

Legislative Reference Guide for Official Agents

THE ELECTION FINANCING ACT

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

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ABOUT THE GUIDE

This guide is intended to assist you as you progress through all the stages of your role as an official agent and will simplify and explain some of the more difficult concepts of *The Election Financing Act* (EFA).

Checklists:

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

EFA terms and concepts:

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

Appendices:

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

Please note: The Legislative Reference Guide for Official Agents is a summary of, but does not take precedence over the EFA. This guide should be read in conjunction with the Act.

CHECKLISTS

Checklist # 1: Considerations Before Appointment

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

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

Checklist # 2: Immediately Upon Appointment

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

- Sign and date Form 907 - *Notice of Intent to Appoint Official Agent* which gives your consent to act in this capacity. Your candidate will provide this form to you. If you are appointed after the election has already begun you do not have to sign this form.
- Open a campaign account in a financial institution **immediately**. You will use this account to deposit all money received and pay all expenses of the campaign. **Everything must go in and out of this account.**
- Make preliminary arrangements to count inventory on the day the election is called (writ day).
- Encourage the candidate to appoint an auditor (Form 908) if one has not yet been appointed. An auditor must be appointed and notice filed by the time a candidate's nomination papers are filed with a returning officer in an election. It is strongly recommended that this appointment be made at the earliest date possible.
- At a minimum, understand terms and concepts from the EFA. This material is technical but essential. It will probably be the most time consuming aspect in your capacity as an official agent. **Contact Elections Manitoba if you require further assistance.**
- Review Accounting Guide – Accounting For Purposes of The Election Financing Act.* This is more of a reference to look items up if you are not sure how to record them. Contact Elections Manitoba or your auditor if you need additional help.
- Review a blank Form 922 - *Candidate's Financial Statements and Supporting Schedules.*
- Familiarize yourself with the recordkeeping system that Elections Manitoba has developed to assist official agents in their responsibilities of tracking and reporting income and expenses.
- Meet with the campaign's auditor to discuss the auditor's role, your role in the audit, planning of the audit, and the key reporting dates. The auditor can be used as a resource for information concerning a recordkeeping system.
- Set up a recordkeeping system.
- File any loan agreements with Elections Manitoba immediately after the loan is made.

Checklist # 3: Getting Ready For The Election

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

- Meet with the candidate and the campaign to remind them of financial requirements:
 - Only the official agent (or someone designated by the official agent) may make a payment for a campaign election expense.
 - There are contribution limits:
 - Only individuals normally resident in Manitoba may contribute.
 - Individuals are subject to a maximum of \$5,000 of contributions to candidates, parties, constituency associations and leadership contestants (outside the leadership contest period) **in a calendar year**.
 - Cash contributions are limited to \$25 or less.
 - There should be a campaign budget. Although not a requirement, a campaign budget is strongly recommended.
 - The official agent must authorize all signs, advertisements and promotional material that will be used. A statement of the authorization must also be displayed.
 - The official agent must be informed of all financial transactions and campaign decisions having a financial implication.
 - There is a limit on the amount that candidates can spend on advertising outside of the election period during the 90 day pre-election period in the year of a fixed date election.
- Understand how to calculate the overall election expense limit and the advertising election expense limit.
- Finalize your recordkeeping system and how you will track money received and paid, and property and services (non-monetary contributions and transfers) that are received and used during the election. Make sure you know when an expense is an election expense or a non-election expense, and how to record it.
- Only you can issue income tax receipts, unless you appoint a deputy official agent (Form 902B) to assist in this task. However, in order to be able to issue tax receipts, your candidate must first register to do so.

Critical requirement: To register and be eligible to issue tax receipts, candidates must have submitted Form 911 - *Candidate's Application for Registration to Issue Income Tax Receipts* prior to the end of the candidacy period (which is the registration deadline) [s.17 & s.19].

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

Checklist # 4: Writ Day (the election is called)

The following has to be done on writ day.

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

Checklist # 5: During the Election Period

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

- Sign and date Form 400 - *Nomination Paper* to consent to your appointment as the official agent. *This form is required by The Elections Act.*
- Remind the campaign about prohibited contributions:
 - The campaign cannot accept prohibited contributions.
 - You must return any prohibited contributions that are accepted even if you only learned they were prohibited after the fact.
- If your candidate is registered to issue income tax receipts (i.e. the candidate has completed and submitted Form 911 to Elections Manitoba), a tax receipt must be issued (signed by you) for all monetary contributions of more than \$10:
 - It is recommended that tax receipts be issued for all monetary contributions regardless of amount.
 - You must issue a tax receipt for small contributions if the contributor requests one.
 - You are not permitted to issue income tax receipts for non-monetary contributions.
- Be aware of expense limit updates and ensure that campaign does not overspend.
- Meet regularly with the candidate and the campaign to discuss budgeted versus actual spending (in the context of the expense limits).
- File any loan agreements with Elections Manitoba immediately after the loan is made.
- Keep your books and records up-to-date, including separating election expenses from non-election expenses.
- Record beginning inventory items used as expenses (election or non-election) at the value they were recorded at during your count on writ day.
- Make sure all advertising and promotional material has been authorized by you during the candidacy period.
- Call Elections Manitoba if clarification is needed.

Checklist # 6: On Election Day

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

- Count and value any remaining inventory on hand as of 8 p.m.
- This is the last day of recording election expenses. After 8 p.m., property and services used are non election expenses (including expenses incurred for a social function or “thank-you” notices).

Note:

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

Checklist # 7: After the Election

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

- Continue recording income received and expenses incurred for the campaign until the end of the candidacy period.
- Collect all outstanding invoices and pay them if funds are available.
- If your candidate has not already registered to issue tax receipts (by completing and submitting Form 911 to Elections Manitoba), ensure that your candidate does this prior to the deadline, which is the end of the candidacy period (i.e. two months after election day).
- Determine the final inventory for your financial statement.
- Confirm with the auditor the day that you will be providing the completed Form 922 and the books and records.
- Finalize Form 922 - *Candidates Financial Statement and Supporting Schedules* and Form 932 - *Detailed Contributors' List*.
- Make copies of all expense invoices for filing with Form 922.
- Give the completed Form 922, along with your books and records, to your auditor and meet to answer any questions.
- File the following with Elections Manitoba within four months of election day:
 - the Auditor's Report and invoice;
 - form 922;
 - form 932;
 - invoices, vouchers, and other documentation supporting the expense amounts included on Form 922;
 - all unused and voided tax receipts, as well as Elections Manitoba's copies of all issued tax receipts;
 - copies of loan agreements not filed earlier.
- If your candidate is entitled to a reimbursement of election expenses, deposit the reimbursement cheque into the campaign account and use these funds to first reduce or eliminate any amounts still owing.
- Transfer the campaign surplus (if any) directly to the registered party.
- Turn over the campaign books and records to the candidate who must keep them for at least 5 years from the date that Form 922 was filed.
- At the end of each year following the review of Form 922 the candidate will have to complete Form 925 if there was an outstanding loan or liability balance at the end of the candidacy period.

EFA - Terms and Concepts

I THE OFFICIAL AGENT

A. WHO IS AN OFFICIAL AGENT?

Every candidate is required to have an official agent [s.22(1)]. An official agent is normally a volunteer and is responsible for the finances of a candidate's campaign. Specific **responsibilities** include the following:

- Opening and maintaining a campaign account in a financial institution [s.23(a)].
- Ensuring that records are kept of all income (including contributions), expenses, transfers, assets, and liabilities of the campaign [s.23(b)].
- Issuing tax receipts to individuals for monetary contributions (if the candidate is registered) [s.23(c)].
- Paying all of the campaign expenses [s.55(3)].
- Authorizing advertisements and promotional material [s.61].
- Making sure that the campaign does not spend more than the election expense limit or the advertising election expense limit [s.99(3)].
- Preparing the financial statements for the campaign, arranging for the statements to be audited, filing them with Elections Manitoba [s.63(1.1)].
- Filing the Candidate's Detailed Contributors' List [s.63(1.4)].
- Receiving any expense reimbursement cheques and using the funds to first pay off any amounts still owing from the campaign [s.74(3)].
- At the end of the campaign, transferring the surplus (if one exists) to the registered party or to the Chief Electoral Officer [s.42(1), 63(4)].

As an official agent, you are responsible for all of the above throughout the entire candidacy period, regardless of when you were appointed [s.23]. Even if your candidate received money or incurred expenses before you were appointed you are still responsible for accounting for these items once you are appointed. As such, when you are appointed your candidate should provide you with all the books and records related to the campaign prior to your appointment.

Your candidate can withdraw from the writ of election up to election day (the last day of the election period). However, even if your candidate withdraws, you are still responsible for filing the financial statements for the campaign with Elections Manitoba [s.63(2)].

B. ARE YOU ELIGIBLE TO BE AN OFFICIAL AGENT?

There are no restrictions on who may be an official agent unless you are a candidate or an auditor of a candidate or party [s. 22(3), 28(4)]. There is no formal training required to serve effectively as an official agent and there are no specific qualifications. However, given the responsibilities of the position, it would be beneficial to have:

- Basic accounting or bookkeeping skills and the ability to understand a simple financial statement (or have access to someone who does).
- Organizational and communication skills.
- Most importantly, a desire to do the job correctly.

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

A final consideration in determining whether you can effectively perform the role of an official agent is to consider the time requirements. The necessary time must be available before, during, and after an election to complete all of the requirements. It is important to note that most campaigns spend less than \$25,000 in total and have less than 50 transactions. Thus, the vast majority of campaigns are not overly demanding from the perspective of volume of activity.

C. WHAT DO YOU DO WITH FORMS 907 AND 400?

In the period prior to an election being called (the pre-writ period), once a candidate has been nominated by a constituency association or registered party, or has declared an intent to run in an election (i.e. an independent candidate), the candidate has 15 days to file Form 907 - *Notice of Intent to Appoint Official Agent* with Elections Manitoba [s. 22(1)]. When you are being appointed as the official agent, you are required to complete and sign a section of this form.

