



**ELECTIONS BC**

A non-partisan Office of the Legislature

# GUIDE FOR FINANCIAL AGENTS APPOINTED UNDER THE *ELECTION ACT*



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## Introduction

Elections BC is the non-partisan Office of the Legislature responsible for the administration of the provincial electoral process in B.C. and the campaign financing provisions for local government elections.

The *Election Act* sets the rules for the provincial electoral process. This guide is intended for financial agents appointed under the *Election Act* to explain the financing, election advertising, and financial reporting rules in the Act and how those rules apply to registered political parties, registered constituency associations, provincial candidates, nomination contestants and political party leadership contestants.

This guide is intended only as an aid to understanding the *Election Act*. How the Act applies in any particular case will depend on the individual circumstances of the case, and may change in light of new legislation and judicial developments. Where there is inconsistency between this guide and the *Election Act*, the Act will prevail.

You can view the *Election Act* on the Elections BC website ([elections.bc.ca](http://elections.bc.ca)) or you can buy a copy of the Act from Crown Publications ([crownpub.bc.ca](http://crownpub.bc.ca)).

## Privacy

Elections BC has the authority to collect, use, disclose and dispose of personal information under the *Election Act* and the *Freedom of Information and Protection of Privacy Act*. This information is used to administer provisions of the *Election Act*.

For information about Elections BC's privacy policies, please visit [elections.bc.ca/privacy](http://elections.bc.ca/privacy) or contact the **Privacy Officer, Elections BC** at 1-800-661-8683, [privacy@elections.bc.ca](mailto:privacy@elections.bc.ca) or PO Box 9275 Stn Prov Govt, Victoria BC V8W 9J6.

## Financial agents

### What is a financial agent?

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A financial agent is an individual appointed to administer the electoral financing requirements of the *Election Act*. This includes incurring expenses, accepting political contributions, recording financial transactions and filing the required financial reports with Elections BC. It also includes authorizing election advertising conducted on behalf of candidates and political parties.

[s. 177, 231]

### Requirement for a financial agent

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The following must have a financial agent:

- a registered political party
- a registered constituency association
- a candidate
- a nomination contestant
- a leadership contestant

Candidates, nomination contestants and leadership contestants can be their own financial agents.

An organization or individual may only have one financial agent at a time, but an individual can be a financial agent for more than one organization or individual. This means that the financial agent of a registered political party can also be the financial agent for a candidate and/or registered constituency association.

If the appointment of a financial agent for a registered political party or registered constituency association ends for any reason, the organization must appoint a new financial agent within 60 days, and must inform Elections BC of this change as soon as possible after the appointment. If a new financial agent is not appointed within 60 days, the organization may be suspended by the Chief Electoral Officer.

[s. 175-176]



## Appointment of a financial agent

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To act as a financial agent, an individual must be capable of entering into contracts. The statutory obligations of the financial agent are significant and require certain skills. The financial agent must be capable of managing campaign finances in accordance with the *Election Act*, and it is recommended that the individual appointed be familiar with keeping financial records and filing financial reports.

Who is disqualified from being a financial agent?

- election officials, voter registration officials, or employees of Elections BC
- individuals who do not have full capacity to enter into contracts (e.g. a minor child)
- the appointed auditor
- individuals who are members of the auditor's firm
- individuals who have been convicted of an offence under the *Election Act* or the *Recall and Initiative Act* within the last seven years, or
- individuals who have failed to file financial reports under the *Election Act* or the *Recall and Initiative Act* within the last seven years

The appointment of a financial agent must be made in writing and must:

- be on a form provided by Elections BC
- include the name, mailing address and telephone number of the individual appointed
- indicate the effective date of the appointment
- be signed, as applicable, by a principal officer of the appointing organization or the appointing individual, and
- include a signed consent of the individual appointed to act as financial agent

Once an appointment is made, a copy of the appointment form must be delivered as soon as possible to the Chief Electoral Officer or the District Electoral Officer, as applicable.

If a financial agent becomes disqualified, resigns, or ceases to hold that position for any other reason, the Chief Electoral Officer or District Electoral Officer, as applicable, must be notified immediately. In such cases, a registered political party or registered constituency association must make a new appointment within 60 days. In the case of a candidate, nomination contestant or leadership contestant, the individual must make a new appointment or deliver a statement that they will be acting as their own financial agent.

[s. 176]

## **Financial agent responsibilities**

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The financial agent is responsible for ensuring that finances comply with the *Election Act*. The financial agent's responsibilities include:

- accepting and recording political contributions
- determining the market value of political contributions of goods and services
- recording and issuing tax receipts for eligible political contributions of money
- recovering, marking void and retaining tax receipts issued for ineligible and prohibited contributions
- ensuring that all political contributions and other income are properly recorded to allow compliance with the reporting requirements of the *Election Act* and the *Income Tax Act*
- ensuring that all permissible loans are properly recorded and reported
- incurring and recording the expenses of the organization or individual
- ensuring that all money received on behalf of the organization or individual is deposited in an account in a savings institution and that all expenditures are made from an account in a savings institution
- establishing a separate bank account for each individual or organization for whom they are acting
- keeping complete and accurate financial records
- ensuring all financial records and receipts are kept in British Columbia for at least five years from the date of filing a report
- filing all applicable financial reports with Elections BC by the legislated deadlines.

For a complete list of the different types of financial reports, see page 65-66.

The financial agent is not personally responsible for any liability of the organization or individual unless the liability is personally guaranteed by the financial agent.

[s. 177]

## **Deputy financial agents**

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A financial agent may appoint deputy financial agents. There is no limit on the number of deputy financial agents that can be appointed. Deputy financial agents may accept political contributions and issue income tax receipts for eligible political contributions of money.

Deputy financial agents may also file reports required under Parts 9 and 10 of the Act if the financial agent is absent or incapable of filing those reports. Deputy financial agents have the same authority and responsibility as a financial agent in relation to accepting political contributions, issuing income tax receipts and filing reports.

The rules about the qualifications and appointment of deputy financial agents are the same as for financial agents.

The appointment of a deputy financial agent must be made in writing and must:

- be on a form provided by Elections BC
- include the name, mailing address and telephone number of the individual appointed
- indicate the effective date of the appointment
- be signed, by the financial agent, and
- include a signed consent of the individual appointed to act as deputy financial agent.

Once an appointment is made, a copy of the appointment form must be delivered as soon as possible to Elections BC.

In addition to appointing deputy financial agents, the financial agent may also authorize individuals to incur election expenses or accept political contributions. These authorizations must be made in writing by the financial agent, and should clearly describe what authorities the individual has been authorized to do (e.g. how much the individual is authorized to spend, the requirements for accepting political contributions, etc.).

Since the role of each authorized individual may be different, Elections BC does not provide a form for this authorization. Copies of the written authorizations must be retained by the financial agent, and do not need to be submitted to Elections BC, unless specifically requested.

[s. 178, 187, 193]

## Auditors

### Requirement for an auditor

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The following must have an auditor:

- a registered political party
- a registered constituency association
- a candidate

If the appointment ends for any reason, a new auditor must be appointed within 60 days.

Leadership contestants may also need to appoint an auditor if their leadership contestant financing report requires an audit.

[s. 179]

### Appointment of an auditor

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To be appointed, an auditor must be authorized to be the auditor of a company under sections 205 and 206 of the *Business Corporations Act*. This means that the auditor is a Chartered Professional Accountant (C.P.A.), or has been certified by the Auditor Certification Board or is a qualified auditing firm.

Who cannot be appointed as an auditor?

- election officials, voter registration officials, or employees of Elections BC
- individuals who do not have full capacity to enter into contracts (e.g. a minor child)
- the appointed financial agent
- an individual who is a member of the same firm as the financial agent, or firm of which the financial agent is a member
- individuals who have been convicted of an offence under the *Election Act* or the *Recall and Initiative Act* within the last seven years, or
- individuals who have failed to file financial reports under the *Election Act* or the *Recall and Initiative Act* within the last seven years

An auditor may be appointed for more than one organization or individual.

The appointment of an auditor must be made in writing and must:

- be on a form provided by Elections BC
- include the name, mailing address and telephone number of the auditor
- indicate the effective date of the appointment
- be signed, as applicable, by a principal officer of the appointing organization or the appointing individual, and
- include a signed consent of the auditor

As soon as possible after an appointment is made, a copy of the appointment form must be delivered to the Chief Electoral Officer or District Electoral Officer, as applicable.

If the auditor ceases to hold that position or ceases to be qualified to act as auditor, a new auditor must be appointed within 60 days and the appointment form delivered to the Chief Electoral Officer or District Electoral Officer, as applicable.

[s. 179]

## **When is an audit required?**

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Generally, an auditor's report must be filed with a financing report if the total political contributions, election expenses or contestant expenses to be reported is \$10,000 or more.

As an exception, the following financial reports do not need to be filed with an auditor's report despite the value of political contributions or expenses to be reported:

- interim financial reports filed by political parties
- nomination contestant reports, and
- supplementary reports that amend a previous filing.

Financial reports for deregistered political parties and constituency associations must be audited except in the following circumstances:

- the constituency association was deregistered because the electoral district was disestablished, or
- the constituency association or political party had \$5,000 or less in expenses and received \$5,000 or less in political contributions since the date of their last annual financial report

After reviewing a financial report, the Chief Electoral Officer has the authority to request an auditor's report at any time for any financial report in which no auditor's report has been filed.

See page 72 for more information about audit reports, or refer to our Auditor's Guide, available on the Elections BC website ([elections.bc.ca](http://elections.bc.ca)).

[s. 170, 213]

## Bank accounts

### Requirement for a bank account

---

Every registered political party, registered constituency association, candidate, nomination contestant and leadership contestant must have a separate bank account in a savings institution. The financial agent must ensure all monetary transactions are processed through the account, including the deposit of all money received on behalf of the organization or individual, and the payment of all disbursements.

Organizations or individuals must not share bank accounts, and the financial agent must ensure that the bank account is used exclusively for the monetary transactions of the organization or individual for whom the account was established. There is nothing in the legislation that prevents the financial agent from opening more than one bank account on behalf of an organization or individual, provided that all transactions are consolidated and reported accordingly.

As an exception, candidates or contestants who do not have any monetary transactions in relation to their campaign (i.e. do not plan to incur any expenses or accept any contributions) are not required to open a separate bank account.

Bank accounts for candidates or contestants can be opened at any time, even before the individual has filed their papers with Elections BC. Candidates and contestants are encouraged to open accounts as early as possible to ensure all financial transactions can be processed through the account.

If a financial agent has difficulty opening a bank account, there are letters on the Elections BC website that explain the legislated requirements. These letters can be printed and taken to the savings institution.

[s. 177]

## **Name of an account**

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The *Election Act* does not prescribe how an account for a registered political party, registered constituency association, candidate, nomination contestant and leadership contestant should be named.

Therefore, the account must be in an appropriate name determined by the financial agent and the savings institution.

## **Permissible loans and guarantees**

A permissible loan is a loan agreement (including a line of credit or overdraft on an account) that is provided by a savings institution (e.g. a bank or a credit union) at an interest rate equal to or greater than the current prime rate to:

- a political party
- a constituency association
- a candidate, in relation to that individual's candidacy
- a leadership contestant, in relation to that individual's seeking of the leadership
- a nomination contestant, in relation to that individual's seeking of the nomination

An organization or individual identified above is prohibited from accepting a non-permissible loan. Loans are prohibited if they are:

- provided at a preferential interest rate that is below the current prime rate, or
- provided by an individual or organization that is not a savings institution.

Please refer to the Elections BC website for a listing of current and historical prime interest rates.

A permissible loan, or a guarantee for a permissible loan, is generally not a political contribution, unless a savings institution does not make commercially reasonable efforts to collect or enforce the loan, in which case the loan is a prohibited political contribution.

[s. 1, 181]

### **Recording and reporting permissible loans and guarantees**

At the time a permissible loan, or a guarantee for a permissible loan is received, the financial agent must record:

- the name of the savings institution providing the loan or guarantee
- the amount of the loan
- the rate of interest charged
- the prime rate at the time the rate of interest for the loan is fixed
- the date the loan is due

In addition, the financial agent must record:

- if there has been a default on a permissible loan, the date of the default
- if there has been a call on a guarantee for a permissible loan, the date of the call
- if there has been non-compliance with the terms and conditions of a guarantee for a permissible loan, the date of the non-compliance

All of the above information must be disclosed by the financial agent in the financial reports.

