

By March 31 in each year, the following must be filed with Elections Manitoba by the FO:

1. An audited financial statement in prescribed form (Form 920) that must include the following information of the registered party for the year:

- Income, including contributions and transfers during the year;
- Expenses, including annual advertising expenses and transfers during the year;
- The assets and liabilities at the end of the year; and
- For contributors who made contributions of a total amount of \$250 or more in the year, a separate statement that lists each contributor's name and the total amount that he or she contributed. [s.62(1.1)-(1.3)]

Annual advertising expenses are reported on the party's annual financial statement in the year of a fixed date elections separately from other expenses. The annual advertising amount reported must include:

- Annual advertising expenses conducted by the party,
- Advertising expenses conducted by individuals acting on behalf of the party with the party's knowledge and consent,

- Constituency association advertising conducted outside an election period. [s.62(1.1)(b)]

In the year of an election, the annual income statement should not include the party's income during the campaign period or the party's election expenses (in the election period). However, the contributors' list on Form 920 (Schedule 2) must disclose contributors' information for the year, including any election period [s.62(3)]

A.2. Election Reporting

Within four months after election day, the financial officer of a registered party must file the

1. An audited financial statement of the party for the election, setting out

- (a) its income during the campaign period, including contributions and transfers received,
- (b) its election expenses, and
- (c) transfers made during the campaign period to a candidate or constituency association.

The statement must also set out the balance of any loan made to the party that remains outstanding at the end of the campaign period.

2. The auditor's report on the audit of the financial statement.

3. Financial information about election must be kept separate

- The income, election expenses and transfers reported in a registered party's financial statement for an election must not be included in the party's annual financial statement for the year in which the election was held.

B. Filing

B.1. What if you cannot meet the filing deadline?

A financial officer may apply in writing to Elections Manitoba for an extension to a filing deadline. A request must include a brief explanation of circumstances that are reasonably beyond your control. An extension request received after the filing deadline cannot be considered [s.69].

B.2. What if you miss the deadline?

Provided that you did not request and receive approval for an extension, if you fail to file the required forms prior to the deadline you will be subject to late-filing fees. As a Financial Officer, you are responsible for ensuring that Forms 920/921 and 930/932. For each day that these forms are late, you will be charged a \$25 late-filing fee (up to a maximum of 30 days).

Key Point to Remember: If late filing fees are owed and the candidate is entitled to reimbursement, the Chief Electoral Officer has the authority to deduct the late fees from the reimbursement payable [s.70(1)].

Key Point to Remember: The Chief Electoral Officer may publicly disclose the names of any person who is obligated to pay late filing fees as well as the amount owing [s.71(5)].

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

XII. Reimbursement of Election Expenses

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.

A. Candidate's Surplus or Deficit

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

A.1. Reimbursement in a Surplus Situation

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 [s.42(1), 65(4)].

A.2. Reimbursement in a Deficit Situation

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 [s.74(3)].

XIII. 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 party 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)].

XIV. Advisory Opinions

If you are unsure about whether a particular act or omission or proposed act or omission complies with the requirements of the Act, you can obtain clarification in the form of a written opinion from the CEO by requesting what is called an *Advisory Opinion* [s.96(1)]. The only people who are permitted to make such requests of the CEO are financial officers (for political parties), financial officers (for constituency associations), candidates, leadership contestants, and their official agents [s.96(1)]. Make requests in writing in order to provide a clear explanation of the issues as well as the facts and assumptions that are underlying the issues.

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

1. Provide a written advisory opinion; or
2. When declining to provide an opinion, provide a written explanation of the reasons for declining [s.96(2)].

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

1. The opinion states that the act or omission (or proposed act or omission) will not contravene the EFA; and
2. In requesting the advisory opinion, the requesting individual disclosed all relevant material facts to the CEO. [s.96(3)]

It should be noted that even after the CEO has issued an opinion, the CEO maintains the right to revoke or amend it as he or she feels is necessary [s.96(4)]. Such actions may be taken on the basis of the CEO's own initiative, or they may be upon the requests of political entities. There are many reasons why such actions may be necessary, for example, if the facts upon which the advisory opinion was based changed, then the CEO may need to revoke or amend the issued opinion.

If the CEO revokes the opinion, it can no longer be relied upon [s.96(4)]. When a previously issued advisory opinion is subsequently revoked or amended (regardless of the reason), the person who originally requested the opinion will be provided with written notification.

Appendix A – Examples of Contributions, Non-contributions, and Prohibited Contributions

I. Examples of Contributions

- 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 \$more than 25, or where multiple tickets are purchased for one fundraising event totalling more than \$75 [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 more than \$25, 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)].

Key Point to Remember: 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 [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 \$25 or less is not a contribution [s.32(6)].
- Multiple fundraising event tickets purchased for a fundraising event totalling than \$75 or less where the individual ticket price is \$25 or less is not a contribution [s.32(6)].
- A sale of a single item of merchandise where the price of the item is \$25 or less 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 \$75 or less, there is no contribution [s.32(7)].

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:

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

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

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

1. The amounts must be contributed in a form other than a 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

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Inquiries on *The Election Financing Act*:

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Inquiries on *The Elections Act*:

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This guide should be used in conjunction with *The Election Financing Act* (EFA), which is the legislation that sets forth the legal rules governing the financing of provincial elections in Manitoba. In the event of a conflict or inconsistency between this guide and the EFA, the EFA prevails. 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*.