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

- officially nominates or declares the candidacy of your candidate; and
- officially appoints you as the official agent.

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

Note: Form 907 must only be filed by candidates who are nominated or declare their candidacy before the election is called (writ day).

D. WHAT ELSE SHOULD YOU KNOW?

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

- 1) Reading and understanding the concepts discussed in this guide.
- 2) Attending a campaign information session put on by Elections Manitoba (approximately 2 hours).
- 3) Consultation with Elections Manitoba (available by phone, by email, and in person).

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

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

Keys to performing your role effectively:

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

E. COMPLIANCE WITH THE ACT

You, the candidate, and other officers of a candidate all play a major role in ensuring that the candidate's campaign and all related activities comply with the requirements of the Act.

However, you may encounter or discover instances where the activities are not in compliance with the Act. If reasonable attempts to correct the non-compliance are not successful, you should report all such instances to Elections Manitoba. Should the matter not be satisfactorily resolved, you should use judgment to determine whether resignation is appropriate or necessary.

F. REQUIREMENTS OF OTHERS RELATED TO YOUR ROLE

As an official agent, your ability to have access to all pertinent information about the contributions to and expenses of your candidate's campaign is critical. In order to ensure that this is possible, the Act states that if at any time, you (or the candidate him or herself) provide an individual with a written request for a record or information related to a contribution that the individual accepted or expense that the individual incurred or approved that individual is required to provide the requested information [s.99(7)]. If the individual fails to do so, then he or she would be guilty of an offence.

II TIME PERIODS

A. TIME PERIOD DEFINITIONS

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]

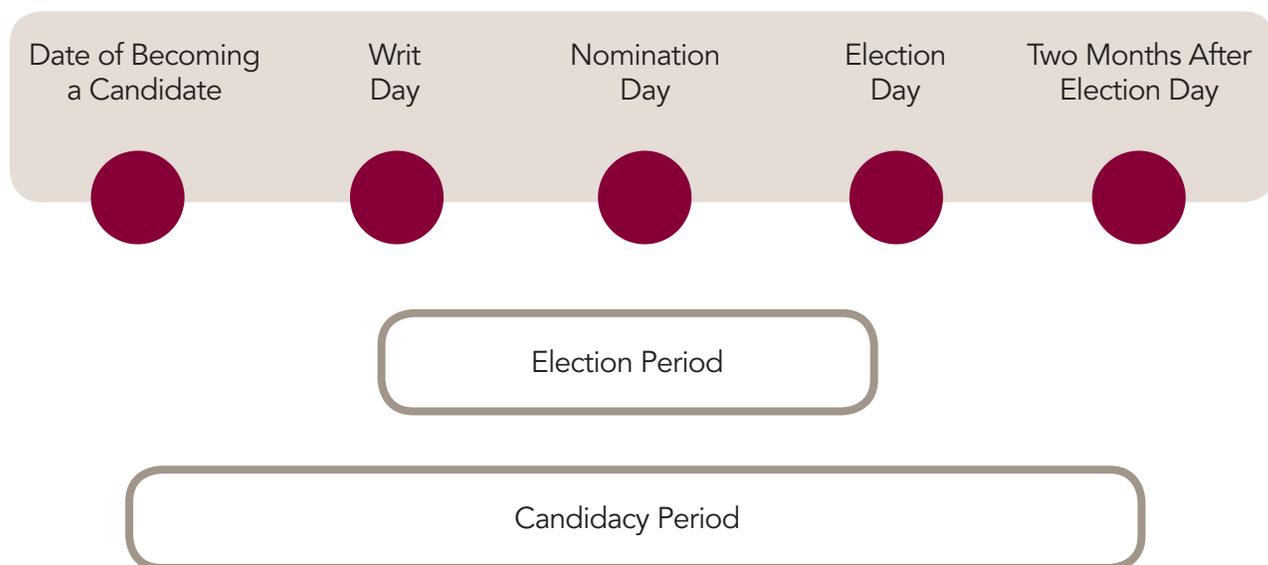
Year – the calendar year.

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.

Election period – the period starting on the day an election is called (writ day) 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. Recent legislation in Manitoba has introduced the concept of a fixed date election, which requires that an election be held every four years, on the first Tuesday of October, unless an election is called for an earlier date. As a result, two options exist for the establishment of an election date:

- 1) An election is called in conjunction with the dissolution of the Legislature by the Lieutenant-Governor.
- 2) The writ is issued in accordance with the Fixed Date Election provision of *The Elections Act*.

The election period begins on the day the election is called (writ day) and ends on 8pm election day. The election period in case of a fixed date election will last 29 days and in the case of any other election will last at least 29 days but no more than 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.

| 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 |

B. FILING DEADLINE

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

Form 922 has to be completed and sent in to Elections Manitoba **no later than four months after Election Day [s.63]**.

III

MAINTAINING A FINANCIAL ACCOUNT

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

A. WHAT DOES THE ELECTION FINANCING ACT REQUIRE?

As an official agent, under the EFA, you are required to:

- Open and maintain an account in a financial institution in the name of the candidate [s.23(a)].
- Ensure that all monetary receipts and disbursements of the candidate's campaign flow through the account before, during and after an election [s.27].
- Ensure that each disbursement is substantiated by an invoice or a voucher [s.27].
- Ensure that only money pertaining to the candidate's campaign is deposited into the account [s.27].

"Financial Institution" means:

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

B. WHY IS IT IMPORTANT FOR ALL TRANSACTIONS TO GO THROUGH THE ACCOUNT?

- a) It is essential that all money received and spent in relation to the campaign goes through one account for the following reasons:
 - It helps you to stay on top of the "financial position" of the campaign. At all points of the campaign you should know:
 - how much money is available to be spent;
 - how much money has already been spent; and
 - the nature of the existing expenditures.
- b) You will be able to report more confidently during the election especially concerning spending in relation to the election expense spending limits.

- c) It will allow for a more efficient audit and may mean that Elections Manitoba needs less time to complete the review of the candidate's financial statement and to process any applicable reimbursement of election expenses.

C. WHAT WILL THE FINANCIAL INSTITUTION REQUIRE?

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

- **The type of account needed:** The account must be a business account or a not-for-profit or community account. Do not open a personal account. An account must return all cancelled cheques (copies of the front and back of every cheque are acceptable) and statements that show what went through the account.
- **Information about yourself:** You may be asked to provide additional personal and financial information which may include your date of birth, social insurance number, occupation, home and business addresses and phone numbers. You may also be asked for authorization to complete a credit bureau check.
- **Evidence that it is a third party account:** Be prepared to provide evidence that you are opening an account for a third party (i.e. for your candidate). This would include the name, address and phone number of the third party. You may be asked to provide a letter from the third party confirming your appointment as the official agent.
- **Account name:** Assuming that the official agent is John Smith and the contestant is Jane Doe, some suggested names for the account would be:
 - Jane Doe, Candidate Campaign Account;
 - John Smith, Official Agent for the Jane Doe Campaign;
 - John Smith, Official Agent for Jane Doe.
- **Signing authority:** The financial institution will want to know who will be able to sign cheques against the account, so consider this beforehand. You must have control of the account.
- **Personal identification:** The financial institution will need to obtain and record personal identification from each signing officer on the account. If the signing officer is new to the financial institution two pieces of identification may be required. If a signing officer has a valid account or credit card from the financial institution one additional piece of information may be sufficient. Examples of acceptable identification include:

- a valid driver's license issued in Canada;
- a passport issued in Canada;
- a birth certificate issued in Canada;
- a Social Insurance Number (SIN) card issued by the Government of Canada; and
- any similar official document or card issued by a federal, provincial or state government.

Note: For financial control and accountability purposes it is recommended that the account require two signatures and that one of those signatures be that of the official agent.

IV RECORD KEEPING

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

- accurate;
- organized; and
- timely.

A. WHAT IS A TRANSACTION?

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

- candidate's campaign receives money, goods or services;
- campaign spends or transfers money or incurs a liability; or
- campaign uses property or services.

B. ACCURATE RECORDING

Accurate recording means making sure that you track every transaction and that none are missed. There are rules that have to be followed for every transaction that you record. The rules are set out by the EFA and are clarified in this guide.

C. ORGANIZATION

You will want to track the transactions in a way that does not take a lot of your time and that you can easily understand. There are many ways of doing this and the system you use does not have to be much more involved than what you might use for your own chequing account. You could choose to record transactions using a manual system (i.e. recording them in a book) or an electronic system (i.e. using a computer). The best method for you to use is whatever method you find to be the most comfortable.

D. RECORDKEEPING SYSTEM

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

There are 3 versions of the record keeping system. The first is a web-based system, the second is an excel based electronic system and the other is a record keeping system where transactions are recorded manually in a paper based system. The web-based and electronic systems are designed so the official agent only has to input the information once. The transactions are updated and sorted.

E. TIMELINESS

The sooner you record a transaction after it has happened, the greater the likelihood that it will be accurately recorded. Taking a small amount of time each week to update your books and records is a good idea and helps to keep you on track. **Waiting to record everything at the end of the period is not advisable and is strongly discouraged.** By keeping records up to date, you will be able to identify spending limit concerns when corrective action can be taken, rather than finding out that a spending limit has been breached after the election is over.

F. THE ELECTION ENDS...BUT KEEP RECORDING

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

G. WHAT OTHER THINGS SHOULD I KNOW?

The basis of every good record keeping system is that every monetary transaction goes through the bank account. This is required under the EFA and makes it easier for you to record. If a transaction goes through the account, then there is a record of it on your bank statement, and on your cheque or deposit slip.

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

V THE AUDITOR

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

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

When it comes time for the auditor's review of Form 922, you should contact your auditor and confirm the date that you will have the form available. Let the auditor know immediately if you cannot meet the deadline and work out an alternate plan. Send the form and the books and records that support the reported amounts, to your auditor for examination.

