



ELECTIONS BC

A non-partisan Office of the Legislature

GUIDE FOR FINANCIAL AGENTS APPOINTED UNDER THE *ELECTION ACT*

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General

This guide is intended to assist both the financial agent and the auditor of a registered political party, registered constituency association, candidate or leadership contestant. It outlines the rules of the *Election Act* as they apply to election financing and reporting. This guide is only a summary of the financial rules of the *Election Act*, and does not take precedence over the Act. Where possible, section references to the Act are noted. The relevant provisions of the *Election Act* should be read in conjunction with this guide.

The *Election Act* is available for viewing on the Elections BC website (www.elections.bc.ca) or can be purchased from Crown Publications (www.crownpub.bc.ca).

Definitions

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

Auditor	An individual or firm appointed to audit financial reports.
Campaign Period	The period between when an election is called and the close of general voting for the election. A campaign period is generally 29 days long.
Candidate	An individual who has completed the nomination process and has been issued a certificate of candidacy. For the purposes of election financing and election communications, the term <i>candidate</i> includes an individual who becomes a candidate or who was a candidate in an election.
Constituency Association	An organization formed for an electoral district as the local organization of a registered political party or as the local organization to support an individual who is an independent Member of the Legislative Assembly for the electoral district.
Election Expense	Generally, the value of property or services used within the period beginning 60 days before a campaign period and ending at the end of 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 to promote or oppose, directly or indirectly, a registered political party. Note: The 60 day pre-campaign period only applies for a fixed date general election, and does not apply for a by-election or a general election not conducted in accordance with section 23(2) of the <i>Constitution Act</i> .
Election Expenses Limit	The maximum amount of election expenses which may be incurred by a registered political party, registered constituency association, or candidate.
Financial Agent	An individual appointed by an organization or individual to administer their finances in accordance with the <i>Election Act</i> .
Fundraising Function	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.

Incur	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 referred to in section 194, 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.
Leadership Contestant	An individual seeking the leadership of a registered political party, whether or not any other individual seeks that leadership, and for the purposes of election financing and election communications includes an individual who becomes a leadership contestant or who was a leadership contestant.
Market Value	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.
Money	Includes cash, a negotiable instrument and a payment by means of a credit card.
Political Contribution	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.
Political Party	An organization that has as a primary purpose the fielding of candidates for election to the Legislative Assembly.
Registered	In relation to a voter, a political party, a constituency association or a sponsor of election advertising, an individual or organization registered with Elections BC.
Tax Receipt	A receipt issued under section 20 of the <i>Income Tax Act</i> for a political contribution of money.
Volunteer	In relation to services, an individual providing the services as described in section 180 (5) (a) of the <i>Election Act</i> .

Financial Agents

Requirement for a financial agent [section 175]

The following must have a financial agent:

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

Candidates and leadership contestants can be their own financial agents.

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.

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.

Appointment of a financial agent [section 176]

To act as 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)
- individuals who are members of the same firm as the auditor, or who are members of the audit firm, or
- individuals who have been convicted of an offence 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 and 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 or leadership contestant, the individual must make a new appointment or deliver a statement that they will be acting as their own financial agent.

Financial agent responsibilities [section 177]

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

- accepting and recording all political contributions
- determining the market value of political contributions of property (goods) and services
- recording and issuing tax receipts for eligible political contributions
- recovering, marking void and retaining tax receipts issued for 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 loans of money, goods or services 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 five years from the date of filing a report
- in the case of a registered political party or registered constituency association, filing an annual financial report with the Chief Electoral Officer by March 31 of the following year

- filing an election financing report for the organization or candidate within 90 days after General Voting Day for an election, and
- in the case of a leadership contestant, filing a contestant financing report within 90 days after a leader is selected

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.

Deputy financial agents [section 178]

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 those contributions if they are eligible for tax receipts. 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.