[s. 190]



## Volunteers

Volunteers are individuals who voluntarily perform services and who receive no compensation, directly or indirectly, in relation to the services or the time spent providing the services.

This means that an individual cannot continue to be paid while they are working as a volunteer. If they do continue to get paid, they are not a volunteer and the value of their services is a political contribution and an expense to the organization or individual.

In these cases, the political contribution may be prohibited, unless the employer is an eligible individual, and may also be an election expense subject to the limit if the services of the volunteer are being provided during the campaign period.

If an individual uses paid vacation time to work on a campaign, they are a volunteer as long as they have not been directed by their employer to provide the services and the employer does not provide any extra vacation or leave.

A professional may provide their services as a volunteer, providing that they are doing so as an individual (e.g. the services are not being provided by a business at a discounted rate).

[s. 180]

## General valuation rules

### **Political contributions and expenses**

---

The following rules apply for the purpose of determining the value of political contributions, election expenses or contestant expenses. The value of any property or services is:

- the price paid for the property or services, or
- if no price is paid or if the price paid is lower than the market value, the market value of the property or services

See page 62 for more information on valuing election advertising.

[s. 185]

## **Reimbursable election expenses**

---

For the purpose of determining the value of a reimbursable election expense, the general valuation rules above do not apply. Instead, the claim for reimbursement is:

- the price paid for the property or services, or
- if the price paid is higher than the market value, the market value of the property or services.

If the property is a capital asset, the value of the property is the lower of the price paid or the market value of using the property.

See page 41 for more information on reimbursable election expenses.

[s. 215.04]

## **Determining market value**

---

“Market value” is defined as the lowest price charged for an equivalent amount of equivalent goods or services in the market area at the time they are provided or used.

The price paid or market value of goods or services includes all applicable taxes.

If free property or services are accessible to everyone in the market area, the market value is zero.

The financial agent is responsible to document in the records how the market value was determined. This includes retaining copies of advertisements for equivalent goods or services at the time they are provided or used.

[s. 1]

## Political contributions

### What is a political contribution?

---

A political contribution is the amount of money or the value of any property, goods or services provided without compensation by way of donation, advance, deposit, discount or otherwise to:

- a political party
- a constituency association
- a candidate, in relation to that individual's candidacy
- a leadership contestant, in relation to that individual's seeking of the leadership, or
- a nomination contestant, in relation to that individual's seeking of the nomination.

Essentially, a political contribution is any money, goods or services given to any of the above mentioned political entities. This includes, but is not limited to:

- fees paid for conferences or conventions of a political party, including leadership conventions
- membership fees for a political party or constituency association, and
- any money (but not property or services) provided by an individual who is, or intends to become a candidate, nomination contestant or leadership contestant, in relation to that role.

If property or services are provided to any of these political entities at less than market value, or if they are acquired from these entities at greater than market value, the difference between the price paid and market value is a political contribution.

[s. 180]

## What is not a political contribution?

---

- goods or services provided to their own campaign by a candidate, nomination contestant or leadership contestant (note: money provided by such an individual is a political contribution)
- services provided by a volunteer
- property of a volunteer, if it is provided or used in relation to the services of the individual as a volunteer
- property or services provided by an election official, voter registration official, or other Elections BC employee in relation to their official duties
- publishing without charge news, an editorial, an interview, a column, a letter or a commentary in a bona fide periodical publication or a radio or television program
- broadcasting time provided, without charge, as part of a bona fide public affairs program
- producing, promoting or distributing a publication for no less than its market value, if the publication was planned to be sold regardless of the election

[s. 180]

## Who can and cannot make a political contribution?

---

Political contributions can **only** be accepted from eligible individuals. An eligible individual is someone who is a resident of B.C. and either a Canadian citizen or permanent resident.

Political contributions **cannot** be accepted from:

- unincorporated organizations, corporations, or partnerships
- trade unions
- not for profit or charitable organizations, and
- federal political parties or electoral district associations.

Organizations are not permitted to purchase tickets to fundraising functions held on behalf of political parties, constituency associations, candidates or contestants. Furthermore, organizations must not reimburse or refund any person for tickets purchased.

## **Determining market value of contributed property and services**

If property (goods) or services are donated at no cost, the value of the contribution is the market value of the goods or services. The market value is the lowest price charged for an equivalent amount of equivalent property or services in the market area at the time the property or services are provided, including all applicable taxes.

When capital assets are donated, the contribution is the market value of using the property.

In all instances, contributed property and services are political contributions, and therefore can only be provided by eligible individuals and are subject to the applicable contribution limits.

### **Examples:**

1. If an individual provides campaign signs at no charge, the market value would be what a printer would normally charge, including taxes, for those signs.
2. If an individual provides campaign office space at no charge, they are making a contribution equal to the market value of renting the office space.

**Note:** If free advertising space in a periodical publication (magazines, newspapers, etc.) or free broadcast time is provided equitably to all candidates in an election, the value of the advertising is considered nil.

[s. 185]

## **Rules for making and accepting contributions**

There are several important rules which apply to making and accepting contributions.

All contributions must be made to the financial agent, deputy financial agent, or to someone authorized in writing by the financial agent. The financial agent must ensure that all money (regardless of the amount) is deposited in an account in a savings institution, and must not accept contributions that are in contravention of the *Election Act*.

Money that a candidate or contestant provides to their own campaign is treated like any other political contribution. This means that any money a candidate or contestant contributes to his or her own campaign, must be given to the financial agent, and must be recorded and disclosed as such. These contributions are also subject to the applicable contribution limit.

Additional rules for making and accepting political contributions:

Cash contributions:

- must be \$100 or less
- contributions of more than \$100 must be made by cheque, money order, credit card or electronic fund transfer

Contributions by cheque and money order:

- must be signed by the contributor
- must have the contributor's name legibly shown, and
- cheques must be from the contributor's bank account

Credit card contributions:

- must be made with a credit card in the name of the eligible individual making the contribution

Debit or other electronic transfer contributions:

- must be from the contributor's bank account maintained in a savings institution

[s. 186, 187]

### **Indirect contributions**

---

Indirect contributions are strictly prohibited.

Eligible individuals can only make political contributions with their own money, property and services. This means that an individual or organization must not give money, other property, or services to an eligible individual to make as a contribution. Individuals and organizations are also prohibited from providing "consideration" or "reimbursement" to an eligible individual for making a contribution.

There is an exception for individuals. An eligible individual can make a political contribution with the money of another eligible individual, providing that the individual whose money is being used is the contributor, and their name and address must be given to the financial agent, and, if applicable, disclosed in the financial report.

[s. 186]

## Contribution limits for eligible individuals

The total value of political contributions made by an eligible individual must not exceed the limit, as applicable:

Total political contributions given to:	Political party	Constituency associations	Candidates and nomination contestants	Independent candidate	Leadership contestant
<b>Limit</b>	The total of all political contributions to a political party, its constituency associations, candidates and nomination contestants must not exceed \$1,200*.  Also includes contributions to a Member under the <i>Recall and Initiative Act</i> .			The sum of all political contributions to each independent candidate, (including a registered constituency association) must not exceed \$1,200*	The sum of all political contributions to each leadership contestant must not exceed \$1,200*
<b>Period</b>	For the calendar year (January 1-December 31)			For the calendar year (January 1 - December 31)	In relation to the leadership contest

The contribution limits apply to all political contributions, including contributions received at fundraising functions or donated goods and services, except for:

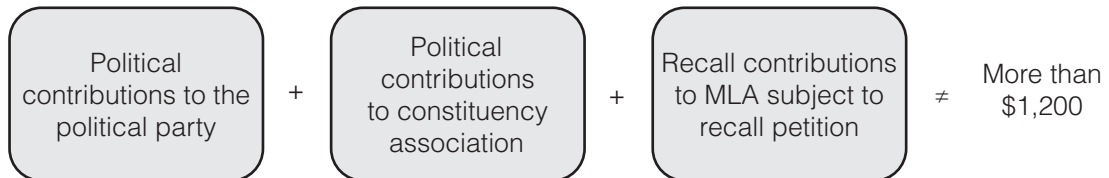
- fees up to \$350\*\* paid to attend a political party annual convention (type 4 contribution)
- fees up to \$350\*\* paid to attend a political party leadership convention (type 5 contribution)
- the amount of money provided by a candidate or contestant to their own campaign for the purpose of paying for personal expenses defined by the *Election Act* (type 6 contribution)

### Contribution limit adjustments for each year:

\*The \$1,200 limit is adjusted for changes to the consumer price index each year. The adjusted contribution limit is published on the Elections BC website (elections.bc.ca) at the start of each calendar year.

\*\*The \$350 exemption will increase by \$10 each year after 2018. The adjusted contribution limit exemption is published on the Elections BC website (elections.bc.ca) at the start of each calendar year.

The contribution limits for political contributions made by an eligible individual to a political party or constituency association also include contributions made under the *Recall and Initiative Act* to a Member of the Legislative Assembly that represents the party. For more information about recall contributions, please see our Guide to the Recall Process.



Contributions made through wills or estates are also subject to the limit. An eligible individual may make a political contribution in a testamentary instrument providing the political contribution is made in one calendar year, and the contributor does not exceed the contribution limit for the year. If the amount of the contribution causes the contributor to exceed the limit (including contributions made prior to the individual's death), the testamentary instrument must be read as if the contribution is for the highest amount that would not cause the individual to exceed the limit for that calendar year.

Financial agents are encouraged to advise all contributors of the limits, and to confirm if they have made previous contributions to the same political party prior to accepting political contributions.

If a contributor has exceeded the contribution limit, the excess amount is a prohibited contribution. There are significant monetary penalties for contributors who exceed a political contribution limit.

### Examples:

1. Nick makes a \$700 political contribution to ABC Party, and then subsequently that year, makes a separate \$500 political contribution to a candidate representing ABC Party.

***Has Nick exceeded the political contribution limit?***

**\$500 + \$700 = \$1,200**

**Answer:** No, Nick has not exceeded the contribution limit, as the total amount of contributions is not more than \$1,200.



2. Later that same year, Nick pays \$300 to attend a fundraising function held by ABC Party.

***Has Nick exceeded the political contribution limit?***

$$\mathbf{\$500 + \$700 + \$300 = \$1,500}$$

**Answer:** Yes, Nick has exceeded the contribution limit, as total political contributions for the year are more than \$1,200.

3. Instead of a fundraising function in example 2, Nick pays \$300 to attend an annual convention held by ABC Party.

***Has Nick exceeded the political contribution limit?***

**Answer:** No, Nick has not exceeded the contribution limit. Although total political contributions for the year are more than \$1,200, the \$300 he paid to attend the annual convention for ABC Party is not subject to the contribution limit.

4. After attending the annual convention in the above example, Nick decides to make a \$600 political contribution to XYZ Party.

Has Nick exceeded the political contribution limit?

Annual convention fee to ABC Party not subject to limit	<b>\$300</b>
Political contributions to ABC Party subject to limit	<b>\$500 + \$700 = \$1,200</b>
Political contributions to XYZ Party subject to limit	<b>\$600</b>
Total payments for the year	<b>\$2,100</b>

**Answer:** No, Nick has not exceeded the contribution limit, as the \$1,200 limit is applied to the total amount of political contributions accepted within each political party affiliation. Nick is able to contribute up to \$1,200 to both ABC Party and XYZ Party.

[s. 186.01]

## **Prior political contributions**

---

Where an eligible individual has made total political contributions of more than \$1,200 prior to January 1, 2018, only up to \$1,200 of that eligible individual's contributions can be used to incur an election expense for a future election or to sponsor a specified communication that promotes or opposes, directly or indirectly, a registered political party or the election of a candidate, including communication messages transmitted outside a campaign period.

For example, if an individual contributed \$5,000 in 2016 and 2017, only \$1,200 may be used towards a specified use. The remaining \$3,800 (\$5,000 - \$1,200) cannot be used to pay for election expenses or specified communications.

Any political contributions received from an ineligible contributor (i.e. corporation, trade union or individual residing outside B.C.) before November 30, 2017 also cannot be used to incur election expenses or specified communications.

[Bill 3, *Election Amendment Act, 2017*, s. 70]

## **Anonymous contributions**

---

Anonymous contributions are not permitted unless the contribution is provided in response to a general solicitation for funds (e.g. passing the hat) at a function held by or on behalf of the organization or individual to whom the contribution is provided and the amount contributed has a value of less than \$50.

Anonymous contributions made by mail, dropped off at an office, or provided in any way other than at a function, are prohibited.