Remember: 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 candidate statements required to be filed under the Act is as follows:

- 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.

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 the candidate's campaign (as the case may be).

VI INCOME

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

- contributions (both cash and non-monetary contributions);
- transfers (of money, goods, and services);
- fundraising;
- sale of merchandise; and
- other income.

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

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

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

- Fees paid for membership in a political party.
- Fees paid to attend a political party conference or convention, including a leadership convention.
- An amount determined to be a contribution under section 32(6) (fundraising events)
- An amount determined to be a contribution under subsection 32(7) (selling items)

- Money, property or services that a candidate or leadership contestant provides in support of his or her own election campaign.
- An amount determined to be a contribution in relation to a loan under section 45.

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

A.1. Monetary Contributions

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

- for the benefit of the candidate;
- provided without return compensation to the contributor (i.e. the contributor receives nothing in exchange for the money); and
- not a loan or transfer.

Monetary contributions include contributions in the form of cash, 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 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.

A non-monetary contribution **excludes:**

- A service provided without compensation by an individual outside the individual's working hours or a self employed individual (i.e. volunteer labour).
- 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 vehicles (for travel in the electoral division during a campaign).
- An individual providing furniture or equipment for an office at no charge (such as the provision of a computer printer by an individual, without charge, to a registered party).
- Signs or pamphlets provided without charge.
- Services of a computer technical support person.
- Campaign signs or lumber purchased and used in a previous election that are being re-used in a subsequent election.

Contribution Summary

| TIME PERIOD | START DATE |
|--------------------|--|
| 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 |

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: *John D. is running in the current provincial election. When John was trying to rent office space for his campaign headquarters at the beginning of his campaign, the landlord/owner (who is a sole proprietor) of the office that he wanted offered to give him the space for the entire election period (29 days) at no-charge. Normally, the landlord can rent the office space for \$1,000 every 30 days.*

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

| | |
|--|----------------|
| <i>Value of donation - first 30 days: ($\\$1,000 \times 30/30$)</i> | <i>\$1,000</i> |
| <i>Total Non-monetary contribution</i> | <i>\$1,000</i> |

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

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

A.2.2. Non-monetary Contributions of \$25 or less

Individuals normally resident in Manitoba may make two non-monetary contributions of \$25 or less 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.2.3. Indirect Contributions

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

Example: The purchase of a newspaper advertisement by an individual on behalf of and with the knowledge and consent of a candidate is a contribution of the individual where the individual is not reimbursed for the expense.

A.2.4. Campaign Workers

There are some recording issues (contributions and expenses) related to non-monetary contributions with respect to payments made to individuals working for a candidate's campaign. Individuals may be paid by the campaign, paid by another person, or not paid at all. Each of these circumstances is reported differently and will be discussed later in this guide.

A.2.5. Forgiven or Unpaid Trade Payables

Candidates' campaigns 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.3. 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)].
- Any amount of the loan that remains unpaid 6 months after becoming due results in a deemed contribution in the amount of the unpaid amount (provided there were no legal proceedings initiated) [s.45(3)].

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

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

A.4. 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 facts used to determine residency for electoral contribution purposes are the same factors used to determine residency for tax purposes). Below are three of the factors (*the Primary Residential Ties*) that may be taken into consideration by Elections Manitoba when determining

whether an individual should be considered a resident.

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

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

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

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

A.5. Collections of Contributions

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

- a) the individual can make the contribution directly to the recipient; or
- b) 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 that the only manner in which contributions can be collected aside from direct contributions is through collection by an individual who is normally resident in Manitoba.

Note: Non-resident individuals and organizations are not permitted to collect contributions on behalf of recipients. [s.37(1)]

A.5.1. Responsibilities of an Individual Collecting Contributions

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

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

- the name of the individual serving as the collector;
- the name of the recipient;
- the contributor's name and residential address;
- the amount or value contributed;
- 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 Things to Remember about Forwarding Collected Contributions:

1. If an individual collects cash, he or she must:
 - i) forward cash directly to the recipient or deposit the amount in his or her own bank account and then make a cheque or money order payable to the recipient and forward it to the recipient on a timely basis; and
 - ii) forward a contribution record to the recipient at the same time. [s.37(3)]

- 2) If an individual collects cheques or credit card payments:
 - i) cheques and credit card payments must be made payable directly to the recipient;
 - ii) contributions must be forwarded to the recipient on a timely basis; and
 - iii) contribution records must be forwarded at the same time. [s.37(3)]

A.5.2. The Role of Professional Fundraisers

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

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

A.6. Contribution Limits and Restrictions

The Election Financing Act limits contributions:

- 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].
- An individual must not contribute cash in an amount that exceeds \$25 [s.35(3.1)].
- 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 [34(1)].
- The total value of all contributions made by an individual to one or more leadership contestants during a particular leadership contest period must not exceed \$3,000 [34(2)].
- Individuals must use their own resources when contributing. A director of a corporation, for example, may not make a contribution using corporate funds, but may contribute using his or her own personal funds [s.35(3)].
- Individuals cannot make contributions if in doing so they are expecting to be compensated or reimbursed by another person or organization for all or part of the value of the contribution [s.35(5)].
- No person or organization can provide (or offer to provide) reimbursement or compensation (either in part or in whole) to an individual for making a contribution [s.35(4)].
- No person or organization is allowed to accept a contribution from an individual if the person or organization knows that the individual expects to be reimbursed or compensated for all or part of the contribution made [s.41.3].

- No person may solicit or knowingly accept a prohibited contribution. Any contributions of this type must be returned. Further, if subsequent to receiving a contribution a person learns that the contribution was prohibited, then that contribution must be returned (even though it was not known to be prohibited at the time of receipt) [s.36(2); 37(4)].
- Anonymous contributions of more than \$10 must not be used and must be returned [s.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.6.1. 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.7. Reporting Contributions

Reporting of contributions received is required for:

- public disclosure; and
- tracking individual contribution limits of \$5,000.

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

A.7.1. Public Disclosure

For every contributor who made one or more contributions in the candidacy period to a candidate totalling in aggregate \$250 or more (monetary and non-monetary), the following information must be disclosed for the period [s.63(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 candidate’s Form 922 and is available for public inspection.

A.7.2. Tracking Contribution Limits

Candidates 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 (monetary and non-monetary contributions), and would include [s.63(1.4)]:

- the 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.

B. TRANSFERS

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

Key concept to remember: Transfers received are recorded as income whereas transfers given are recorded as 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 | <ul style="list-style-type: none"> • A leadership contestant |
| A candidate | <ul style="list-style-type: none"> • A registered party, other than the party that has endorsed the candidate • A constituency association • Another candidate • A leadership contestant |
| A constituency association | <ul style="list-style-type: none"> • 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 | <ul style="list-style-type: none"> • 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, and, there is a surplus that is required to be transferred to his or her party [s.42(2)].

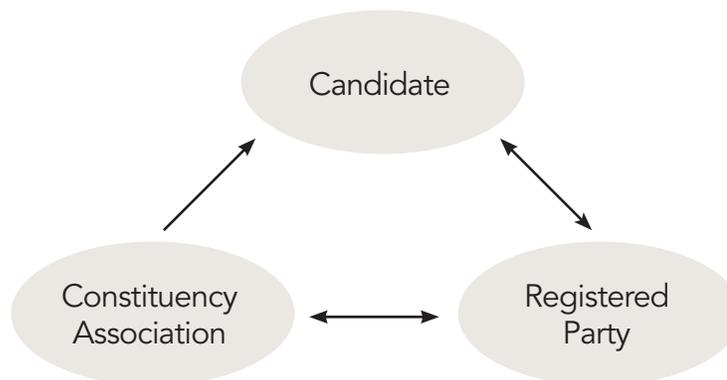
Since federal political parties and federal riding associations are not registered under the EFA, the provision of money, property, or services from such organizations are not transfers. Rather **they are contributions but would be prohibited** under the contribution limit provisions of the EFA. [s.115 “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 | <ul style="list-style-type: none"> • A constituency association of the party • A candidate endorsed by the party or nominated by a constituency association of the party |
| A candidate | <ul style="list-style-type: none"> • The registered party that has endorsed the candidate |
| A constituency association | <ul style="list-style-type: none"> • 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:



When property or services are provided to a candidate’s campaign by his or her registered party or constituency association and the campaign pays for the property or services, **these transactions do not represent transfers, but rather, expenses to the candidate’s campaign** that are treated similarly to any other supplier expense.

Example: In order to take advantage of bulk purchase discounts, a registered 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.3. Constituency Associations – Source of Transfer

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

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

The candidate must disclose this information from the constituency association on Form 922.

B.4. 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)].
- Any amount of the loan that remains unpaid 12 months after becoming due results in a deemed transfer in the amount of the unpaid amount [s.49(c)].

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

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 \$25 or less, but multiple tickets totalling more than \$75 are purchased.