Appointments of deputy financial agents must be made on forms provided by Elections BC and completed forms must be submitted to Elections BC.

Individuals may also be authorized in writing by the financial agent to incur election expenses [section 193] or accept political contributions [section 186].

Auditors

Requirement for an auditor [section 179]

The following must have an auditor:

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

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

Appointment of an auditor [section 179]

In order 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 Accountant (C.A.) or Certified General Accountant (C.G.A.), 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)
- an individual who is a member of the same firm as the financial agent, or an auditing 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
- the financial agent

An auditor may be appointed as such 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.

The auditor is required to file a report with a financing report if the total political contributions, election expenses or contestant expenses to be reported is \$10,000 or more [section 213 (1)]. The auditor must also file reports as requested by the Chief Electoral Officer. The Chief Electoral Officer has the authority to request an auditor's report even if the contributions and expenses are under \$10,000.

Financial reports for deregistered political parties and constituency associations also 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

See page 51 for more information about audit reports. Also refer to our Auditor's Guide, available on the Elections BC website (www.elections.bc.ca).

Bank Accounts

Requirement for a bank account [section 177]

Every registered political party, registered constituency association, candidate and leadership contestant must have a separate account in a savings institution. The account may be in any appropriate name. 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 made on their behalf.

Organizations or individuals must not share accounts, and the financial agent must ensure that the account is used exclusively for the monetary transactions of the organization or individual for whom the account was established.

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

Valuation of Goods and Services

General valuation rules [section 185]

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

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

“Market value” is 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 the property is a capital asset the value of the property is the market value of using the property. For example, the value of office space to a candidate is the market value of renting the space. Capital assets may include buildings, computers, office furniture and equipment.

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 online newspapers and regularly published online e-zines.

Valuation of re-used election signs

Organizations and candidates with election signs or sign materials which are obtained for an election and re-used in a subsequent election must determine their value. The current value of any signs re-used during an election must be shown as an election expense which is subject to limits.

Signs 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 expenses 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 must 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 60 day pre-campaign period or during the campaign period, this amount must be reported in the election financing report as an election expense subject to limits.

The same valuation principle is used when signs require reprinting in order to be re-used or to comply with sponsor identification requirements as set out in the *Election Act*. 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.

Fixed date elections have separate election expenses limits for the 60 day pre-campaign period and the campaign period, therefore, the value of signs that are posted in both periods must be reported twice; once for the 60 day pre-campaign period and again for the campaign period.

Examples:

1. A registered political party re-uses 10,000 old signs in their current campaign. The signs are posted throughout both the 60 day pre-campaign period and the campaign period.
 - original cost of 10,000 signs four years ago = \$20,000
 - current cost of 10,000 new signs of equivalent quality = \$30,000
 - **What is the value of the signs for election expenses limit purposes?**
 - **Answer:** \$30,000 – the cost of an equal number of new, equivalent signs. The \$30,000 must be reported twice in the election financing report, once for the 60 day pre-campaign period and once for the campaign period.
2. A candidate reprints 10,000 old signs for use in the current election, but only uses 5,000 signs. The signs are only posted during the campaign period.
 - original cost of 10,000 signs four years ago = \$15,000
 - current cost for reprinting 10,000 signs = \$3,000
 - cost of reprinted signs = \$15,000 + \$3,000 = \$18,000
 - current cost of 10,000 new signs of equivalent quality = \$25,000

- current cost of each new sign = $\$25,000 / 10,000$ signs = \$2.50 per sign
- ***What is the value of the signs for election expenses limit purposes?***
 - **Answer:** $\$2.50 \times 5,000 = \$12,500$. That is, the new equivalent cost of only those signs that were actually used in the election. The remaining \$12,500 expense is still an expense but since the signs were not used, it is reported as a non-election expense in the candidate's financing report.