Individuals wishing to donate \$50 or more cannot do so anonymously, and should give the contribution directly to the financial agent, place a cheque in "the hat" rather than cash, or put the contribution in an envelope with the date, amount contributed, and the contributor's name and address printed on the envelope.

An anonymous contribution means that the organization or individual receiving it does not know who made the contribution. An individual cannot request that a contribution be accepted and reported as an anonymous contribution.

The financial agent may want to consider having someone supervise the "passing of the hat" to ensure that no one places a \$50 bill or more in the hat. They should also make it known that if there is a total of \$50 or more contributed anonymously per individual in attendance, the total amount collected by passing the hat will be considered a prohibited contribution.

Prohibited anonymous contributions must be remitted to Elections BC for remittance to the Consolidated Revenue Fund. There are also significant monetary penalties for accepting prohibited anonymous contributions.

## **Example:**

If 30 people attended an event where anonymous contributions were accepted, and \$1,500 was received, the entire \$1,500 would be a prohibited contribution.

- $\$1,500 / 30 \text{ people} = \$50$  each. The value must be less than \$50 per person.

The total amount of anonymous contributions that a registered political party or registered constituency association can accept is \$10,000 in any calendar year.

The total amount of anonymous contributions that a candidate, leadership contestant or nomination contestant can accept is \$3,000 in any one election or contest.

An organization or individual must not accept an anonymous political contribution if this will exceed the limit. Any amount received in excess of the limit is prohibited and must be sent to Elections BC for payment to the Consolidated Revenue Fund. There are also significant monetary penalties for an organization or individual that accepts anonymous political contributions in excess of the limit.

[s. 186, 188]

## **Outstanding debts as political contributions**

---

Any debt, other than a debt that arises from a permissible loan, that remains unpaid for six months after it becomes due becomes a political contribution if the creditor does not make commercially reasonable efforts to collect or recover the debt. This applies to debts owed by:

- a political party
- a constituency association
- a candidate, in relation to an election expense, or
- a nomination contestant or leadership contestant, in relation to a contestant expense

Political contributions can only be received from eligible individuals up to the applicable limit. Therefore, debts that are not repaid to organizations or that have an outstanding balance of more than the contribution limit are prohibited political contributions.

[s. 181.01]

## **Recording requirements for political contributions**

---

The financial agent must record the following information for each political contribution, regardless of the value of the contribution:

- the value of the contribution
- the date the contribution was received
- the full name and residential address of the contributor
- the type of the contribution
  - type 1: a fundraising function ticket sold for more than \$250
  - type 2: property/services purchased at a fundraising function for more than \$250 above market value
  - type 3: property/services donated for sale at a fundraising function with a value greater than \$250
  - type 4: fees paid to attend a political party convention
  - type 5: fees paid to attend a political party leadership convention
  - type 6: contributions provided by candidate/contestant to their own campaign for the purpose of paying for personal expenses
  - type 9: All other contributions
- the date of the fundraising function or convention (for contribution types 1-5)

For all anonymous contributions received, the financial agent must record:

- a description of the function
- the date of the function
- the number of people in attendance, and
- the total amount of anonymous contributions accepted

[s. 190]

## **Reporting requirements for political contributions**

---

Not all of the information that must be recorded about political contributions needs to be disclosed in the financing reports.

Where political contributions are required to be disclosed in financing reports, the report must include the following:

- for each contributor who, during the period covered by the report, made one or more political contributions that in total have a value of more than \$250:
  - the full name of the contributor
  - the residential address of the contributor – this information will not be published by Elections BC
  - the value of the contribution
  - the date the contribution was received
  - the type of contribution
  - if the contribution type is 1-5, the date of the event
- for anonymous contributions:
  - a description of the function at which the contributions were collected
  - the date of the function
  - the number of people in attendance at the function, and
  - the total amount of anonymous contributions accepted
- for all other contributions:
  - the aggregate value of the political contributions received, and
  - the total number of eligible individuals from whom contributions of \$250 or under were received

On request of the Chief Electoral Officer, a contributor must file with Elections BC a solemn declaration that they have not contravened the requirements of the *Election Act*.

[s. 206]

### **Political contribution information must be sent to the political party**

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The *Election Act* requires that registered constituency associations, candidates and nomination contestants must provide political contribution information to the political party to help facilitate reporting and contribution tracking.

The appointed financial agent must send the details of all political contributions accepted to the party's financial agent as follows:

- For contributions accepted by a constituency association, by February 15 of the following calendar year.
- For contributions accepted by a candidate, within 60 days after Final Voting Day for an election.
- For contributions accepted by a nomination contestant, within 60 days after the nomination contest has concluded.

The party needs the political contribution information in order to complete the party's disclosure requirements and ensure eligible individuals have not exceeded the annual contribution limits.

[s. 191]

## Prohibited contributions

---

If the financial agent becomes aware that a political contribution was prohibited (e.g., from an organization, individual who resides outside of B.C., or received anonymously by mail), the financial agent must within 30 days:

- return the contribution or its equivalent value, or
- if it is not possible to return the contribution, send it to Elections BC for payment to the Consolidated Revenue Fund. Cheques should be made payable to the Minister of Finance

If an income tax receipt was incorrectly issued for a prohibited contribution, the financial agent must:

- make every effort to recover the contributor's copy of any tax receipt issued for a prohibited contribution, mark the receipt void and retain the tax receipt for at least five years, or
- if the tax receipt cannot be recovered, advise the Commissioner of Income Tax

The financial agent is responsible to keep a record of each prohibited contribution, including how it was resolved.

The details of all prohibited contributions must be disclosed in the financial reports for the period in which the prohibited contribution was accepted. For each prohibited contribution, the financial agent must report:

- the date the prohibited contribution was received;
- the circumstances for the prohibited contribution, (e.g. amount exceeded contribution limit, received from organization, etc.);
- if the prohibited contribution was received from a specific individual or organization, and the total amount of their contributions is more than \$250, the name and address of the contributor. Note: the address of the contributor will be obscured for public inspection purposes;
- the value of the prohibited contribution; and
- the date the prohibited contribution was either returned or remitted to Elections BC.

### Example:

ABC Party received a contribution on October 15, 2019 from Donald Smith for \$300. This contribution was disclosed by ABC Party on their 2019 annual financial report. In 2020, ABC Party discovers that Donald Smith is not a resident of BC, and therefore, the contribution is

prohibited. ABC Party immediately returns the \$300 contribution to Donald Smith.

### **How should ABC Party report the prohibited contribution?**

**Answer:** The political party will need to disclose the prohibited contribution on its 2019 annual financial report.

If the report has already been filed, they will need to contact Elections BC to file a supplementary report to amend the 2019 annual financial report, so that the \$300 contribution from Donald Smith is reported as a prohibited contribution.

There are significant monetary penalties for failing to return or remit a political contribution that is made in contravention of the *Election Act*.

[s. 189, 220.08]

## Fundraising functions

A fundraising function is an event held for the purpose of raising funds for the organization or individual by whom or on whose behalf the function is held. Not all events where funds can potentially be raised by an organization or individual are fundraising functions. For example, an annual general meeting or social event may not be a fundraising function if raising funds is not the purpose of the event. The financial agent is responsible for determining the purpose of each event and if it is a fundraising function.

[s. 1]

### **Reporting requirements for fundraising functions**

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For each fundraising function, the financial agent is required to report:

- a description of the function
- the date of the function, and
- the cost, gross income and the net income or loss arising from the function



Expenses incurred in holding a fundraising function are not subject to election expenses limits unless the function is held during the campaign period and incurs a loss (deficit). If a deficit is incurred, the value of the deficit is an election expense and is subject to the election expense limit.

If a joint fundraising function is held, only the entities to whom the payments were made, or that incurred the expenses, should report the function.

There are special rules for fundraising functions that define what is and what is not a political contribution. Depending on these rules, a donation at a fundraiser may or may not be a political contribution. These rules are explained later in this section.

[s. 182]

## **Specified fundraising function**

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A specified fundraising function is an event:

- held to raise funds for a major political party or candidate, nomination contestant, leadership contestant or constituency association representing a major political party, and
- attended by a prominent attendee, which includes:
  - a leader of a major political party,
  - a parliamentary secretary, or
  - a member of the Executive Council of British Columbia (i.e., Cabinet)

A major political party is one that has a representative on the Election Advisory Committee established by section 14 of the *Election Act*.

[s. 1]

## **Reporting requirements for specified fundraising functions**

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The details about specified fundraising functions must be reported both **before** and **after** the function:

**At least seven days before the event**, the **host** must report to Elections BC details about the event including:

- the date and time when the event will be held,
- location where the event will be held,
- ticket price(s), and
- names of any prominent attendees.

If an individual or organization hosts a specified fundraising function on behalf of a major political party or candidate, contestant, or constituency association representing a major political party, the host must provide the financial agent all details of the function, including contribution information, **within 30 days after the function**.

**Within 60 days after the event**, the financial agent must report to Elections BC:

- the number of tickets sold,
- the amount of contributions raised from the event, and
- the names of prominent attendees who attended the event.

For a specified fundraising function held at **a private residence**:

- the address and the name of the resident must be reported to Elections BC (this information is not publically available),
- the individual ticket price must be \$100 or less, and
- political contributions, other than those resulting from ticket sales, must not be accepted in relation to the function.

If the individual or organization becomes aware that the information provided to Elections BC has changed or was not accurately reported, the financial agent must provide an amended filing to Elections BC within 30 days.

All specified fundraising functions filings must be published on the Elections BC website, and also included in the financial reports filed by financial agents.

[s. 185.01-185.02]

## Ticket sales

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Only eligible individuals are permitted to purchase tickets to attend a fundraising function. All organizations are prohibited from purchasing tickets to attend a fundraising function, regardless of the ticket price, and cannot reimburse individuals for tickets that they may have purchased.

A ticket sale is a political contribution if:

- an eligible individual buys a ticket to a fundraising function and the ticket price is more than \$50, or
- an eligible individual buys more than one ticket to attend a fundraising function, regardless of the individual ticket price

A ticket sale is not a political contribution if:

- an eligible individual buys a single ticket to a fundraising function and the ticket price is \$50 or less

**Note:** The rules under the *Election Act* and the *Income Tax Act* differ. Only the portion of the ticket price that exceeds the reasonably estimated cost of the event, on a per person basis, is the eligible political contribution for income tax receipting purposes.

[s. 182]

### Examples:

1. Al buys two tickets to a \$45 fundraising dinner held by a registered political party.

***Has Al made a political contribution?***

**Answer:** Al has made a political contribution for purposes of the *Election Act* because he purchased more than one ticket for the fundraising function. This means that the money Al paid is recorded and disclosed as a political contribution.

2. Sally buys a single ticket to the same \$45 fundraising dinner.

***Has Sally made a political contribution?***

**Answer:** Sally has not made a political contribution for purposes of the *Election Act* because the ticket price is not more than \$50. This means the amount Sally paid is not recorded or disclosed as a political contribution, but is recorded and reported as fundraising income.

3. Assume that the estimated cost of the fundraising dinner that Al and Sally purchased tickets for was \$30 per person.

***What is the value of Al and Sally's income tax receipts for this fundraising function?***

**Answer:** Although not all ticket sales are political contributions under the *Election Act*, both Al and Sally can be issued income tax receipts for eligible political contributions under the *Income Tax Act*. The eligible political contribution is equal to the ticket price paid less the reasonable estimated cost per person of the event.

- **Al:** 2 tickets x (\$45-\$30) per ticket = \$30 eligible for income tax receipt
- **Sally:** 1 ticket x (\$45-\$30) per ticket = \$15 eligible for income tax receipt

4. Now assume that the estimated cost of the fundraising dinner that Al and Sally purchased tickets for was \$45 per person.

***What is the value of Al and Sally's income tax receipts for this fundraising function?***

**Answer:** Neither Al nor Sally are able to receive an income tax receipt, as the ticket price paid does not exceed the per person cost of the fundraising function.

### **Auction items and other sales**

---

Donations and sales at auctions can result in political contributions if:

- property or services that are donated for sale at a fundraising function and have a total market value of more than \$250, or
- if property or services are purchased at a fundraising function at greater than market value, the difference between the price paid and the market value is a political contribution.

**Note:** Income tax receipts can only be issued for eligible monetary contributions and cannot be issued for contributions of goods or services.

The value of property or services that purchased for less than market value are not political contributions, but must be reported as other fundraising function income.

[s. 182]

## Examples:

1. Jerry donates an espresso machine with a fair market value of \$175 for sale at a fundraising function.

### ***Has Jerry made a political contribution? What value?***

**Answer:** No, Jerry has not made a political contribution because the espresso machine was donated for resale and is not worth more than \$250.