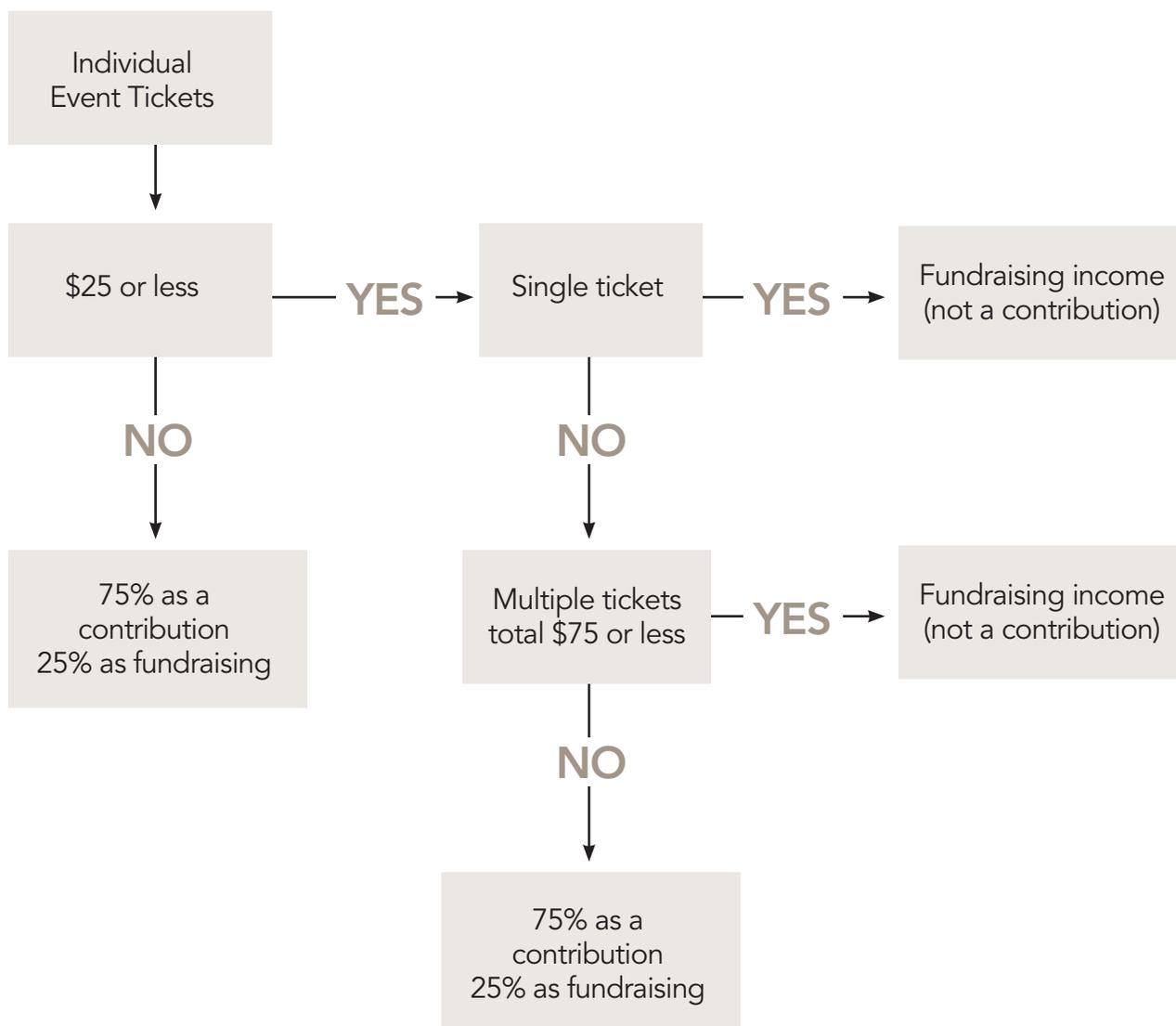
Where the ticket price or individual charge is \$25 or less or where multiple tickets, priced at \$25 or less each, purchased for a single fundraising event total \$75 or less, all of the income reported is fundraising income [s.32(6)] (**i.e. no portion is considered contribution income**). As a result, 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 \$75 or less (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.

C.1. Fundraising Event Income Classification Decision Tree



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

Since the ticket price was \$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 \$60 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 ($\10×50 tickets) would be recorded as fundraising event income.

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

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

Each individual who purchased a ticket made a contribution of \$112.50 ($\$150 \times 75\%$) to the candidate. Contribution income would be reported in the amount of \$22,500 ($\112.50×200 tickets) and individual tax receipts totalling \$22,500 would be issued (if the candidate is registered to issue tax receipts). Income in the amount of \$7,500 ($\150×200 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's campaign it is necessary to determine how the resulting income should be classified. What is critically important is the extent to which a commercial sale may be considered a contribution. Any portion considered a contribution will impact:

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

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 \$25

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

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

$$SP = AQ \rightarrow \text{No contribution}$$

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

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

$$SP > AQ \rightarrow \text{Contribution}$$

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

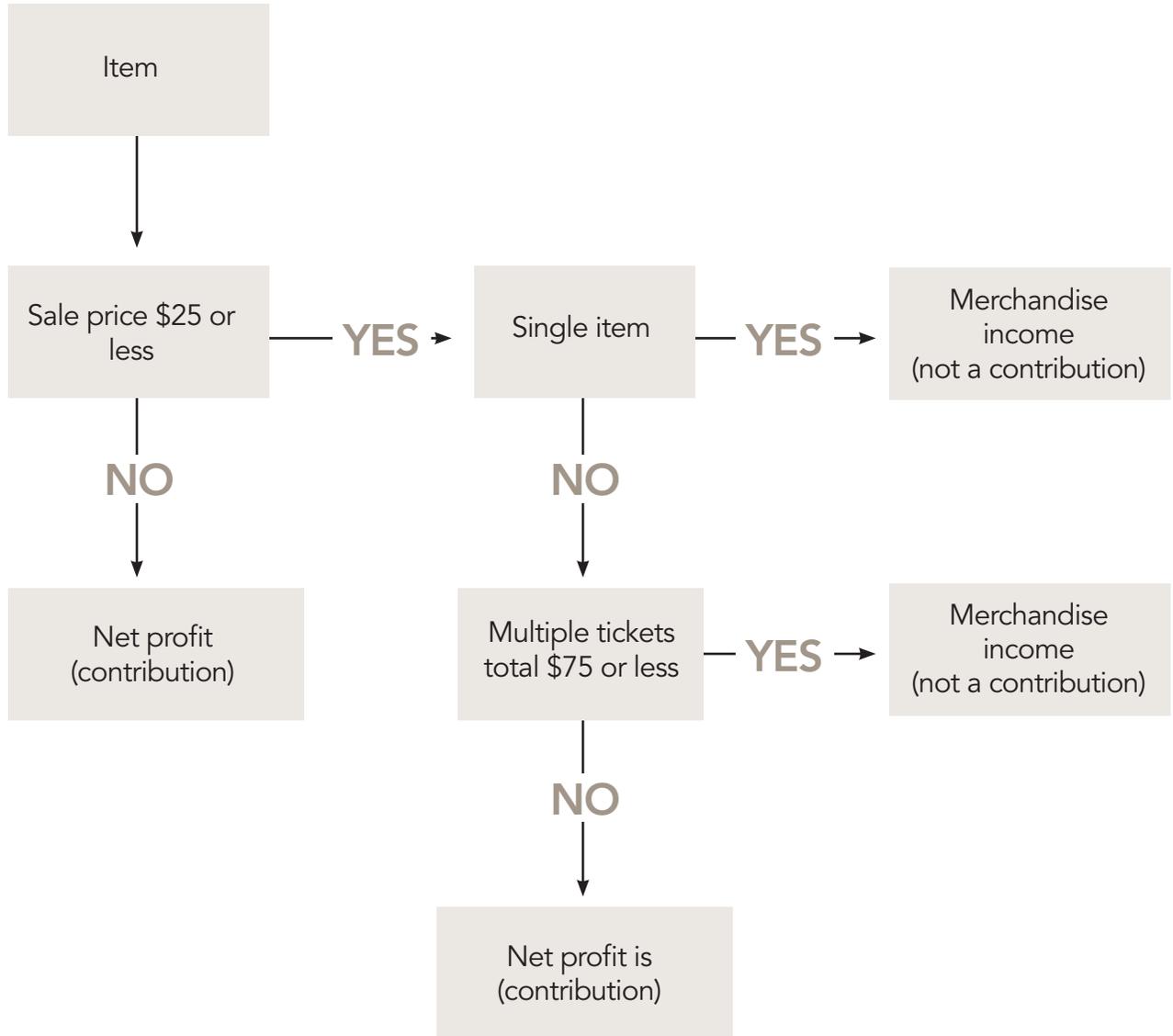
D.1.2. Sales of Items with Prices \$25 or less

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 totalling \$75 or less (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 contribution income.

D.1.3. Sale of Merchandise Income Classification Decision Tree



Example: During the candidacy period, a candidate may choose 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 merchandise income. In the decision tree above, we classify this income according to the following steps:

- 1) *The selling price on the T-shirt is \$25 or less.*
- 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 \$25 or less.*
- 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 (more than \$75).*
- 4) *Therefore: The net profit would reported as contribution income.*

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, 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).
- As noted in the section above, revenue from the sale of merchandise that is not in excess of the cost of the merchandise.

VII 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** candidate may be issued a tax receipt for the amount of the contribution so that the individual can claim an income tax credit. If you want to know how much may be claimed see Appendix E – Manitoba Tax Credit Program.

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

For a candidate, only the official agent (or deputy official agent appointed under s.22 of the EFA) may issue tax receipts [s.39(2)].

A. REGISTRATION TO ISSUE INCOME TAX RECEIPTS

Registration is voluntary but a candidate must be registered to issue tax receipts by filing Form 911 in order to issue tax receipts. Your candidate cannot register until he or she has filed Form 400 - *Nomination Paper* with a returning officer in an election period and has become a registered candidate (tax receipt registration is different than nomination registration). Form 911 may be filed with Elections Manitoba before the end of the candidacy period or at the returning office before the election period ends. Candidates are not permitted to register to issue tax receipts after the end of the candidacy period [s.19].

After registering, Elections Manitoba will provide you with blank tax receipts. The official agent can then issue tax receipts using only these receipts for contributions received on or after the day the person became a candidate. The registration period ends two months after election day, which is the same time that the candidacy period ends. Contributions to a candidate after this period are not eligible for tax receipting.

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

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

B. ISSUANCE OF INCOME TAX RECEIPTS

Tax receipts may only be issued for monetary contributions received in the form of cash, cheque, or similar instruments. 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.

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

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

C. RECONCILIATION OF INCOME TAX RECEIPTS

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

- total number of tax receipts received from Elections Manitoba;
- total number of tax receipts issued to contributors;
- total number of voided or cancelled tax receipts; and
- total number of unused tax receipts.