Election Advertising

Election advertising [sections 228, 231]

Section 228 of the *Election Act* defines election advertising as the transmission to the public by any means, during the period beginning 60 days before a campaign period and ending at the end of the campaign period, of an advertising message that promotes or opposes, directly or indirectly, a registered political party or the election of a candidate. This includes an advertising message that takes a position on an issue with which a registered political party or candidate is associated but does not include:

- 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, or
- the transmission by an individual, on a non-commercial basis on the internet, or by telephone or text messaging, of his or her personal political views

The value of election advertising is the price paid for preparing, conducting and publishing the election advertising. If the advertising is donated, the expense and related political contribution must be reported at the fair market value of the service.

Note: The 60 day pre-campaign period only applies for a fixed date general election, and does not apply to a by-election or a general election not conducted in accordance with section 23(2) of the *Constitution Act*.

Most election advertising must indicate that it was authorized by the financial agent. The authorization statement must also include either a phone number or an address, in British Columbia, at which the financial agent can be contacted. An example of such a statement is as follows:

- “Authorized by John Doe, financial agent, 604-123-4567”

The following types of election advertising are exempt from the authorization statement requirement:

- clothing
- novelty items, including wearable novelty items such as buttons, badges, wrist bands and necklaces, and
- small items of nominal value that are intended for personal use, such as mugs, pens, and mousepads

Elections BC may remove and destroy any election advertising that does not have the required authorization statement. No notice is required to be given before such removal or destruction.

For more information on election advertising, refer to the Guide to Election Communications.

Political Contributions

Political contribution definition [section 180]

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 their candidacy
- a leadership contestant, in relation to their seeking of the leadership, or
- a nomination contestant, in relation to their 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 fair market value is a political contribution.

Example:

A candidate purchases 5,000 printed copies of a brochure to distribute to the public.

- price paid by candidate = \$400
- price usually charged for equal work by printer = \$750
- ***Is there a political contribution? If yes, how much?***
 - **Answer:** Yes, the printer has made a political contribution of \$350 (\$750 - \$400) by providing the service at less than market value.

What is not a political contribution?

- goods or services provided to their own campaign by a candidate, nomination contestant or leadership contestant (note that 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 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

Volunteers

Volunteers are individuals who voluntarily perform the services and who receive no compensation, directly or indirectly, in relation to the services or the time spent providing the services. This means that employers cannot continue to pay people while they are working as volunteers. If they do continue to get paid, they are not volunteers and the value of their services is a contribution from their employer (and if during a 60 day pre-campaign or a campaign period, the contribution is an election expense).

If an individual uses paid vacation time to work on a campaign they will be 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.

Rules for making and accepting contributions [sections 186, 187]

There are several important rules which apply to giving 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 (whatever the amount) is deposited in an account in a savings institution [section 177 (2) (b)].

Money that a candidate, potential candidate or nomination contestant provides to their own campaign is treated like any other political contribution, and must be recorded and disclosed as such.

This means that any money a candidate contributes to his or her own campaign must be given to the financial agent. The financial agent is required to ensure that the money is deposited in the campaign account in a savings institution. Funds may be withdrawn from that campaign account to pay any of the candidate's or contestant's campaign expenses.

Nomination contestants can receive contributions on their own behalf.

Who cannot make political contributions?

- charitable organizations (see definition below)
- federal political parties or electoral district associations registered under the *Canada Elections Act*, or
- unregistered political parties or constituency associations

A charitable organization includes any organization whose objectives are the relief of poverty; advancement of education or religion; protection of health; governmental or municipal purposes, and other purposes beneficial to the community. This definition applies whether or not the organization is a registered charity for income tax purposes.

Contribution limits:

- Other than for cash contributions and anonymous contributions, there are no contribution limits. Any individual or organization, other than the three types listed above, can make a political contribution of any amount.

Cash contributions:

- must be \$100 or less

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 the contributor's credit card

Debit or other electronic transfer contributions:

- must be from the contributor's bank account

Indirect contributions:

Normally, making indirect contributions is prohibited and individuals and organizations 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 another individual or organization to make as a contribution, or provide "consideration" for making a contribution.