2. Assume the espresso machine that Jerry donated is purchased by Jennifer for \$70.

### ***Has Jennifer made a political contribution? What value?***

**Answer:** No, Jennifer has not made a political contribution because the market value of the espresso machine is \$175 and any amount paid up to and including market value is not a political contribution.

3. Assume the espresso machine that Jerry donated is purchased by Nancy for \$275.

### ***Has Nancy made a political contribution? What value?***

**Answer:** Yes, Nancy has made a political contribution of \$100. Nancy is also eligible to receive an income tax receipt for her \$100 political contribution.

- $\$275 \text{ price paid} - \$175 \text{ market value of espresso machine} = \$100 \text{ contribution}$

## Lotteries and raffles

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Individuals and organizations are not permitted to use lotteries, raffles or any other gambling-type activity for political fundraising. It is illegal to conduct these activities without a provincial license, and the Province of British Columbia will not issue such a license for the purpose of political fundraising.

To obtain more information surrounding the requirements for gambling licenses, contact the Gaming Policy and Enforcement Branch.

## Income tax receipts

The British Columbia *Income Tax Act* and the *Election Act* both govern income tax receipts and both Acts must be followed.

Income tax receipts can **only** be issued for contributions of money and cannot be given for political contributions of property or services.

Financial agents are not required by the legislation to issue income tax receipts for all eligible political contributions, and can establish a minimum dollar amount for issuing income tax receipts.

Elections BC does not provide income tax receipts. Candidates, registered political parties and registered constituency associations must have their own tax receipts printed. Examples are provided on pages 36 and 37.

If an income tax receipt was inadvertently issued for a prohibited political contribution or a political contribution of property or services, the financial agent must:

- use their best efforts to recover the contributor's copy of the tax receipt
- mark the receipt void
- retain the tax receipt for at least five years
- advise Elections BC and the Commissioner of Income Tax if they are unable to recover the tax receipt, and
- keep a record of any prohibited contributions and how each instance was resolved

[s. 192]

### Calculation of income tax credits

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The amount of the political contribution personal income tax credit is established by the *Income Tax Act*.

Currently, the maximum annual tax credit is \$500 and a taxpayer must contribute at least \$1,150 to receive the maximum tax credit.

## **For contributions to candidates**

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For candidates, income tax receipts may only be issued for contributions of money received after the candidate has been issued a certificate of candidacy by Elections BC. Contributions received before that date, or after the date of the return of the writ of election, are not tax receiptable.

Candidates are entitled to receive income tax receipts for political contributions of money to their own campaign if:

- they contributed money during the eligible period
- the money must be given to the financial agent and deposited into the campaign account

**Note:** Income tax receipts cannot be issued for expenses paid directly by the candidate out of their own pocket, or for contributions of property or services.

## **For contributions to registered political parties and constituency associations**

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Registered political parties and registered constituency associations can issue income tax receipts for contributions of money received by the organization at any time. However, a political party or constituency association cannot issue income tax receipts for political contributions received during the period in which they were suspended.

Registered political parties and registered constituency associations must not issue income tax receipts on behalf of potential candidates, nomination contestants or leadership contestants.

### **For contributions to potential candidates, nomination or leadership contestants**

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Income tax receipts **cannot** be issued for contributions to potential candidates, nomination contestants or leadership contestants. British Columbia's *Income Tax Act* only permits candidates who have been issued a certificate of candidacy, registered political parties and registered constituency associations to issue income tax receipts.

Political contributions made to nomination contestants and leadership contestants are not eligible for income tax receipts.

### **Content requirements for income tax receipts**

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Income tax receipts must meet the requirements of the *Income Tax Act* and Regulations. If any of the content requirements are missing from an income tax receipt, it will be invalid for tax credit purposes.

All income tax receipts **must** indicate:

- that it is a receipt for British Columbia income tax purposes
- the serial number of the receipt (receipts must be preprinted with sequential serial numbers)
- the amount of the eligible political contribution
- the date on which the political contribution was received
- the name and address of the person making the contribution including, in the case of an individual, the full name of the individual, and
- the signature of the financial agent

Receipts for contributions to **candidates must also** indicate:

- the name of the candidate, and
- the electoral district in which the candidate is seeking election and the date of Final Voting Day



Receipts from **registered political parties or registered constituency associations must also** indicate:

- the name of the organization as registered with Elections BC, and
- the identity number assigned to the organization by Elections BC (i.e., the registration number of the organization)

Rules regarding preprinted receipts:

The Commissioner of Income Tax will accept receipts with the signature of the financial agent printed on the receipt. If preprinted signatures are used, financial agents are strongly encouraged to take extra security measures with such receipts.

Using a single receipt for multiple contributions:

The Commissioner of Income Tax will accept a single date as the date received for multiple contributions as long as the receipt clearly indicates the taxation year in which the contributions were received.

Income tax receipts must have at least two parts:

- the original must be given to the taxpayer for attachment to the taxpayer's tax return
- one copy must be kept by the financial agent as part of the financial records, and
- if the receipt is for a contribution to a candidate endorsed by a registered political party, a copy of the receipt must be sent to the party's financial agent with the political contribution details

Replacement receipts:

If a replacement receipt is issued for a previously issued receipt, the replacement must:

- clearly indicate that it is a replacement, and
- indicate the serial number of the original receipt

## Sample receipts

For candidates:

<b>Official Receipt for British Columbia Income Tax Purposes</b> (serial number) _____	
Receipt for a contribution to the campaign to elect _____ <i>(name of candidate)</i>	
Identity number: _____ <i>(registration number for candidate)</i>	Issued at: _____
Date received: _____	Date issued: _____
We acknowledge, with thanks, your contribution of: \$ _____	
Contributed by (please print):	
Name: _____	
Street: _____	
City: _____	
Postal Code: _____	
_____ <i>Signature of Financial Agent</i>	
Electoral District: _____	Date of Final Voting Day: _____

For registered political parties or constituency associations:

<b>Official Receipt for British Columbia Income Tax Purposes</b> (serial number)	
Receipt for a contribution to _____ <i>(name of registered constituency association or registered political party)</i>	
Identity number: _____ <i>(registration number for constituency association or political party)</i>	Issued at: _____
Date received: _____	Date issued: _____
We acknowledge, with thanks, your contribution of: \$ _____	
Contributed by (please print):	
Name: _____	
Street: _____	
City: _____	
Postal Code: _____	
_____ <i>Signature of Financial Agent</i>	

## Transfers

Non-reciprocal movements of money, goods or services within a party organization are recorded and disclosed as transfers, rather than as political contributions.

This applies to money, goods or services received by a:

- **candidate** from:
  - the registered political party
  - a registered constituency association
  - another candidate, or
  - a nomination contestant of the same registered political party.
- **registered constituency association** from:
  - the registered political party
  - another registered constituency association
  - a candidate or nomination contestant who represents the political party.
- **registered political party** from:
  - a registered constituency association
  - a leadership contestant
  - a nomination contestant or candidate who represents the political party
- **leadership contestant** from
  - the registered political party
- **nomination contestant** from:
  - the registered political party

Unregistered political parties and unregistered constituency associations are not permitted to transfer money, goods or services to candidates or contestants.

[s. 180]

## **Recording and reporting transfers**

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At the time a transfer is received or given, the financial agent must record:

- the date of the transfer
- the entity the transfer was received from or given to
- the value of the transfer

Goods or services that are transferred from one entity to another should be recorded at market value.

All of the above information must be included in the financial report(s) filed with Elections BC.

# **Expenses**

## **What is an election expense?**

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An election expense is the value of property or services used during the campaign period by or on behalf of:

- a candidate
- a registered constituency association, or
- a registered political party

to promote or oppose, directly or indirectly, a registered political party, or the election of a candidate.

This definition means that most things used in an election are election expenses, even if the items were purchased before the election was called.

[s. 183]

### **What is not an election expense?**

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- services provided by a volunteer
- property of a volunteer if it is provided or used in relation to the services of the individual as a volunteer
- goods produced by an individual as a volunteer from the property of the individual
- services provided by a candidate in relation to that individual's candidacy
- goods produced by a candidate in relation to that individual's candidacy from the property of the candidate
- property or services provided by an election official, a voter registration official or other member of Elections BC's staff in relation to their official duties
- publishing without charge news, an editorial, an interview, a column, a letter or a commentary in a bona fide periodical publication or a radio or television program
- broadcasting time provided, without charge, as part of a bona fide public affairs program, or
- producing, promoting or distributing a publication for no less than its market value, if the publication was planned to be sold regardless of the election

**Note:** Volunteers are individuals who voluntarily perform the services and who receive no compensation, directly or indirectly, in relation to the services or time spent providing the services. This means that employers cannot continue to pay people while they are working as volunteers.

If an individual uses paid vacation time to work on a campaign, they are a volunteer as long as they have not been directed by their employer to provide the services and the employer does not provide any extra vacation or leave.

## Reimbursement of election expenses

Candidates and political parties that receive a specified percentage of votes in an election are eligible to submit a claim to be reimbursed for 50% of incurred election expenses, up to a maximum of 50% of the election expenses limit.

To be eligible for the election expense reimbursement, a candidate or political party must receive:

	In relation to a by-election	In relation to a general election
Candidate	At least 10% of valid votes cast in the electoral district	At least 10% of valid votes cast in the electoral district
Political party	At least 10% of valid votes cast in the electoral district	At least 5% of valid votes cast in the most recent general election

An eligible candidate or political party must submit with the election financing report a claim for reimbursement, including all financial records and receipts supporting the claim. The claim and supporting documentation must clearly identify all reimbursable election expenses.

The value of a reimbursable election expense is the **lesser of**:

- the price paid for the property or services, or
- the market value of the property or services.

For a capital asset, the price paid for using the property or the market value of using the property.

Not all election expenses are eligible for reimbursement. Reimbursement claims cannot be submitted for:

- property or services that are provided to a candidate or political party as a political contribution;
- property or services that are not used during the campaign period;
- property that was reused, and reimbursed in a previous election;
- donations and gifts paid from the campaign account;

- expenses incurred exclusively for the day-to-day administration of a registered political party or constituency association;
- expenses related to fundraising activities, including the cost of purchasing goods that will be sold for the purpose of raising funds or cost of hosting a fundraising function;
- a deficit incurred in holding a fundraising function during the campaign period;
- cost of purchase of intoxicants, including alcohol and cannabis; and
- any salaries paid by a campaign to the candidate, including benefits.

The nomination deposit does not need to be claimed as a reimbursable election expense since the full nomination deposit will be refunded by Elections BC to the financial agent if the election financing report is filed by the deadline.

Once Elections BC has received the election financing report, including the reimbursement claim and supporting source records/receipts, Elections BC will pay to the financial agent an advance of 50% of the reimbursement claim.

The remainder of the reimbursement will be paid as soon as Elections BC has completed a review of the election financing report and supporting records. The amount of the second reimbursement payment will be adjusted if the financial agent has claimed election expenses that are not eligible for reimbursement. In the event that the initial advance of the reimbursement exceeds the amount the candidate or political party is entitled to, the overpayment must be repaid to Elections BC.

If a candidate is eligible to receive a reimbursement for election expenses, the financial agent must use those funds to fully satisfy any loan, debt or financial obligation in relation to the candidate's campaign.

[s. 215.04, 215.05]



**Example:**

1. John received sufficient votes in an election to be eligible to submit a claim to be reimbursed for his election expenses. John submitted a claim of \$30,000 in reimbursable election expenses with his election financing report, including all supplementary records and receipts.

***When will John receive his reimbursement, and for how much?***

**Answer:**

Upon being satisfied that sufficient information has been provided, Elections BC will pay to the appointed financial agent a reimbursement advance of 50% of the claim.

Total reimbursable election expenses	\$30,000
Maximum reimbursement claim (50% of reimbursable election expenses)	\$15,000
Reimbursement advance payment (50% of claim)	\$ 7,500

The remainder of the reimbursement claim ( $\$15,000 - \$7,500 = \$7,500$ ) will be issued after Elections BC has completed a review of the election financing report and all supporting documentation, and is satisfied that all requirements under the *Election Act* have been met.

The amount of the final reimbursement payment will be adjusted if during the review, Elections BC determines that election expenses that are not eligible for reimbursement have been included as part of the claim.

2. During the review, Elections BC determines that John's claim for reimbursement incorrectly includes \$5,000 for goods and services that were donated to his election campaign.