In addition to a copy of every issued tax receipt, all three copies of unused or voided receipts must be returned to Elections Manitoba. Do not destroy any tax receipts.

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

VIII 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 constituency association may only lend money to its nominated candidate or its registered party [s.48(3)].
- 3) The maximum period of any loan made to a political entity (including refinancing loans) is 24 months [s.46(1)].
- 4) 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 3 and 4 above are not applicable to loans made by the following:

- a financial institution; and
- 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)]:

- be in writing;
- set out the amount and term of the loan;
- include the name and address of the lender and any guarantor;
- 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 candidate's campaign financial institution account.

A. LOANS CONSIDERED DEEMED 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, then 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 [s.45(3)].

A.3. Loans Settled by Third Parties

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

B. LOANS DEEMED TO BE TRANSFERS

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

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)].

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

Where a loan to a candidate remains outstanding at the end of a year, and is \$250 or more, the candidate must report the balance within 30 days of the end of the year to Elections Manitoba by filing Form 925 [s.63(3)]. The loan agreement does not have to be filed again.

D. LOAN SUMMARY TABLE

| | |
|---------------|--|
| Restrictions | <ul style="list-style-type: none">• Candidates can not 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 unless it is issued by a financial institution, registered party or a constituency association. |
| 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. |

IX EXPENSES

There are three types of expenses that may arise:

- election expenses [s.50(1)&(2)];
- non-election expenses [s.50(3)]; and
- 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 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 (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 the candidate as such expenses would represent prohibited contributions.

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

- 1) the candidate consents;
- 2) the individual is reimbursed for the amount of the petty cash expense; and
- 3) appropriate records and supporting documentation for the expenses are maintained.

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

A. ELECTION EXPENSES

The concept of election expenses is one of the most important concepts in the EFA. The definition of election expenses [s.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;

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

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

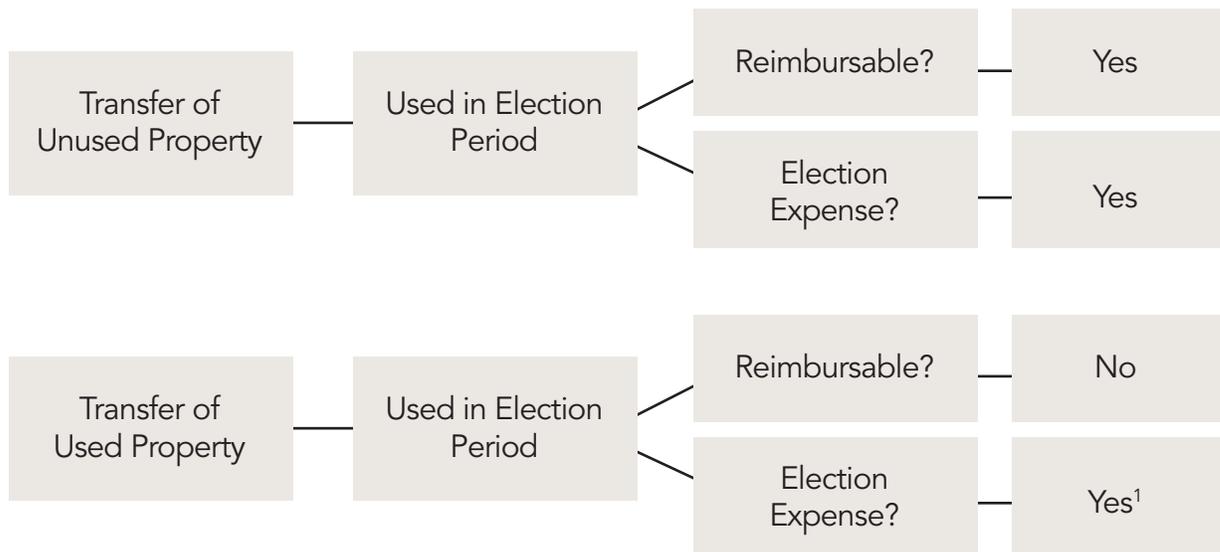
- a cash purchase or a trade payable by the campaign;
- a non-monetary contribution where property or services are received;
- a non-monetary contribution where there has been payment for property or services on behalf of a candidate’s campaign with the knowledge and consent of the campaign; or
- a transfer of property and services received from the candidate’s constituency association or registered party.

A.1. Transfer of Property and Services

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 illustrations explain the treatment of transferred property in each situation:



¹ Expenses should be reported as non-monetary contributions

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.

- 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.
- 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?

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 29 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) | 360 |
| Total expense to be apportioned | \$ 610 |
| Election expense prorating factor (29 days/61 days) | x (29/61) |
| Election expense (report in Column A on Sch.1) | \$ 293 |
| Non-election expense (report in Column C on Sch.1) | \$ 317 |

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

Examples of the expenses that need to be apportioned:

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

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

A.3. 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 official agent must determine how much it would normally cost to purchase or rent the item donated and then record that amount as an election expense and contribution.

Most 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. Paying Election Expenses

In order to ensure the official agent maintains control of the financial affairs of a candidate's campaign, only the official agent, or an individual acting on behalf of and with the knowledge and consent of the official agent, may make a payment for an election expense [s.55(3)]. The only exception to this rule is in the event of a candidate's campaign where the official agent is unwilling or unable to authorize a payment for an election expense. In such a case, the candidate may make or authorize payments [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 Campaign

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

A.5.2. Campaign Workers Paid by Another Entity

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

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

A.5.3. Campaign Workers Volunteering Time

If an individual is volunteering on his or her own time (i.e. the individual is not getting paid or is using vacation time) such work is not considered a contribution or an expense but rather a volunteer service and does not have to be reported.

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 |

B. NON-ELECTION EXPENSES

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

- used or consumed outside of an election period; or
- 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.
- Property or services used after 8 p.m. on Election Day (i.e. after the election period).

* These expenses are 100% reimbursed.

Examples of non-election expenses:

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

C. TRANSFERS

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

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

Key points about transfers:

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

E. 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.

F. PETTY CASH EXPENSES

Right from the start, you will want to let those involved in the campaign know that you need to be informed and that all financial transactions need to be routed through you. Where possible, try to have the campaign get advance approval from you before incurring expenses. It may not always be practical for approval to be obtained in advance for every minor expense (e.g. when purchasing small office supplies such as staples or tape). However, you are still required to account for these expenditures and you still want the related payments to pass through the campaign bank account.

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

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

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

X 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 (i.e. the costs related to the production of a specific advertisement) [s.115].

A. COMPONENTS OF ADVERTISING EXPENSE

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

- advertising agencies performing work related to:
 - o project management;
 - o art direction;
 - o design;
 - o copyright services;
 - o production management; and/or
 - o 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:

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

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

Examples of costs considered to be advertising expenses:

- The costs associated with placing an advertisement on a website.

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:

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

Critical note: During an election period, no person can charge a political entity, or an individual acting with the consent of a political entity, a rate for advertising that exceeds the lowest rate the person charges anyone else for the same amount of equivalent advertising space or time during that period [s.56].

B. AUTHORIZATION OF ADVERTISING

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

| COLUMN 1 | COLUMN 2 |
|----------------------------|---|
| A registered party | <ul style="list-style-type: none">• The party's financial officer |
| A candidate | <ul style="list-style-type: none">• 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 | <ul style="list-style-type: none">• The party's financial officer (in a pre-election period)• The constituency association's financial officer (at other times) |
| A leadership contestant | <ul style="list-style-type: none">• 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 statement of authorization should be in a form similar to the following:

- Authorized by the official agent for (candidate's name).
- Authorized by the official agent (if the full name of the candidate is evident on the material).

Authorization is required [s.61(3)]:

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

XI ELECTION EXPENSE LIMITS

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

- overall election expense limit.
- advertising election expense limit.

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. OVERALL 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 (ex. with an area of 30,000 square miles or more [s.52 (1.b)]).

Key points to remember:

- Election expenses incurred by an individual on behalf of a candidate, with the knowledge and consent of the candidate, must be included in the candidate's spending limit.
- Any election expenses incurred by a candidate's constituency association must be included in a candidate's spending limit.
- The advertising expenses subject to this limit are also included as part of the overall election expenses and subject to the overall election expense limit

The advertising limit is not an additional limit permitting additional spending beyond the Overall 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 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 overall election expense limit, the preliminary advertising expense limit will serve as the base amount for allowable advertising expenses. While subsequent calculations based on the revised or finals voters list may lead to increases in this spending limit, the final advertising spending limit will not fall below the base amount calculated.

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 several times during a campaign. The expense limits are calculated using the same formula:

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

The per voter dollar rate is established by Elections Manitoba as of the writ day (i.e. the day the election is called). This rate is determined as follows [s.54(2)]:

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

Note: The CPI levels used for the purposes of this calculation are those published by Statistics Canada.

Per voter rates specified in the EFA:

Overall election expense limit:

1. Candidates in electoral divisions with areas less than 30,000 square miles: \$2.91 per name on the voters list.
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 byelection: \$3.45 per name on the voters list for the electoral division.

Advertising election 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 byelection: \$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 and a non-fixed date election:

| Expense limit | Voters list used and date of determination |
|---------------|--|
| Preliminary | <ul style="list-style-type: none"> • Preliminary voters list. • Within two days after a writ of election is issued. |
| Revised | <ul style="list-style-type: none"> • Revised voters list. • As soon as practicable after the revised voters list for the electoral division are available at the end of the second Thursday before election day. |
| Final | <ul style="list-style-type: none"> • Final voters list. • As soon as reasonably practicable after election day. |

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

D. PENALTIES

Any contravention of either of the election expense 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)]

E. ADVERTISING BLACKOUTS DURING AN ELECTION

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

XII

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

- registered parties - \$268,000; and
- candidates - \$6,500.