However, there is an exception for individuals only. An individual can make a political contribution with the money of another individual, but the person whose money is being used is the contributor and their name and address must be given to the financial agent, and, if applicable, disclosed by the financial agent.

Anonymous contributions [sections 186,188]

Anonymous contributions are not permitted unless the contribution is made 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 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 contributions must be returned to the contributor or sent to the Chief Electoral Officer for remittance to the Consolidated Revenue Fund. See page 20 for more information on prohibited 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 limited to \$10,000 in any calendar year.

The total amount of anonymous contributions that a candidate, leadership contestant or nomination contestant can accept is limited to \$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.

Loans as political contributions [section 181]

A loan is not generally considered to be a political contribution unless it is forgiven or written off. However, if a loan is given with a preferential interest rate, the benefit derived from that preferential rate is a political contribution. A preferential interest rate is a rate of interest that is less than the prime rate of the principal banker to the government at the time the rate of interest for the loan was fixed. Please refer to the Elections BC website for a listing of current and historical prime interest rates.

Outstanding debts as political contributions [section 181]

Any debt which remains unpaid for six months after it becomes due converts to a political contribution and must be recorded as such, unless the creditor has commenced legal proceedings to 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

Recording requirements for political contributions [section 190]

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

- the value of the contribution
- the date the contribution was made
- the full name and address of the contributor
- the class of the contributor, and
- if the contributor is a numbered corporation or a class 3, 4, 5 or 6 contributor, the full names and addresses of at least two individuals who are directors of the organization. If there are no individual directors, the financial agent must record the full names and addresses of two principal officers or principal members of the organization.

The classes of contributors are:

1. individuals
2. corporations
3. unincorporated organizations engaged in business or commercial activity (e.g., partnerships and sole proprietorships)
4. trade unions (identify specific local number)
5. non-profit organizations (charitable organizations are not allowed to make political contributions)
6. other contributors (federal political parties and electoral district associations registered under the *Canada Elections Act* are not allowed to make political contributions)

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

For **fundraising events** the financial agent is required to record:

- 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

Reporting requirements for political contributions [section 206]

Where political contributions are required to be disclosed in a report, 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 name of the contributor
 - the value of the contribution
 - the date the contribution was made
 - the class of the contributor, and
 - if the contributor is a numbered corporation or a class 3, 4, 5 or 6 contributor, the full names of at least two individuals who are directors of the organization, or if there are no individual directors, two individuals who are principal officers or principal members of the organization
- in the case of an indirect contribution permitted under section 186 (2) (b):
 - the full name of the individual whose money was used to make the contribution
- 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 contributors from whom contributions were received

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

A nomination contestant who becomes a candidate must report all political contributions accepted as a nomination contestant. Nomination contestants should record all of the information required for contributions, as outlined above.

Political contribution information must be sent to political party [section 191]

The financial agents of candidates endorsed by registered political parties must send a copy of their political contributions records to the party's financial agent within 60 days after General Voting Day for an election.

The financial agent of a registered constituency association of a registered political party must provide their records to the political party by February 15 of the following year. The party needs these records to meet the party's disclosure requirements.

Prohibited contributions [section 189]

If the financial agent becomes aware that a political contribution was prohibited (e.g., from a charitable organization, federal political party or \$20 in cash received anonymously by mail), the financial agent must:

- return the contribution or its equivalent value within 30 days or
- if it is not possible to return the contribution, send it to the Chief Electoral Officer within 30 days
- 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
- if the tax receipt cannot be recovered, advise the Commissioner of Income Tax
- keep a record of the prohibited contribution and how it was resolved, and
- report the prohibited contribution in the annual and/or election financing reports

Fundraising functions [section 182]

There are special rules for fundraising functions that define what is and what is not a political contribution with respect to fundraising events. Depending on these rules, a donation at a fundraiser may or may not be considered a political contribution, and the recording requirements and rules regarding how to properly recognize the contribution differ. These rules are explained below.