***How much will be John's final reimbursement payment?***

**Answer:**

Actual reimbursable election expenses	\$25,000
Maximum reimbursement claim (50% of reimbursable election expenses)	\$12,500
Less: Reimbursement advance payment	\$ 7,500
Final reimbursement payment with adjustment	\$ 5,000

## **Contestant expenses**

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A contestant expense is the value of property or services used by, or on behalf of a nomination contestant or a leadership contestant to promote or oppose, directly or indirectly, the selection of the contestant. For certainty, a contestant expense includes an expense incurred by an individual who becomes a leadership contestant or nomination contestant before that individual in fact became a contestant.

A deficit incurred in holding a fundraising function for or on behalf of a contestant is a contestant expense.

### What is not a contestant expense?

- services provided by a volunteer
- property of a volunteer if it is provided or used in relation to the services of the individual as a volunteer
- goods produced by an individual as a volunteer from the property of the individual
- services provided by the contestant
- goods produced by the contestant from the property of the contestant
- property or services provided by an election official, a voter registration official or other Elections BC's staff in relation to their official duties
- publishing without charge, news, an editorial, an interview, a column, a letter or a commentary in a bona fide periodical publication or a radio or television program
- broadcasting time provided, without charge, as part of a bona fide public affairs program, or
- producing, promoting or distributing a publication for no less than its market value, if the publication was planned to be sold regardless of the contest

## What is a personal expense?

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Personal expenses are specifically defined by the *Election Act*, and include the following expenses of a candidate or contestant, provided they are reasonable:

- payment for care of a child or other family member for whom the candidate or contestant is normally directly responsible
- the cost of travelling to, within or from the electoral district
- the cost of lodging, meals and incidental charges while travelling
- the cost of renting a temporary residence if it is necessary for the election or contest, or
- expenses incurred as a result of any disability of the candidate or contestant, including the cost of any individual required to assist the individual in performing the functions necessary for seeking election.

[s. 183]

## Incurring and paying election and contestant expenses

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Election and contestant expenses must only be incurred if:

- the individual paying the expense is the financial agent or an individual authorized in writing by the financial agent, and
- they are paid out of the property of the organization or individual for whom it is incurred (i.e., from the applicable bank account or reimbursed from the bank account if someone paid the expense and produces the receipt)

The requirement for the financial agent or authorized individual to pay the expense does not apply to a candidate or contestant's personal expenses. These may be paid directly by the candidate or contestant.

As a reminder, political contributions received from contributors prior to November 30, 2017, who are not from eligible individuals or in excess of \$1,200, cannot be used for specified uses, including incurring future election expenses or transmitting specified communications to the public.

The financial agent of a political party may incur an expense on behalf of a nomination contestant, leadership contestant or candidate, but must notify the financial agent of those expenses and they must be included in the candidate or contestant's financial report. For a candidate, this must be done within 60 days after Final Voting Day, and for a contestant, must be done within 60 days after the contest has concluded.

[s. 193, 201]

### **Constituency associations incurring expenses on behalf of candidates**

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A registered constituency association can only incur election expenses if:

- the expenses are made on its candidate's behalf, and
- the expenses are incurred during the campaign period

Any such expenses incurred by a registered constituency association are attributed to the candidate's expenses limit and must be disclosed as an expense in the candidate's election financing report and as a transfer received from the registered constituency association.

**Note:** Instead of the registered constituency association incurring expenses on behalf of a candidate, Elections BC encourages the constituency association to transfer funds to the candidate's campaign account so the financial agent for the candidate can incur and pay the expense.

[s. 200]

### **Political parties incurring expenses on behalf of candidates**

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If a registered political party incurs an election expense for the primary purpose of promoting a particular candidate, the election expense is deemed to be the candidate's expense and must be recorded and disclosed as such, unless the candidate is the party's leader.

Likewise, if the registered political party incurs an election expense for promoting several candidates, the election expense must be divided appropriately and attributed to the applicable candidates.

However, if the election expense is incurred by the registered political party for the primary purpose of promoting the leader of the party, it is a party election expense and not a candidate expense.

**Note:** Instead of the registered political party incurring expenses on behalf of a candidate, Elections BC encourages the political party to transfer funds to the candidate's campaign account so the financial agent for the candidate can incur and pay the expense.

[s. 201]

## Recording expenses

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The financial agent must:

- ensure that all election expenses, contestant expenses and other expenditures are properly recorded to allow compliance with the reporting requirements of the *Election Act*
- ensure that all expenditures are paid from the account in a savings institution (i.e. the bank account)
- make every reasonable effort to ensure that all expenditures greater than \$25 are documented by a statement setting out the particulars of the expenditure (i.e. an invoice, receipt or bill), and
- keep track of political contributions of goods and services that are used by the campaign so that the election expense is properly recorded and reported.

[s. 177]

## Expenses limits

Election expenses limits apply to the value of election expenses used by or on behalf of candidates and political parties during the campaign period. The election expense limits are adjusted for changes to the consumer price index (CPI) at the start of the election.

An additional amount is also added if the length of the campaign period is longer than 28 days. The additional amount added to the base election expense limit is equal to ½ of the daily limit for each additional day added to the campaign period.

Adjusted amounts will be published on the Elections BC website, in the B.C. Gazette and communicated to registered political parties, registered constituency associations and candidates at the start of an election.

[s. 196-200, 204]

### **Political party election expenses limit**

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For a general election, the election expenses limit for a registered political party is calculated as \$1.16 per registered voter during the campaign period (the period from when the writ is issued up to the close of voting on Final Voting Day).

For a by-election, the total value of election expenses incurred by a registered political party during the campaign period must not exceed \$58,000.

The limit will be adjusted for changes to the CPI and the length of the campaign period if it is longer than 28 days.

If a campaign period in an electoral district is extended due to the death of a candidate, the expenses limit with respect to the electoral district in question is increased by \$58,000.

There are serious consequences for exceeding these limits.

[s. 198]

## **Candidate election expenses limit**

---

For a general election or a by-election, the election expenses limits for a candidate is \$58,000 for the campaign period.

The limit will be adjusted for changes to the CPI and the length of the campaign period if it is longer than 28 days.

If a campaign period in an electoral district is extended due to the death of a candidate, the expenses limit is:

- \$58,000 for a candidate who is nominated after the date the new election proceedings are started, and
- \$116,000 for a candidate who was nominated before the new election proceedings were started.

There are serious consequences for exceeding these limits.

[s. 199]

## **Contestant expense limit**

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The *Election Act* does not establish spending limits for nomination or leadership contestants; however, political parties may impose limits on their own contestants. Spending limits established by political parties are not enforced by Elections BC.

If during a campaign period, a candidate for a registered political party incurs nomination contestant expenses that in total exceed 10% of the candidate's election expenses limit, the excess is deemed to be an election expense of the candidate and subject to the candidate's election expense limit. For this purpose, the personal contestant expenses are not to be included as contestant expenses.

[s. 184]

## **Constituency association election expenses limit**

---

A registered constituency association cannot incur election expenses on its own behalf.

Since any election expenses incurred by a constituency association must be on behalf of their candidate and be reported by the candidate, constituency associations do not have a separate election expenses limit. If this occurs:

- the constituency association reports the value of the expense as a transfer given to the candidate
- the candidate reports a transfer received and the applicable election expense, and the expense is counted against the candidate's election expenses limit

[s. 200]

## **Expenses not to be included in expenses limits**

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The following expenses are not subject to the election expenses limit:

- the nomination deposit of a candidate
- personal election expenses of a candidate
- legal or accounting services provided to comply with the *Election Act*
- services provided by a financial agent or auditor in that capacity
- the cost of any communication that a registered political party or a registered constituency association sends exclusively to its members
- the cost of any communications a candidate sends exclusively to members of their registered political party or registered constituency association
- expenses incurred in holding a fundraising function (unless the fundraising function is held during the campaign period and incurs a net loss, in which case the amount of the loss is an election expense subject to the expenses limit)
- expenses incurred exclusively for the day-to-day administration of a registered political party or a registered constituency association



- interest on a loan for election expenses to a candidate, registered constituency association or registered political party
- the cost of any communications, other than a communication in relation to a fundraising function, transmitted to the public by any means for the primary purpose of raising funds for the organization or individual by whom or on whose behalf the communication was transmitted
- the portion of transportation costs and costs for food, refreshments and communications equipment for which a political party or candidate is reimbursed by media representatives accompanying election tours, or
- the cost of security services, if the individuals engaged in providing the services do not, while providing those services,
  - carry or wear flags, badges or any other item indicating that the individual promotes or opposes a particular candidate or registered political party, or
  - engage in any campaigning
    - to promote or oppose, directly or indirectly, the election of a candidate, or
    - to promote or oppose, directly or indirectly, a registered political party, including engaging in discussions of a partisan nature

An election expense that is not subject to the expenses limit is still subject to all other provisions of the *Election Act*.

[s. 203]

### **Candidate who incurs election expenses over limit**

---

A candidate whose election expenses exceed the applicable election expenses limit is subject to penalties. However, a candidate may apply to the Supreme Court for relief from these penalties.

Unless relief is granted by a court:

- the candidate must pay to the Chief Electoral Officer a penalty of double the amount by which the election expenses exceed the limit, and
- if the candidate is declared elected as a Member of the Legislative Assembly, the Member ceases to hold office and the seat becomes vacant.

Furthermore, financial agents or candidates who incur election expenses in excess of the election expenses limit commit an offence and are liable to a fine of not more than \$10,000 or imprisonment for a term not longer than one year, or both.

[s. 217, 263]

### **Political party that incurs election expenses over limit**

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A registered political party whose election expenses exceed the applicable election expenses limit is subject to penalties. A registered political party may apply to the Supreme Court for relief from these penalties.

Unless relief is granted by a court, a registered political party:

- must pay to the Chief Electoral Officer a penalty of double the amount by which the election expenses exceed the limit, and
- must have their registration suspended by the Chief Electoral Officer for a period of six months

Furthermore, financial agents or political parties that incur election expenses in excess of the election expenses limit commit an offence and are liable to a fine of not more than \$10,000 or imprisonment for a term not longer than one year, or both.

[s. 218, 263]

## Candidate surplus election funds

If, after all campaign-related expenditures are paid, there is money left in a candidate's campaign bank account, it must be transferred as follows:

- to the candidate's registered constituency association if there is one
- to the registered political party if there is no registered constituency association and the candidate represented the party, or
- to Elections BC if there is no registered political party or registered constituency association

Funds transferred to Elections BC will be held in trust and paid to the candidate's financial agent if the candidate runs in the next general election or a by-election called before then.

[s. 210.01]

## Nomination contestant surplus funds

If, after all contestant expenditures are paid, there is money left in the contest bank account, it must be transferred as follows:

- in the case of a successful nomination contestant to:
  - the nomination contestant as the candidate
  - the registered political party, or
  - the registered constituency association for the candidate
- in the case of an unsuccessful nomination contestant to:
  - the registered political party
  - a candidate representing that registered political party, or
  - the registered constituency association

[s. 211.02]

## Election advertising

### What is election advertising?

---

For registered political parties and candidates, election advertising is:

The transmission to the public by any means during the campaign period of an advertising message that promotes or opposes, directly or indirectly, a registered political party or the election of a candidate, including an advertising message that takes a position on an issue with which a registered political party or candidate is associated, or canvassing voters on a commercial basis to attempt to influence how they vote.

[s. 1]

### Activities that can be election advertising

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The definition of election advertising is broad, and in some cases it can be difficult to determine if an item or activity is election advertising. Examples of election advertising activities include:

- television, radio, newspaper or magazine advertisements
- signs, billboards, posters, mailing inserts, bumper stickers, branded clothing, branded objects, displays, exhibitions and public address announcements
- telephone calls, text messages and voicemail messages sent using an automated system (e.g. robocalls)
- newsletters, brochures, or other advertising media that are sent to the public
- Internet pay-per-click ads, banner ads, display ads, pop-up or pop-under ads, pre-roll video ads, boosted social media, search engine optimization, etc.
- canvassing voters, in person or by telephone, if done on commercial basis

## Activities that are not election advertising

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- messages on the Internet that do not and would not normally have a placement cost (examples include: websites and individual posts on Facebook, Instagram, Snapchat, Twitter, etc.)
- the publication without charge of news, an editorial, an interview, a column, a letter, a debate, a speech or a commentary in a bona fide periodical publication or a radio or television program
- the distribution of a book, or the promotion of the sale of a book, for no less than its commercial value, if the book was planned to be made available to the public regardless of whether there was to be an election
- the transmission of a document directly by a person or a group to their members, employees or shareholders
- the transmission by an individual, on a non-commercial basis on the Internet, or by telephone or text messaging, of the individual's personal political views

[s. 1]

## Election advertising by third party sponsors

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A third party sponsor is an individual or organization, other than a candidate, registered political party or registered constituency association that sponsors election advertising during a campaign period, or a pre-campaign period for a fixed-date general election.