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

Included within a candidate’s pre-election 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 pre-election period advertising spending limit [s.60(2)].

A. REVISED AMOUNT OF PRE-ELECTION PERIOD ADVERTISING EXPENSE LIMIT

At the beginning of the year in which there is a fixed date election, the pre-election period 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. [s.59(1) & (2)].

B. AUTHORIZATION OF PRE-ELECTION PERIOD ADVERTISEMENTS

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

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

C. PENALTIES

Overspending the pre-election period advertising spending limit could result in the following maximum fines:

- 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)]

XIII INVENTORY

Inventory refers to any property or supplies that are on hand to be used or consumed. Common types of inventory found in campaigns include signs and supports, banners, pamphlets, letterhead, and posters.

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

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

Inventory should be counted three times during the candidacy period:

- a) at the start of the election period (the day the writ is issued);
- b) at 8:00pm on election day; and
- c) at the end of the candidacy period.

A. COUNT BEGINNING INVENTORY

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

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

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

- If the items were **used in a previous election**, their value must be reported as a **non-monetary election expense**. These expenses will not be eligible for reimbursement since the items were eligible for reimbursement in a previous election.

- If the items were **purchased for a previous election but not used** in the previous election, or were **purchased for the current election**, the election expense should be reported as one for which money was paid or is owing (monetary). This includes items transferred from the candidate’s constituency association or registered party. If the candidate qualifies for reimbursement then the value of this type of inventory used as an election expense is reimbursable. *The inventory purchased in the previous election would not have been eligible for reimbursement in the previous election because it was not used.*
- If the items were provided from an individual then the value would be reported as a non-monetary election expense (not reimbursable).

| Was item used in a previous election? | Type of Election Expense | Value | Eligible for Reimbursement? |
|---------------------------------------|--------------------------|------------------|-----------------------------|
| Yes | Non-monetary | Market value | No |
| No | Monetary | Amount paid/owed | Yes |

B. ELECTION DAY INVENTORY

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

C. INVENTORY AT THE END OF THE CANDIDACY PERIOD

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

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

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

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

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

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

D. VALUE OF INVENTORY ITEMS NOT PURCHASED

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

E. INVENTORY RECORDS

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

- description of the property and materials;
- the date acquired or received;
- the supplier name;
- the unit value;
- the quantity, and
- the total value.

F. ITEMS USED

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

For signs purchased by the candidate's campaign, the acquisition market value of the signs is:

- Recorded as an election expense (which is reimbursable) if used in the election period – only the portion actually used during the election period will be considered an election expense and would be reimbursable.
- Recorded as inventory if not used at all (or for that portion not used).

For signs purchased by the candidate's campaign in a previous election but never used in the previous election (i.e. never expensed), the acquisition market value in the previous election is:

- Recorded as an election expense (which is reimbursable) if used in the current election period.
- Recorded as inventory if not used at all (or for that portion not used).

For signs purchased by the candidate's campaign in a previous election but used in the previous election (i.e. expensed) the acquisition market value of the goods in the previous election is:

- Recorded as a non-monetary election expense (which is non-reimbursable) if used in the current election period.
- Recorded as inventory if not used at all (or for that portion not used).

If an individual contributes signs or pays for signs on behalf of the campaign, the acquisition market value of the signs is:

- Recorded as a non-monetary election expense (which is non-reimbursable) if used in the election period.
- Recorded as inventory if not used at all (or for that portion not used).

If the candidate's endorsing registered party buys signs and transfers them to the candidate's campaign, the acquisition market value of the goods is:

- Recorded as an election expense (which is reimbursable) if used in the election period.
- Recorded as inventory if not used at all (or for that portion not used).

XIV REPORTING**A. FORMS AND REPORTING DEADLINES**

Please keep the following reporting deadlines in mind.

| Form # | Form Name/Description | Deadline | Filed By |
|--------|---|--|-----------------------------|
| 904 | Notice of Nomination | Immediately upon receiving the successful nomination | Registered party |
| 905 | Independent Candidate's Declaration of Candidacy | Immediately upon declaring candidacy | Candidate |
| 907 | Notice of Intent to Appoint Official Agent | 15 days after declaring intent to run as a candidate | Candidate |
| 400 | Nomination Paper | Fixed date election <ul style="list-style-type: none"> • Before 1:00 pm the Monday 22 days before election day Any other election <ul style="list-style-type: none"> • Before 1:00 pm the Monday 15 days before election day | Candidate |
| 402 | Endorsement of Candidate | Fixed date election <ul style="list-style-type: none"> • Before 1:00 pm the Monday 22 days before election day Any other election <ul style="list-style-type: none"> • Before 1:00 pm the Monday 15 days before election day | Registered party |
| 908 | Notice of Appointment of Auditor for a Candidate | Not later than the filing of Form 400 | Candidate |
| 911 | Candidate's Application for Registration to Issue Income Tax Receipts | Last day of the candidacy period | Candidate or Official Agent |
| 922 | Candidate's Financial Statements and Supporting Schedules | Four months after election day | Official Agent |
| 932 | Candidate's Detailed Contributors List | Four months after election day | Official Agent |

| Form # | Form Name/Description | Deadline | Filed By |
|--------|---|---|-----------|
| 925 | Candidate's Outstanding Liabilities and Loan Status | Not later than 30 days after the end of each calendar year until the outstanding liabilities/loans have been eliminated | Candidate |
| 935 | Candidate's Outstanding Liabilities and Loans Contributors List | Not later than 30 days after the end of each calendar year if contributions have been collected to reduce/eliminate liabilities/loans | Candidate |

B. COMPLETING FORM 922

Before you can finalize your books and records and Form 922, you want to make sure that you have all of the invoices and expenses from all of the campaign workers. Whoever was responsible for petty cash and miscellaneous (small dollar) expenses should be called and their remaining cash and supporting invoices should be turned over to you to deposit back in the bank.

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

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

Questions to consider when completing Form 922:

1. Are all expenses recorded accurately?
2. Have you accounted for all your tax receipts and contributions?
3. Have you signed the form?
4. Have you made copies of all expense invoices?
5. Have you completed the form in **ink** (rather than pencil)?

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

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

B.1. Cover Page

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

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

B.2. Statement of Assets, Liabilities and Surplus as at the end of the Candidacy Period

This page requires you to list the assets and liabilities of the campaign as of the **last day of the candidacy period**. Guidance on what an asset and a liability are can be found in *Accounting Guide – Accounting For Purposes of The Election Financing Act*. Something you should know about this page is that it asks for information as of a specific point in time. In other words, every line item on this page reports a balance of an account as of the day the candidacy period ends.

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

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

B.3.Statement of Income, Expenses and Transfers for the Candidacy Period

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

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

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

All income and expenses get reported on this page including:

- non-monetary contributions;
- non-monetary expenses; and
- transfers-in and transfers-out (cash and property and services).

B.4.Schedule 1 – Candidacy Period Expenses Including Non-monetary Expenses

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

“Election expenses” means:

- a) money spent or liabilities incurred; and
- b) the value of non-monetary contributions accepted.

Particularly important to remember when preparing Schedule 1 is that “Election Expenses used in Election Period” is comprised of two components – money (and credit) paid and non-monetary contributions received.

“Non-election expenses” refers to money spent, liabilities incurred, or non-monetary contributions received outside of the election period or other expenses that are specifically restricted from being considered election expenses.

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

If your candidate is eligible to receive reimbursement, then it is necessary for you to also complete the bottom two lines on this schedule by providing the amounts of Loan Interest and Bank Charges paid in the period from 8 pm on election day to four months after election day. This information is incorporated into the calculation of the amount of reimbursement that the campaign will receive.

B.5.Schedule 2 – Contributions to a Candidate (Including Non-monetary Contributions)

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

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

B.6.Schedule 3 – Transfers From a Candidate’s Endorsing Registered Party

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

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

B.7.Schedule 4 – Transfers From a Candidate’s Constituency Association

If you receive transfers from your constituency association, the EFA requires that you provide further information on the type of transfers received (i.e. monetary, or property and services). Where the total of all transfers is \$250 or more, the contributor’s name and the aggregate amount contributed must be disclosed.

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

B.8.Schedule 5 – Reconciliation of Income Tax Receipts

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

B.9.Schedule 6 – Accounts Payable

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

B.10. Schedule 7 – Candidate’s Disability Expenses

If your candidate has a disability, this is where you report any reasonable amounts that had to be incurred as a result of the disability to allow your candidate to campaign. Remember that the key word here is “reasonable”. Reasonable expenses are those expenses, incurred in the

election period, that are over and above the costs that normally would have been incurred by the candidate.

B.11. Schedule 8 – Candidate’s Child Care Expenses

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

B.12. Schedule 9 – Pre-election Period Limit on Advertising Expenses

This schedule must be completed if your candidate has incurred advertising expenses 90 days before the election period and in the year of a fixed date election. Completing this schedule will ensure that you have provided the necessary detail.

C. FILING FORM 922 WITH ELECTIONS MANITOBA

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

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

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

C.2. What if you miss the deadline?

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

While failing to file forms 922 and 932 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.

Note: If late filing fees are owed and the candidate is entitled to reimbursement, the Chief Electoral Officer has the authority to deduct the late fees from the reimbursement payable [s.70(5)].

Important Fact: The Chief Electoral Officer shall publicly disclose the names of any person who is obligated to pay late filing fees as well as the amount owing [s.71].

D. FILING FORM 932 WITH ELECTIONS MANITOBA

Candidates' campaigns must 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, including:

- the contributor's full name;
- the contributor's Manitoba residential address and postal code;
- the date of each contribution;
- the amount of the contribution; and
- if the contribution is a non-monetary, documents supporting the valuation of the donation contribution should be kept.

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

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

E. ADDITIONAL INFORMATION REQUEST

The work that an auditor does may provide a good level of compliance assurance; however, sometimes more information is needed. Elections Manitoba is responsible for making sure that the information on Form 922 is correct and in compliance with the EFA. Elections Manitoba may request additional information if it is needed to clarify or verify the information

contained in a candidate's Form 922 [s.67]. Elections Manitoba will make the request in writing to the official agent who must provide the requested information within 30 days of receiving the written request.

You should also be aware that Elections Manitoba will sometimes perform more detailed audits and inspections to ensure compliance with the EFA. If your campaign is selected at random for a detailed review, you may be asked to provide all of the books, records, bank statements and other information collected during and about the campaign [s.95]

F. EXTENSION TO FILING DEADLINES (FINANCIAL STATEMENTS AND OTHER INFORMATION)

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

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

G. CANCELLATION OF BYELECTION DUE TO A GENERAL ELECTION

In the uncommon instance of a byelection being cancelled as a result of a general election being called, the candidates in the byelection are still required to complete and file Form 922, Form 932, and any other required information with Elections Manitoba within four months of the day the general election was called. (Under the EFA, the "election day" of the byelection is deemed to be the day the general election was called.)

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

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

H. CANDIDATE OUTSTANDING LIABILITIES AND LOAN STATUS

A candidate who reported liabilities (bank overdraft, accounts payable) and/or a loan on Form 922, must complete and file Form 925 - *Candidate's Outstanding Liabilities and Loan Status* with the CEO not later than 30 days after the end of each calendar year that the liabilities remain outstanding.

This statement includes the following information:

- The outstanding balance of any loan made to the candidate, if the balance is \$250 or more at the end of the year.
- The amount of any other outstanding liabilities at the end of the year.
- The source of the funds used to reduce or eliminate the outstanding liabilities in the year.
- For contributors who made contributions of a total amount of \$250 or more in the year, their name and the aggregate value of their contribution.

The candidate must also file a separate statement of the contributions received during the year that lists each contributor's name, address and the total amount contributed (Form 935).
[s.63(3)]

XV REIMBURSEMENT OF ELECTION EXPENSES**A. REIMBURSEMENT AND CANDIDATE ELIGIBILITY**

A candidate may be entitled to receive a partial reimbursement of the election expenses (and full reimbursement from reasonable childcare and disability expenses) that were incurred by his or her campaign. In order for the candidate to be eligible for this reimbursement he or she must:

- Receive at least 10% of all valid votes cast in the candidate's electoral division.
- Have provided adequate support and documentation for the reported expenses.
- Have reasonable expenses.

Key point: Reimbursement will only be paid in relation to specific election expenses if those expenses have been adequately supported or documented and are reasonable.

B. REIMBURSEMENT AMOUNTS**B.1. Expenses eligible for 50% reimbursement**

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

- the total actual election expenses incurred (**excluding non-monetary**); and
- the total election expense limit of the candidate.

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

B.2. Expenses eligible for 100% reimbursement

The EFA allows for an additional reimbursement for some expenses that are not considered to be election expenses. Reasonable child care and disability expenses incurred to allow the candidate to campaign in the election period are completely reimbursable (100%) even though these expenses are not considered "election expenses" [s.74(2)].

C. 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. This calculation is strictly formula-based and will be performed by Elections Manitoba [s.74(9)].

C.1. Reimbursement in a Surplus Situation

If the candidate is endorsed by a registered party the candidate's official agent is required to pay the surplus amount (as calculated according to the formula prescribed in s.74) to the financial officer of the party. Further, all reimbursement of election expenses must also be paid directly to the financial officer.

If the candidate is not endorsed by a registered party (i.e. is an independent candidate), the candidate's official agent is required to pay the surplus amount to the Chief Electoral Officer (CEO) to be held in trust for future use. Reimbursements will not be paid out to the candidate's campaign but rather will also be held in trust by the CEO. If the candidate chooses to run again in the next election (general or byelection) then the amount of the unpaid reimbursement held in trust, and the amount of accumulated interest on this trust amount will be distributed to the candidate. (If the candidate does not run in the following election, the funds will be transferred to the Minister of Finance to be added to the Consolidated Fund) [s.74(3)].

C.3. Reimbursement in a Deficit Situation

If the candidate is endorsed by a registered party the reimbursement of election expenses will be paid directly to the official agent of the candidate up to and including the amount of the deficit. If any amount of the reimbursement exceeds the deficit, this amount is to be paid directly to the financial officer of the registered party.

If the candidate is not endorsed by a registered party (i.e. is an independent candidate) the reimbursement of election expenses will be paid directly to the official agent of the candidate up to and including the amount of the deficit. Excess reimbursement is treated in the same way as reimbursement in a surplus situation. That is, the excess amount will be retained by the CEO to be held in trust for the candidate. This excess amount and accumulated interest will be paid out to the candidate if he or she runs in the following election. However, if he or she does not run, then the amount in trust is turned over to the Minister of Finance to be paid into the Consolidated Fund [s.74(2)].

C.4. Notification of Reimbursement

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

D. ADVANCE ON REIMBURSEMENT

Elections Manitoba processes Form 922 so that reimbursement cheques can be issued as soon as reasonably possible. If a candidate's Form 922 appears to be complete and accurate, Elections Manitoba may issue an advance payment of 50% of the estimated reimbursement amount within 15 days of the statement being filed [s.74(5)]. You will be advised if an advance payment will **not** be made.

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

E. ASSIGNING A REIMBURSEMENT

The reimbursement amount (or a portion of it) may be "assigned" to someone other than the official agent (for independent candidates) or financial officer (for endorsed candidates) only when the campaign has received a loan to finance some of the election expenses [s.76]. To assign a reimbursement, the official agent needs to:

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

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

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

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

XVI 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:

- provide a written advisory opinion; or
- 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:

- The opinion states that the act or omission (or proposed act or omission) will not contravene the EFA.
- 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.

XVII CONSEQUENCES/PENALTIES

If the rules are not followed there may be consequences. The areas of the EFA that can result in consequences for you, specifically, are outlined below:

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

- Do not complete or partially complete any form, financial statement, or other document with information that you know is false [s.99(8)].
- Do not withhold any information, record, or document that Elections Manitoba has requested as this may be considered “obstruction” [s.99(10)].
- File all forms and financial statements required by Elections Manitoba on time and ensure that these submissions are complete [s.100(1)].
- Do not issue tax receipts unless your candidate has received a monetary contribution which meets all of the contribution rules as outlined in the EFA (i.e. do not issue tax receipts for non-monetary contributions, prohibited contributions, or deemed contributions) [s.99(6)].
- Do not allow your candidate’s campaign to spend more than the established election expense limit or the advertising expense limit [s.99(2);100(1)&(2)].

Failure to abide by any of the above rules could result in further proceedings as discussed in the following subsections.

A. LATE FILING FEES

Late filing fees of \$25 per day (to a maximum of 30 days) will be charged when required forms are not filed by the deadline date [s.70]:

- Form 922 – *Candidate’s Financial Statements and Supporting Schedules* (responsibility of the official agent);
- Form 932 – *Candidate’s Detailed Contributors List* (responsibility of the official agent);
- Form 925 – *Candidate’s Outstanding Liabilities and Loan Status* (responsibility of the candidate);
- additional information requested by the CEO.

Individuals will not be subject to further proceedings provided that:

- The required forms are filed within 30 days of the deadline.
- The late-filing fee incurred is paid [s.70(4)].

Under s.70(5), the Chief Electoral Officer shall deduct the late filing fee amount from the amount that may be payable under the EFA to this recipient. The Chief Electoral Officer shall

also make public the name of a person who is obligated to pay a late fee and the amount payable.

B. OTHER POTENTIAL CONSEQUENCES

The EFA establishes rules which must be observed by an official agent. Failure to do so could result in a fine of \$5,000 or more, and could result in other possible consequences such as injunctions, compliance agreements, or even prosecution (however, most instances of non-compliance are resolved without prosecution). Before implementing any of these consequences, the commissioner must first investigate the matter under suspicion and in doing so must notify the individuals or organizations that are being investigated (unless the commissioner believes that such notification would compromise the investigation).

B.1. Injunctions

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

B.2. Compliance Agreements

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

B.3. Prosecution

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

Appendix A – Contributions and Limits Clarification

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 [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 \$25 or less) 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].
- 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)].

III

EXAMPLES OF NON-CONTRIBUTIONS

- A candidate on paid leave under a collective or other employment agreement.
- 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 [s.32(6)].
- Multiple fundraising event tickets purchased for a fundraising event totalling \$75 or less where the individual ticket price is \$25 or less [s.32(6)].
- A sale of a single item of merchandise where the price of the item is \$25 or less [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 [s.32(7)].

IV 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 \$5,000 contribution limit, especially in instances where a contribution is "in transit" at the time a new calendar year arrives. **The date of contribution is the date of payment by a contributor.** Generally, the date of payment is the date that a contribution is delivered to an entity (i.e. a registered party, candidate, constituency association, or leadership candidate) or an entity's recognized agent. However, the general rule will not apply in the following circumstances:

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

Examples that illustrate the contribution date:

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

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

V IDENTIFYING CONTRIBUTORS AND DISCLOSING CONTRIBUTIONS

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

- Cash contributions of \$10 or less where the contributor is not known (contribution amount must still be recorded but not the identity of contributor)[s.38].
- Individuals normally resident in Manitoba (and only such individuals) may make two non-monetary contributions of \$25 or less in a year to each candidate without the contributions having to be recorded under the Act. A third such contribution by an individual in a year, regardless of value, must be recorded [s.32(5)]. What this means is that the official agent must keep track of the number of non-monetary contributions of \$25 or less made by a single individual in a year to know when the threshold of two has been reached.

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

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

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

- Applied against the individual's annual contribution limit.
- Disclosed as the individual's contribution.

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

There may be a concern with identifying a contributor if a personal cheque is received that is drawn on a joint account. In such a case, generally, the contribution is considered to be from the person who signed the cheque. Additional written instructions are required describing the contributions made per person if the cheque represents a contribution from more than one contributor.