**Note:** the pre-campaign period does not apply for by-elections or general elections not conducted in accordance with section 23(2) of the *Constitution Act*.

Pre-campaign period election advertising is the transmission to the public by any means during the 60 day pre-campaign period by a third party sponsor of an advertising message that directly promotes or opposes a registered political party or the election of a candidate. Pre-campaign period election advertising does not include indirect or issue based advertising messages.

[s. 1, 239]

### **No election advertising with third party sponsors**

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Candidates, political parties, constituency associations and their agents must be independent of third party sponsors and must not sponsor election advertising together with any third party sponsor. This means that campaigns and third party sponsors cannot:

- coordinate or cooperate on election advertising
- share strategies or plans
- share campaign material
- distribute each other's materials
- provide or receive direction or suggestions

[s. 239]

### **No indirect sponsorship of election advertising**

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An individual or organization must not sponsor election advertising with the property of any other individual or organization, or indirectly through any other individual or organization.

[s. 230]

### **Requirement for authorization statement on election advertising**

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Most election advertising must contain an authorization statement that identifies the sponsor's financial agent and provides a B.C. telephone number or mailing address where the financial agent can be contacted about the advertising. For messages sponsored by a registered political party, the name of the party can be used. Candidates may list the name and phone number of their own financial agent, or of the financial agent for the registered political party which they represent. For messages that are sponsored by more than one candidate, each candidate's authorization is required. For example:

#### **Registered political parties**

- Authorized by John Smith, financial agent, 604-123-4567
- Authorized by ABC Political Party, 250-987-6543

## Candidates

- Authorized by Ray Lee, financial agent, 604-123-4567

## Two or more candidates

- Authorized by Anita Singh, financial agent, 604-123-4567; Li Wong, financial agent, 604-987-6543

If a person is paid to canvass voters, either in person or by telephone, similarly the canvasser must provide voters with the name of the candidate and indicate that the advertising has been authorized by the financial agent.

[s. 231, 231.01]

## Advertising exempt from authorization statement requirement

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The authorization statement is not required for election advertising on the following items:

- clothing (e.g. shirts, sweaters, vests, jackets, hats, etc.)
- novelty items, including wearable novelty items (e.g. buttons, badges, pins, brooches, stickers, wristbands, necklaces, etc.)
- small items of nominal value that are intended for personal use (e.g. pens, mugs, magnets, key-chains, notepads, etc.)

[s. 231]

## Authorization policy for advertising on the Internet

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Elections BC recognizes that it is not practical for registered political parties and candidates to include the authorization statement within certain election advertising on the Internet due to the space and character limitations imposed by some message formats (e.g. pay-per-click ads).

For Internet election advertising, the authorization statement is not required to be contained within the advertising message if selecting (i.e. clicking, finger-tapping) the advertising message sends the viewer to a website, landing page or profile page which contains the sponsor's required authorization statement.

### **Authority to remove unauthorized and restricted advertising**

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If an election advertising message does not have the required authorization statement, Elections BC may require the advertising to be discontinued, or removed and destroyed. Elections BC can remove and destroy unauthorized election advertising without notice.

Similarly, if election advertising or any material that identifies a candidate, registered political party or registered constituency association is located within 100 metres of a building that contains a District Electoral Office or a voting place where advance or final voting is taking place, a District Electoral Officer, or someone authorized by a District Electoral Officer, may enter the property and remove or cover/obscure the election advertising or material.

[s. 231, 234]

### **Where and when election signs may be placed**

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**Important safety note:** Placing or erecting election signs by digging or driving stakes into the ground can pose a safety hazard to sign installers and to underground infrastructure (e.g. gas lines and other utilities). Before placing election signs, you may wish to contact BC One Call (1-800-474-6886 or [bconecall.bc.ca](http://bconecall.bc.ca)) to determine if there are risks in your area. This service is free of charge and is not associated with Elections BC.

The timing and placement of election signs are regulated by the *Election Act*, by local municipalities, and for signs on provincial highways, by the *Transportation Act*.

Election signs may not be placed in or within 100 metres of the building where a District Electoral Office is located, or in or within 100 metres of a building where a voting place is located while advance or final voting is being conducted.

Election signs may be placed as follows:

- Public property: contact your municipality to determine if there are by-laws on where and when election signs can be placed on municipal public property.
- Private property: election signs may be placed or removed at the discretion of the property owner, subject to municipal or other by-laws.
- Rental or strata property: election signs must be allowed to be placed on the premises to which a renter's tenancy agreement relates, and must be allowed on the premises of an owner or tenant's strata unit. However, landlords, strata corporations and their agents may set reasonable limits on the sizes and types of election signs which are permitted, and may restrict placement in common areas.



- Provincial highways: the Ministry of Transportation and Infrastructure’s election sign policy provides that election signs:
  - must only be installed after the election is called, and must be removed the next working day after Final Voting Day
    - signs not removed by the owners on the next working day following the election will be removed by maintenance contractors. Maintenance contractors will invoice the owner of the signs for the cost of removal.
  - must be farther from the road than standard traffic signs, and must not obstruct, simulate or be attached to any traffic control device (e.g. signs, posts, polls)
  - must not be placed on bridges, overpasses, tunnels or other highway structures
  - must not be placed on the following provincial highways:
    - Highways within Provincial Parks
    - Highway 1, from Horseshoe Bay to Hope
    - Highway 5, from Hope to Kamloops
    - Highway 19, from Duke Point Ferry Terminal to Trans-Canada Highway
    - Highway 19 – Nanaimo Parkway, from Trans-Canada Highway to Island Highway
    - Highway 19, Parksville to Campbell River
    - Highway 91 and 91A
    - Highway 99, from the US border to Horseshoe Bay
    - Highway 17, from Tsawwassen ferry terminal to Highway 99, and
    - Highway 97C, from Aspen Grove to Peachland

There may be additional rules at the municipal level regarding where signs may be placed. Authorized participants are advised to check for municipal by-laws regulating the placement of signs in any municipality.

### **Campaigning and canvassing in rental or strata properties**

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Election signs must be allowed to be placed within the premises to which a renter's tenancy agreement relates, and must be allowed on the premises of a strata unit. However, landlords, strata corporations and their agents may set reasonable limits on the sizes and types of election signs which are permitted, and may restrict placement in common areas.

For the purpose of canvassing voters and distributing candidate or political party information, candidates can authorize individuals to act as authorized canvassers.

Housing cooperatives, landlords, strata corporations, and their agents are not permitted to unreasonably restrict access to candidates or their authorized canvassers between 9 a.m. and 9 p.m. during the campaign period, providing that the canvasser produces:

- government issued photo identification
- written authorization from the candidate

[s. 228.01, 228.1]

### **Restriction on campaigning near election offices and voting places**

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During a campaign period, the 100 metres surrounding the building where a District Electoral Office is located is a restricted area where individuals and organizations must not post, display or disseminate:

- any campaign period election advertising, or
- any material that identifies a candidate, registered political party or registered constituency association, unless authorized by the District Electoral Officer

**Example:** Displaying a poster in the restricted area which lists the names of registered political parties or candidates seeking election would require the permission of the District Electoral Officer before posting, even if the ad is neutral (e.g. a notice of an all candidates meeting).

Likewise, while advance or final voting is being conducted, the 100 metres surrounding each building that contains a voting place is a restricted area. Individuals and organizations must not do any of the following in these restricted areas:

- post, display or disseminate:
  - any campaign period election advertising, or
  - any material that identifies a candidate, registered political party or registered constituency association, unless authorized by the District Electoral Officer
- canvass or solicit votes or otherwise attempt to influence how a voter votes
- carry, wear or supply a flag, badge or other item indicating that the individual using it is a supporter of a particular candidate or registered political party
- post, display, disseminate or openly leave a representation of a ballot marked for a particular candidate or registered political party

Individuals and organizations are also prohibited from transmitting campaign period election advertising using a loudspeaker or public address system within hearing distance of a voting place while advance or final voting is being conducted.

If these rules are contravened, the District Electoral Officer or another election official has the authority to enter the property where the materials are located to remove or obscure these materials.

[s. 234]

### **Election advertising restrictions on Final Voting Day**

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Individuals and organizations must not sponsor or agree to sponsor, or publish, broadcast or transmit to the public campaign period election advertising on Final Voting Day before the close of all voting stations. The following are exceptions to the ban on election advertising on Final Voting Day:

- a notice of an event that the leader of a registered political party intends to attend
- an invitation to meet or hear the leader of a registered political party
- an Internet message that was posted before Final Voting Day and that is not changed until after the close of voting
- the distribution of pamphlets or the posting of messages on signs, posters or banners
- an Internet message that is for the sole purpose of encouraging voters to vote in the election

[s. 233]

### **Restriction on rates charged for registered political parties and candidates**

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Registered political parties, registered constituency associations and candidates must be charged equivalent rates for equivalent election advertising in a periodical publication or on radio or television. The rate charged must not exceed the lowest rate charged by the individual or organization for equivalent advertising in the same medium during the same campaign period.

[s. 232]

### **Value of election advertising**

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The value of election advertising is:

- the price paid for preparing and conducting the election advertising, or
- the market value of preparing and conducting the election advertising, if no price is paid or if the price paid is lower than the market value

The value of election advertising can be prorated or apportioned according to the following principles:

- the full production cost of election advertising must be included in the value. This applies to all election advertising, even if the advertising is used for other purposes before the election, or will continue to be used after the election.
- for broadcasting or distribution costs, include only the portion that is actually used or distributed during the relevant period.
- for election advertising which is co-sponsored by two or more candidates, each candidate must report their share of the advertising. For example, if each candidate paid for half of the advertising, and received half the advertising space, divide the total election advertising expense equally between the candidates.

The value of free advertising space in a periodical publication and free broadcasting time provided to a candidate in an election, if the space or time is also made available on an equitable basis to all other candidates in the election, is considered nil.

The term “periodical publication” includes regularly published Internet newspapers and magazines.

## **Valuation of re-used election signs and advertising materials**

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Signs or other advertising materials left over from previous election campaigns may be re-used, but the signs which are re-used must have a value attributed to them for election expense limit purposes. This value is the market value of buying new signs of the same quality at the time that the signs are being re-used. A quote should be obtained to determine the current cost of making an equivalent number of signs of the same quality. If the signs are used during the campaign period, the value of these signs must be reported in the election financing report as an election expense subject to the spending limit.

The same valuation principle is used when signs require reprinting in order to be re-used or to comply with the authorization statement requirement. In such instances, regardless of the original cost of the signs or the cost of reprinting, the value attributed to them for election expenses limit purposes is their full market value.

### **Example:**

A registered political party re-uses 5,000 old signs in their current campaign.

- original cost of 10,000 signs four years ago = \$20,000 (\$2 per sign)
- current cost of 10,000 new signs of equivalent quality = \$25,000 (\$2.50 per sign)

### **What is the value of the signs for election expenses limit purposes?**

**Answer:** \$2.50 per sign x 5,000 signs = \$12,500

## Election opinion polls and surveys

### **Definition of election opinion survey**

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An election opinion survey is an opinion survey about an election or matter of public discussion in relation to the election, including an opinion survey about an issue discussed publicly in the election.

This includes surveys about:

- what an individual thinks about a particular candidate or election issue
- how an individual intends to vote
- which election issues are most important, etc.

A legitimate opinion survey which is conducted in good faith in accordance with accepted survey standards is not election advertising.

[s. 1]

### **Ban on publishing new election opinion survey results on Final Voting Day**

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There is a ban on publishing the results of an election opinion survey on Final Voting Day if the results have not previously been made available to the public. This includes broadcasting the opinion survey results and transmitting them on the Internet.