You should try to obtain written instructions from the contributors before cashing the cheque.

Further, it would be beneficial to keep a photocopy of the cheque in situations where written instructions have been provided.

VI RETURNING CONTRIBUTIONS

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

- Anonymous contributions of more than \$10 except for some non-monetary contributions of \$25 or less as outlined in s.38.
- Individuals not using their own resources when contributing.
- Contributions that are prohibited by source (i.e. contributor is not an individual normally resident in Manitoba).
- Contributions that are prohibited by amount (i.e. in excess of \$5,000).

Contributions should be reviewed further where it is suspected that a contribution is from a prohibited contributor such as an organization or from an individual with an address outside of Manitoba. If a prohibited contribution is received it must be returned immediately. It may be that despite the entity's best efforts a prohibited contribution is accepted. The circumstances of each situation will be considered.

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

Example: *A contributor may give \$4,500 to a candidate and later in the same year give \$1,000 to a registered party. The registered party, upon learning of the prohibited contribution, is required to return \$500 to the contributor.*

In the above example, the registered party would likely become aware of the prohibited

contribution as a result of Elections Manitoba reviewing the records of all contributions made. Although the registered party has a responsibility to return the contribution, in this example, the issue of an individual contributing in excess of the \$5,000 limit is a separate matter which would be reviewed by Elections Manitoba.

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

Appendix B - Form 922: Candidate's Financial Statements and Supporting Schedules

Statement of Assets, Liabilities and Surplus as at the End of the Candidacy Period

Line 100 Cash

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

- take the balance that you find on the statement for your account that includes the day that the candidacy period ends;
- subtract the cumulative amount of cheques that have been written before that date but have not yet cleared the account; and
- add any deposits that were deposited before that date but have not cleared as of that date.

Line 110 Accounts Receivable

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

Line 115 Inventory

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

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

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

Lines 130 and 135 Other Assets

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

Line 190 Total Assets

This line is the sum of lines 100 to 135.

Line 200 Accounts Payable

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

Line 205 Overdraft/Line of Credit

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

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

Line 220 Loans

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

Lines 230 and 240 Other Liabilities

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

Line 275 Candidacy Period Surplus/(Deficit)

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

Line 290 Total liabilities and surplus

This line is the sum of lines 200 to 275.

Statement of Income, Expenses and Transfers for the Candidacy Period**Line 300 Contributions**

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

Line 310 Transfers from Candidate's Constituency Association

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

Line 320 Transfers from Endorsing Registered Party

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

Line 330 Fundraising

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

Line 360 Other Income

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

Line 390 Total Income and Transfers

This line is the sum of lines 300 to 360 and reports the total income and transfers of the campaign. This is the amount from which the expenses and transfers of the campaign will be deducted in order to arrive at the candidacy period surplus or deficit.

Line 400 Election Expenses

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

Line 405 Non-election Expenses

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

Line 415 and 420 Transfers to Endorsing Registered Party

Transfers of money, property, or services to the candidate's registered party are reported on these lines.

Line 430 Total Expenses and Transfers

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

Line 440 Candidacy Period Surplus/(Deficit)

Line 440 reports the excess (or deficiency) of total income and transfers less total expenses and transfers for the campaign. Line 430 is subtracted from line 390 and reported on this line. The total on this line is also carried forward to line 275 on the Statement of Assets, Liabilities and Surplus as at the End of the Candidacy Period.

Schedule 1 – Candidacy period expenses (including non-monetary)

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

Lines 500 to 585

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

Note: Lines 511 and 512 have greyed-in boxes under Election Expenses (i.e. columns A, B and C) because reasonably disability and child care expenses cannot be considered election expenses regardless of when they are incurred. The amounts included on these lines in columns D and E are **generated from line 850 on schedule 7 and 860 on schedule 8, respectively.**

Line 590 Total Expenses

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

Line 595 Total Election Expenses

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

Line 597 Loan Interest

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

Line 598 Bank Charges

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

Schedule 2 – Contributions to a Candidate (Including non-monetary)

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

A. Contributions Summary:

Lines 600 to 610 breaks the contributions received into various dollar amount categories, and columns A and B split them further into monetary contributions and non-monetary contributions.

B. Contributions of \$250 or More:

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

Schedule 3 – Transfers from Endorsing Registered Party

Schedule 3 requests details on transfers received during the candidacy period from the candidate's endorsing registered party. Specifically, lines 700 and 710 ask you to break down transfers received into (a) cash and (b) property and services. Total transfers (cash plus property and services) is reported on line 720 and carried forward to line 320.

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

Schedule 4 – Transfers from Candidate's Constituency Association

Schedule 4 requests details on transfers received during the candidacy period from the candidate's constituency association. Specifically, lines 740 and 750 ask you to break down transfers received into (a) cash and (b) property and services. Total transfers (cash plus property and services) is reported on line 760 and carried forward to line 310.

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

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

Schedule 5 – Reconciliation of Income Tax Receipts

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

Schedule 6 – Accounts Payable

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

Schedule 7 – Candidate’s Disability Expenses

Schedule 7 should only be completed where a candidate with a disability incurs reasonable expenses in relation to the candidate’s disability to enable the candidate to campaign in an election period. The total amount of expenses recorded on this schedule (line 850) is carried forward to line 511, column D.

Schedule 8 – Candidate’s Child Care Expenses

Schedule 8 should only be completed when a candidate incurs reasonable child care expenses in order to be able to campaign in an election period. The total amount of expenses recorded on this schedule (line 860) is carried forward to line 512, column D.

Reasonable expenses are those that are over and above the expenses normally incurred by the candidate (when there is no election).

Schedule 9 – Pre-election Period Limit on Advertising Expenses

Schedule 9 should only be completed when a candidate incurs advertising expenses outside of the election period, in the 90 day pre-election period in the year of a fixed date election.

Appendix C – Inventory Count Sheets

Inventory Count Sheet

Type of Inventory Count: (check)

- Start of Election Period (Writ Day)
- End of Election Period (8:00pm on Election Day)
- End of Candidacy Period (if necessary)

Auditor Present? (check)

- Yes
- No

Date of Count: _____

Time of Count: _____

Inventory Count Results:

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

Appendix D – Use of Automobiles in a Campaign

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

Scenario 1 - A vehicle is provided free of charge to a candidate's campaign by an individual:

- A non-monetary contribution and non-monetary election expense would need to be recorded. No tax receipt could be issued, but the value of the contribution would be applied against the individual's \$5,000 limit (and reported on Form 922). Non-monetary election expenses are not reimbursable.
- The contribution and expense would be valued at the amount that it would normally cost to rent the same vehicle (i.e. the number of days of vehicle use multiplied by the daily rental rate).
- Any money spent by the campaign for fuel would be an election expense (reimbursable).
- The value of fuel, if paid for by a volunteer and not reimbursed, would be recorded as a non-monetary contribution and non-monetary election expense. The election expense would be non-reimbursable and no tax receipt would be issued. Again, the value of the fuel would be applied against the volunteer's \$5,000 contribution limit.

Scenario 2 - A vehicle is rented by a registered candidate's campaign from an individual:

- The amounts spent on rent would be recorded as an election expense (reimbursable), unless the amount paid was lower than a market rate. In this case, the difference between the market rate and the amount paid would also be recorded as a non-monetary contribution and non-monetary election expense.
- Any money spent by the campaign for fuel would be an election expense (reimbursable).

Scenario 3 - A volunteer uses his or her own vehicle in a candidate's campaign and does not charge the campaign for its use or for the use of the fuel:

- The value of the vehicle would not have to be valued and recorded as a non-monetary contribution since this would be the use of personal property by a person in their capacity as volunteer (the vehicle is considered as part of the service provided by a volunteer).
- The value of fuel, if paid for by the volunteer and not reimbursed, would be recorded as a non-monetary contribution and non-monetary election expense. The election expense would be non-reimbursable and no tax receipt would be issued. The value of the fuel would be applied against the volunteer's \$5,000 contribution limit. (If the fuel was paid for by the campaign then the election expense would be eligible for reimbursement and there would also be no contribution to report.)

There may be difficulties in determining the value of gas used by a volunteer especially since a volunteer may be using his or her vehicle for purposes other than volunteering for a campaign. Where this is the case, to assist in estimating the value of gas used, the following guideline is acceptable: multiply the number of kilometres a volunteer travels for a campaign by a rate of 10 cents per kilometre.

Appendix E – 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(1.2) of The Income Tax Act (Manitoba) states that an individual's political contribution tax credit for a taxation year ending after 2017 is the lesser of \$1,000 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 \$1,000 is achieved with a contribution of \$2,325. 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:

- 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
- 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 F – Sample Memorandum

MEMORANDUM

To: Financial Institution Official

From: _____ (candidate)

Principal business or occupation of contestant:

Home address and telephone:

Business address and telephone:

Subject: Appointment of Official Agent

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

Official Agent Name

Home address & phone

Business address & phone

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

Candidate Signature/Date

Official Agent Signature/Date

Appendix H – Travel/Mileage

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

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

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

- Step 1:** All gas receipts should be divided between election and non-election periods according to the dates on the gas receipts.
- Step 2:** All gas receipts dated within the election period should be allocated between campaign and personal expenses based on the estimated proportion of mileage attributable to campaign travel. (Please note that the reasonability of the estimated campaign proportion will be assessed by Elections Manitoba.)

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

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

Unacceptable submissions

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

CONTACTING ELECTIONS MANITOBA

GENERAL INQUIRIES:

Elections Manitoba
120 – 200 Vaughan Street
Winnipeg MB R3C 1T5

Telephone: 204-945-3225
Toll Free in Manitoba: 1-800-628-6837
Fax: 204-945-6011

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

INQUIRIES ON *THE ELECTION FINANCING ACT*:

Email: finance@elections.mb.ca

INQUIRIES ON *THE ELECTIONS ACT*:

Email: operations@elections.mb.ca

Candidates, official agents 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*.