[s. 233.1]

# Reporting

## Summary of reports to be filed with Elections BC

Organization or Individual	Reports Required	Deadline	Late Filing Deadline	Fee for Filing Late	Penalty for not Filing
Registered Political Party	Annual Financial Reports	March 31	On or before June 30	\$100	Deregistration
	Election Financing Reports	90 days after Final Voting Day	30 days after the filing deadline	\$500	Deregistration
	Interim Financial Reports (only filed by political parties eligible for annual allowance)	30 days after the last day of the reporting period	30 days after the filing deadline	\$100	Deregistration
Registered Constituency Association	Annual Financial Reports	March 31	On or before June 30	\$100	Deregistration
	Election Financing Reports	90 days after Final Voting Day	30 days after the filing deadline	\$500	Deregistration
Candidates	Election Financing Reports	90 days after Final Voting Day	30 days after the filing deadline	\$500	Loss of seat in Legislature if an MLA; disqualified from being a candidate in next general election; potential deregistration of political party

## GUIDE FOR FINANCIAL AGENTS APPOINTED UNDER THE *ELECTION ACT*

Leadership Contestant	Leadership Contestant Financing Report	90 days after a leader is selected	30 days after the filing deadline	\$500	Loss of seat in Legislature if an MLA; disqualified from being a candidate until after the next general election
Nomination Contestant	Nomination Contestant Financing Report	90 days after candidate is selected or publically announced, or 90 days after Final Voting Day if the candidate is selected 30 days before the campaign period, or during the campaign period	30 days after the filing deadline	\$500	Loss of seat in Legislature if an MLA; disqualified from being a candidate until after the next general election

In addition to the above penalties, the names of all registered political parties, registered constituency associations, candidates, nomination contestants and leadership contestants that file late or fail to file a report will be published in the B.C. Gazette and on the Elections BC website.

The *Election Act* allows organizations and individuals to apply to the Supreme Court for relief from their filing obligations.

[s. 216]



## **Annual financial reports by registered political parties and constituency associations**

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The fiscal year of a registered political party or registered constituency association must be the calendar year. By March 31 of each year, the financial agent must file a financial report respecting the previous calendar year.

The annual financial report must be filed on forms provided by Elections BC, and must include the following information:

- the assets, liabilities and surplus or deficit of the organization at the end of the year
- the political contributions the organization accepted during the year
- the total amount of all tax receipts issued for contributions received during the year
- any prohibited political contributions received during the year by the organization including when they were returned to the contributor or remitted to Elections BC
- the details of any fundraising functions held by or on behalf of the organization during the year
- the details of all permissible loans or guarantees received by the organization during the year
- the details of all permissible loans received before the year for which the report is made if there is an outstanding balance
- any transfers of money, goods or services made or received by the organization during the year
- any income received and any expenditures made or incurred by the organization during the year, if these are not otherwise disclosed in the report

The annual financial report of a registered political party or a registered constituency association must also include the financial information of any organization primarily controlled by the party or constituency association, reported on a consolidated basis.

In addition to the requirements above, a report for a registered political party must include the political contributions made by contributors who, during the period covered by the report, made political contributions to the political party, a registered constituency association for the political party, and/or a candidate for the political party, that, in total, have a value of more than \$250.

For example, if a contributor gave \$100 each to 10 candidates for the same political party, in the same calendar year, the contributor's information would not appear in the candidates' reports because the contribution is not greater than \$250. However, the contributor's information must be disclosed in the political party's annual financial report because the combined total of political contributions is greater than \$250 (10 candidates x \$100 = \$1,000).

To facilitate this reporting, constituency associations must provide the details of all political contributions received during the reporting year to their political party by February 15 of the following year. Candidates' financial agents must provide the political contribution information to the political party within 60 days after Final Voting Day.

[s. 207]

### **Election financing reports by registered political parties and constituency associations**

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Within 90 days after Final Voting Day for an election, the financial agent of the following entities must file an election financing report:

- a registered political party that was represented by a candidate in the election, or sponsored election advertising
- a registered constituency association that was represented by a candidate

The election financing report must be filed on forms provided by Elections BC and must include the following information:

- in the case of a report for a registered political party, the election expenses of the political party, showing separately those election expenses that are not subject to the expenses limits and those election expenses that are being claimed as reimbursable election expenses
- the political contributions accepted by the organization from January 1 until the end of the campaign period
- the total amount of all tax receipts issued for contributions received from January 1 until the end of the campaign period
- any prohibited political contributions received by the organization from January 1 until the end of the campaign period, including when they were returned to the contributor or remitted to Elections BC
- the details of any fundraising functions held by or on behalf of the organization from January 1 until the end of the campaign period

- the details of any permissible loans or guarantees received by the organization
- any transfers of money, goods or services made or received from January 1 until the end of the campaign period

The election financing report of a registered political party or a registered constituency association must also include the financial information of any organization primarily controlled by the party or constituency association, reported on a consolidated basis.

If a by-election is cancelled because a general election is called, a report respecting the cancelled election must be filed. In the case of a political party or constituency association that is required to file reports for both elections, those reports are not required to be filed until the time for filing the report in relation to the general election.

[s. 210]

### **Election financing reports by candidates**

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The financial agent of a candidate must file an election financing report within 90 days after Final Voting Day. Election financing reports must be on forms provided by Elections BC and must disclose the following information:

- the election expenses, showing separately those expenses that are not subject to the election expenses limit and those election expenses that are being claimed as reimbursable election expenses
- the political contributions accepted by the candidate
- the total amount of all tax receipts issued for contributions received
- details about any prohibited political contributions, including when they were returned to the contributor or remitted to Elections BC
- the details of any fundraising functions held by or on behalf of the candidate
- the details of any permissible loans or guarantees received by the candidate
- any surplus campaign funds or any equivalent deficit, as of the day the report is prepared
- any transfers of money, goods or services made or received in relation to the candidate's campaign
- any other income or expenses not otherwise disclosed in the report

[s. 209]

## **Financing reports by leadership contestants**

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The financial agent of a leadership contestant must file a leadership contestant financing report within 90 days after a leader is selected. The financing report must be on forms provided by Elections BC and must disclose the following information:

- the contestant expenses, reported by type
- the political contributions accepted by the leadership contestant
- details about any prohibited political contributions, including when they were returned to the contributor or remitted to Elections BC
- the details of any fundraising functions held by or on behalf of the leadership contestant
- the details of any permissible loans or guarantees received by the candidate
- any transfers of money, goods or services made or received in relation to the leadership contest

If the leadership contestant was acclaimed or directly appointed, and there were no financial transactions incurred in relation to the contest, only the signed statement on the front cover needs to be filed.

[s. 211]

## **Financing reports by nomination contestants**

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The financial agent of a nomination contestant must file a nomination contestant financing report within 90 days after the end of the nomination contest. The end of a nomination contest is defined as the date in which the candidate is selected or publicly announced. Nomination contestant financing reports must be on forms provided by Elections BC and must disclose the following information:

- the contestant expenses incurred by or on behalf of the nomination contestant, showing separately the contestant expenses incurred during the election campaign period
- the political contributions accepted by the nomination contestant
- details about any prohibited political contributions, including when they were returned to the contributor or remitted to Elections BC

- the details of any fundraising functions held by or on behalf of the contestant
- the details of any permissible loans or guarantees received by the contestant
- any transfers of money, goods or services made or received in relation to the nomination contest
- any surplus contest funds or any equivalent deficit, as of the day the report is prepared

If the nomination contestant was acclaimed or directly appointed, and there were no financial transactions incurred in relation to the contest, only the signed statement on the front cover needs to be filed.

If a nomination contest overlaps or falls within the election campaign period and the contestant becomes a candidate for a registered political party, any nomination contestant expenses during the campaign that exceed 10% of the candidate's limit are counted as election expenses.

**Example:**

The candidate spending limit during the campaign period is \$58,000. Assume that a nomination contest is held during the campaign period, and a nomination contestant who became a candidate spent \$12,000 in the contest.

Ten percent of \$58,000 is \$5,800; the excess must be attributed to election expenses.

Therefore, \$6,200 would be counted towards the \$58,000 candidate expenses limit (\$12,000 - (10% x \$58,000) = \$6,200).

[s. 209]

## **Interim financial reports by registered political parties**

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Any political parties that are eligible to receive an annual allowance payment from Elections BC are required to file interim financial reports within 30 days after the last day of the reporting period.

The interim financial reporting periods are as follows:

- January 1 to March 31
- April 1 to June 30
- July 1 to September 30
- October 1 to December 31

The interim financial report must be filed on forms provided by Elections BC, and must include the following information:

- the political contributions the political party accepted during the interim reporting period
- any prohibited political contributions received during the reporting period by the organization including when they were returned to the contributor or remitted to Elections BC
- any transfers of money, goods or services made or received during the reporting period

[s. 207.01]

## **Auditing of financial reports**

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If the total value of political contributions, election expenses or contestant expenses to be reported is \$10,000 or more, the financing report must be audited and the financial agent must file a copy of the auditor's report with the financing report. This does not apply for interim financial reports, nomination contestant financing reports or supplementary reports.

The Chief Electoral Officer may require an auditor's report in other cases as well.

The auditor must conduct the audit in accordance with generally accepted auditing standards and perform such tests and other procedures as considered necessary to determine whether the report has been prepared in accordance with generally accepted accounting principles. Financing reports consist of several forms and auditors should note that all the forms are subject to audit as they comprise the report.

An auditor must make additional reports if the auditor has not received all the information and explanations required from the financial agent or if proper accounting records have not been kept by the financial agent.

Financial agents must give the auditor access at all reasonable times to the records and must provide the auditor with any information the auditor considers necessary to enable the auditor to give a report.

It is important that financial agents ensure enough time is provided for the audit prior to the filing deadline.

Auditors should refer to Elections BC's Auditor's Guide for more information.

[s. 213, 214]

### **Supplementary reports**

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A supplementary report, or amendment, must be filed with Elections BC within 30 days after the financial agent, or the individual or organization for which a report was filed, becomes aware that information disclosed in the report has changed, or that the report did not completely and accurately disclose the information required.

There are now monetary penalties of up to \$10,000 for failing to file a supplementary report within 30 days.

[s. 212, 220.081]

## Penalties, offences and relief

### General

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There are significant penalties for failing to comply with the financing rules or for committing offences in relation to election financing.

Penalties include monetary fees, disqualification from being a candidate, loss of a seat as an MLA and the suspension or deregistration of a political party or constituency association.

The *Election Act* also establishes offences and an individual or organization who commits an election financing or election advertising offence is liable to a fine of not more than \$10,000 or imprisonment for a term not longer than one year, or both.

In addition, notice of non-compliance with the *Election Act* may be published in the BC Gazette, or on the Elections BC website.

An individual or organization may apply to the Supreme Court for relief from a penalty or offence under the *Election Act*. Individuals or organizations that are considering applying to the Supreme Court to seek relief may want to consult independent legal counsel about the process.

[s. 263, 264, 216]

### Failure to file a report

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See the table on page 65 and 66 for a summary of penalties related to the late filing of reports.

If a **candidate**, who is declared elected as a Member of the Legislative Assembly (MLA), fails to file an election financing report, the Member ceases to hold office and the seat of the Member becomes vacant.

In all cases, if an individual fails to file an election financing report, the individual is disqualified from being nominated, elected or holding office as an MLA until after the next general election. In order to no longer be disqualified, the individual must submit the outstanding report along with a \$10,000 late filing penalty.

The above candidate rules also apply to **nomination contestants** and **leadership contestants** who fail to file contestant financing reports.



A **registered political party or registered constituency association** that fails to file either an election financing report or an annual financial report by the end of the applicable late filing period must be deregistered.

Also, if 50% or 15, whichever is the lesser number, of the candidates representing a **registered political party** do not file their election financing reports by the end of the late filing period, the political party must be deregistered.

A political party, constituency association, candidate, nomination contestant or leadership contestant can apply to the Supreme Court for relief from the obligation to file a financing report.

[s. 221-224]

### **False or misleading reports in relation to candidates or leadership contestants**

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If an individual is convicted of filing a false or misleading report, the individual is subject to the following penalties at the end of the appeal period if no appeal is made, or at the time the conviction is upheld on appeal:

- a fine of up to \$20,000 or imprisonment for up to two years, or both
- in the case of an individual who is a Member of the Legislative Assembly, the Member ceases to hold office and the seat of the Member becomes vacant
- in all cases, the individual is disqualified from being nominated, being elected or holding office as a Member of the Legislative Assembly until after the next general election

The Chief Electoral Officer must present a report to the Speaker of the Legislative Assembly respecting a Member of the Legislative Assembly who may be subject to penalty for filing false or misleading reports in relation to candidates and leadership contestants as soon as possible after the conviction to which it relates.

[s. 226, 266]

### **False or misleading reports in relation to political parties or constituency associations**

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If a registered political party or a registered constituency association is convicted in relation to a false or misleading report, the Chief Electoral Officer must suspend the registration of the organization until such time as the organization is deregistered or the conviction is overturned on the final determination of an appeal.

The Chief Electoral Officer must deregister the organization:

- if no appeal of the conviction is made, at the end of the appeal period, or
- if the conviction is upheld, on the final determination of appeal

An organization or individual convicted of filing a false or misleading report is liable to a fine of up to \$20,000 or imprisonment for up to two years, or both.

[s. 227, 266]

### **Exceeding election expenses limits**

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A candidate or political party whose election expenses exceed the applicable election expenses limit is subject to penalties.

A **candidate** who is declared elected as a Member of the Legislative Assembly (MLA), whose election expenses exceed the applicable election expenses limit, ceases to hold office and the seat of the Member becomes vacant.

If a **political party** incurs election expenses that exceed the applicable election expenses limit, the Chief Electoral Officer must suspend the registration of the political party for a period of six months.

In all cases, the **candidate or political party** must pay the Chief Electoral Officer a penalty of double the amount by which the election expenses exceed the limit.

An individual or organization that incurs election expenses in excess of an election expenses limit commits an offence and is liable to a fine of not more than \$10,000 or imprisonment for a term not longer than one year, or both.

A political party, or candidate may apply to the Supreme Court for relief from the penalties for exceeding the election expenses limit.

An application to the Supreme Court must be made within 120 days after Final Voting Day unless the overspending is disclosed in a supplementary report, in which case the deadline is 30 days after filing the supplementary report.

[s. 217-219, 263]

## **Making or accepting prohibited loans or guarantees**

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If the Chief Electoral Officer makes the determination that a registered political party, registered constituency association, candidate, leadership contestant or nomination contestant accepted a loan or guarantee that is not in compliance with the *Election Act*, the Chief Electoral Officer must notify the individual or organization of non-compliance within seven days of making the determination, and the related penalty.

An individual or organization that makes or accepts a prohibited loan or guarantee is liable to a monetary penalty of up to 100% of the amount of the loan, as determined by the Chief Electoral Officer.

An application to the Supreme Court for relief from the financial penalty must be made within 30 days after receiving notification from Elections BC of the non-compliance and related penalty.

[s. 220.01]

## **Making or accepting prohibited political contributions**

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If the Chief Electoral Officer makes the determination that a registered political party, registered constituency association, candidate, nomination contestant or leadership contestant accepted a political contribution that is not in compliance with the *Election Act*, the Chief Electoral Officer must notify the individual or organization of non-compliance within seven days of making the determination, and the related penalty. This includes:

- contributions, other than from ticket sales of \$100 or less, accepted from specified fundraising functions held at private residences
- contributions from ineligible sources (e.g. from organizations or individuals who are not residents of BC)
- contributions that have not been made through an appointed financial agent, or someone authorized in writing by the financial agent, or been properly recorded in order to allow compliance with the *Election Act*
- cash contributions in excess of \$100
- indirect contributions
- anonymous contributions of \$50 or more, or are not provided in response to a general solicitation for funds (e.g. pass the hat)

An individual or organization that makes or accepts a prohibited political contribution is liable to pay a monetary penalty of up to double the amount of the prohibited contribution, as determined by the Chief Electoral Officer.

An application to the Supreme Court for relief from the financial penalty must be made within 30 days after receiving notification from Elections BC of the non-compliance and related penalty.

[s. 220.02, 220.04, 220.06]

### **Exceeding the political contribution limits**

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If the Chief Electoral Officer makes the determination that an **eligible individual** has exceeded the political contribution limits, the Chief Electoral Officer must notify the eligible individual of non-compliance within seven days of making the determination, and the related penalty.

If the Chief Electoral Officer makes the determination that a registered political party, registered constituency association, candidate, leadership contestant or nomination contestant has accepted permitted **anonymous political contributions** in excess of the limit, the Chief Electoral Officer must notify the individual or organization of non-compliance within seven days of making the determination, and the related penalty.

An eligible individual that makes political contributions that exceeds the contribution limit, or individual or organization that accepts anonymous political contributions in excess of the limit, is liable to pay a monetary penalty of up to double the amount that exceeds the limit, as determined by the Chief Electoral Officer.

An application to the Supreme Court for relief from the financial penalty must be made within 30 days after receiving notification from Elections BC of the non-compliance and related penalty.

[s. 220.05, 220.07]

## **Failure to return prohibited political contributions**

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If the Chief Electoral Officer makes the determination that a financial agent has failed to properly handle a prohibited contribution that was made or accepted in contravention of the *Election Act*, the Chief Electoral Officer must notify the financial agent of non-compliance within seven days of making the determination, and the related penalty.

A financial agent that does not properly return or remit a prohibited political contribution and use their best efforts to obtain and void any income tax issued incorrectly, is liable to pay a monetary penalty of up to double the amount of the prohibited political contribution, as determined by the Chief Electoral Officer.

An application to the Supreme Court for relief from the financial penalty must be made by the financial agent within 30 days after receiving notification from Elections BC of the non-compliance and related penalty.

[s. 220.08]

## **Failure to report a specified fundraising function**

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If the Chief Electoral Officer makes the determination that a major political party (including its constituency associations, candidates, nomination contestants and leadership contestants) has failed to report the required details of a specified fundraising function at least seven days prior to the event, **and** within 60 days after the event, the Chief Electoral Officer must notify the individual or organization of non-compliance within seven days of making the determination, and the related penalty.

An individual or organization that fails to report a specified fundraising function is liable to a monetary penalty of up to \$10,000, as determined by the Chief Electoral Officer.

An application to the Supreme Court for relief from the financial penalty must be made within 30 days after receiving notification from Elections BC of the non-compliance and related penalty.

[s. 220.03]

## Definitions

The following are definitions for some key terms used in this guide:

<b>Auditor</b>	An individual or firm appointed to audit financial reports.  [ <i>Election Act</i> , s. 179]
<b>Authorized canvasser</b>	An individual authorized in writing by a candidate to canvass voters and distribute candidate information on the candidate's behalf.  [ <i>Election Act</i> , s. 228.01]
<b>Campaign period</b>	The period between when an election is called and the close of final voting for the election. A campaign period is generally 29 days long; however, in the case of an unscheduled general election, can be between 33 and 39 days long.  [ <i>Election Act</i> , s. 1, 27]
<b>Campaign period election advertising</b>	The transmission to the public of a message that promotes or opposes, directly or indirectly, a registered political party or the election of a candidate during a campaign period, including an advertising message that takes a position on an issue with which a registered political party or candidate is associated with or canvassing voters on a commercial basis in an attempt to influence how they vote.  [ <i>Election Act</i> , s. 1]
<b>Candidate</b>	An individual who stands for election to the Legislative Assembly, and has completed the nomination process and been issued a certificate of candidacy. For the purposes of election financing and election communications, the term candidate also includes an individual who becomes a candidate or who was a candidate in an election.  [ <i>Election Act</i> , s. 1, 52-68]

<b>Constituency association</b>	<p>An organization formed for an electoral district as the local organization of a registered political party or as the local organization to support an independent Member of the Legislative Assembly for that electoral district.</p> <p>[<i>Election Act</i>, s. 157]</p>
<b>Election advertising</b>	<p>See: campaign period election advertising, or pre-campaign period election advertising.</p>
<b>Election expense</b>	<p>Generally, the value of property or services used during the campaign period by or on behalf of a candidate, registered constituency association or registered political party to promote or oppose, directly or indirectly, the election of a candidate, or a registered political party.</p> <p>[<i>Election Act</i>, s. 183]</p>
<b>Election expenses limit</b>	<p>The maximum amount of election expenses which may be incurred by or on behalf of a registered political party or candidate.</p> <p>[<i>Election Act</i>, s. 198-199]</p>
<b>Eligible individual</b>	<p>An individual who is a resident of B.C. and either a Canadian citizen or permanent resident.</p> <p>[<i>Election Act</i>, s. 1]</p>
<b>Financial agent</b>	<p>An individual appointed by an organization or individual to administer their finances in accordance with the <i>Election Act</i>.</p> <p>[<i>Election Act</i>, s. 175-177]</p>

<p><b>Fundraising function</b></p>	<p>Includes a social function held for the purpose of raising funds for the organization or individual by whom or on whose behalf the function is held.</p> <p>A fundraising function held by a major political party may also be a specified fundraising function if the event is attended by the leader of the party, a parliamentary secretary, or a member of the Executive Council.</p> <p>[<i>Election Act</i>, s. 1]</p>
<p><b>Incur</b></p>	<p>In relation to an election expense or contestant expense, using property or services in such a manner that the value of the property or services is an election expense or contestant expense; and in relation to an expense, using property or services in such a manner that the value of the property or services would be an election expense if the property or services had been used by or on behalf of a candidate, registered constituency association or registered political party.</p>
<p><b>Leadership contestant</b></p>	<p>An individual seeking the leadership of a registered political party, whether or not any other individual seeks that leadership, and for the purposes of the Act includes an individual who becomes a leadership contestant or who was a leadership contestant.</p> <p>[<i>Election Act</i>, s. 1]</p>
<p><b>Major political party</b></p>	<p>A registered political party that is eligible to appoint a representative to the Election Advisory Committee. This includes parties that are represented in the Legislative Assembly or fielded candidates in at least 50% of all electoral districts in the last general election.</p> <p>[<i>Election Act</i>, s. 1, 14]</p>
<p><b>Market value</b></p>	<p>In relation to property or services, the lowest price charged for an equivalent amount of equivalent property or services in the market area at the relevant time.</p> <p>[<i>Election Act</i>, s. 1]</p>



<p><b>Money</b></p>	<p>Includes cash, a negotiable instrument (i.e. cheque, money order) and a payment by means of a credit card.</p> <p>[<i>Election Act</i>, s. 1]</p>
<p><b>Nomination contestant</b></p>	<p>An individual seeking nomination as a candidate representing a registered political party in an election, whether or not any other individual seeks that nomination and for the purpose of the Act, includes an individual who becomes a nomination contestant or who was a nomination contestant.</p> <p>[<i>Election Act</i>, s. 1]</p>
<p><b>Political contribution</b></p>	<p>Generally, a contribution of money, or the value of goods or services provided without compensation to a candidate, leadership contestant, nomination contestant, political party or constituency association.</p> <p>[<i>Election Act</i>, s. 180-182]</p>
<p><b>Political party</b></p>	<p>An organization that has as a primary purpose the fielding of candidates for election to the Legislative Assembly.</p> <p>[<i>Election Act</i>, s. 155]</p>
<p><b>Pre-campaign period</b></p>	<p>The period beginning 60 days before the start of the campaign period for a fixed-date general election and ending on the day before the writs of the election are issued.</p> <p><b>Note:</b> The pre-campaign period is not applicable for by-elections or general elections not conducted in accordance with section 23(2) of the <i>Constitution Act</i>.</p> <p>[<i>Election Act</i>, s. 1]</p>

<p><b>Pre-campaign period election advertising</b></p>	<p>The transmission to the public by a third party sponsor of a message that directly promotes or opposes a registered political party or the election of a candidate during the 60 day pre-campaign period.</p> <p>[<i>Election Act</i>, s. 1]</p>
<p><b>Registered</b></p>	<p>In relation to a voter, a political party, a constituency association or third party sponsor, an individual or organization registered with Elections BC.</p> <p>[<i>Election Act</i>, s. 1]</p>
<p><b>Specified fundraising function</b></p>	<p>A fundraising function held for the purpose of raising funds for a major political party (including its constituency associations, candidates, nomination contestants and leadership contestants), and is attended by a leader of a major political party, a parliamentary secretary or a member of the Executive Council.</p> <p>[<i>Election Act</i>, s. 1, 185.01, 185.02]</p>
<p><b>Specified use</b></p>	<p>The activity of incurring an election expense or sponsoring specified communications that promotes or opposes, directly or indirectly, a registered political party or the election of a candidate, including a message transmitted outside a campaign period.</p> <p>[Bill 3, <i>Election Amendment Act, 2017</i>, s. 68]</p>
<p><b>Tax receipt</b></p>	<p>A receipt issued under section 20 of the <i>Income Tax Act</i> for a political contribution of money.</p>

<b>Third party sponsor</b>	An individual or organization, other than a candidate, registered political party or registered constituency association, that sponsors election advertising.  [ <i>Election Act</i> , s. 1]
<b>Volunteer</b>	An individual who voluntarily performs services and receives no compensation, directly or indirectly, for the services or time spent.  [ <i>Election Act</i> , s. 180]

## Questions?

**For more information**

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