Rules for dinners, etc.

- If an organization buys a ticket to a fundraising function, the price paid is a political contribution.
- If an organization buys fundraising function tickets and provides those tickets to other individuals to attend the fundraising function, the organization is still the contributor for the purpose of the *Election Act*.
- If an individual buys a ticket to a fundraising function and the ticket price is more than \$50, the individual is making a political contribution equal to the price of the ticket.
- If the price is \$50 or less, the price paid by an individual is not a political contribution unless the individual buys more than \$250 worth of tickets. If they do buy more than \$250 worth of tickets, the price paid is a political contribution.

Note: The rules under the *Election Act* and the *Income Tax Act* differ. For income tax receipting purposes, 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.

Examples:

1. Sally Jones buys five tickets to a \$50 fundraising dinner held by a registered political party for herself and to treat four of her friends.
 - 5 tickets x \$50 per ticket = \$250
 - **Has Sally made a political contribution?**
 - **Answer:** No, Sally has not made a political contribution for purposes of the *Election Act* because the ticket price is \$50 or less and the total cost of the tickets (\$250) is not more than \$250. This means that the money Sally paid is not recorded or disclosed as a political contribution under the *Election Act* but it still must be recorded and reported as fundraising income not reported as political contributions.

- **Will Sally get an income tax receipt?**
 - **Answer:** Yes, if the reasonably estimated cost of the event, on a per person basis, is less than \$50, she is eligible for an income tax receipt. This is because although her \$250 is not a political contribution for purposes of the *Election Act*, it is an eligible political contribution under section 20 of the *Income Tax Act*. The amount of the income tax receipt would be \$250 minus the estimated cost for five persons.
2. Assume that the estimated cost of the event in Example #1 is only \$30 per person.
- **Is Sally entitled to a tax receipt? What value?**
 - **Answer:** Yes, Sally is entitled to a tax receipt for \$100. This is because although her \$250 is not a political contribution for purposes of the *Election Act* it is an eligible political contribution under section 20 of the *Income Tax Act*. The amount of the income tax receipt is calculated as follows:
 - \$50 price per ticket - \$30 cost per person = \$20 eligible political contribution per ticket
 - 5 tickets x \$20 eligible political contribution per ticket = \$100 eligible political contribution
3. Big Company buys two tickets for \$25 each to a luncheon held by a registered political party.
- 2 tickets x \$25 per ticket = \$50
 - **Has Big Company made a political contribution?**
 - **Answer:** Yes, Big Company has made a political contribution of \$50 because all fundraising function tickets purchased by organizations are political contributions regardless of the cost of the tickets.

Rules for auctions, garage sales, etc.

Some income from goods and services sold at auctions and other sales is a political contribution and some is not. The rules for determining which income is a political contribution are as follows:

- if property or services are donated for sale at a fundraising function and have a total market value of \$250 or less, the property or services are not political contributions if they are actually sold at the fundraising function
- if donated property or services are purchased at a fundraising event at greater than market value, the difference between the price paid and the market value is a political contribution

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

Examples:

1. Jerry donates a T.V. with a fair market value of \$175 for sale at a fundraising event. The T.V. was sold to Jennifer.
 - **Has Jerry made a political contribution? What value?**
 - **Answer:** No, Jerry has not made a political contribution because the T.V. was donated for resale and is worth \$250 or less.

2. Assume the T.V. that Jerry donated is bought by Jennifer for \$70.
 - **Has Jennifer made a political contribution? What value?**
 - **Answer:** No, because the fair market value of the T.V. is \$175, any amount paid for the T.V. up to and including \$175 is not considered a political contribution.

3. Assume the T.V. that Jerry donated is purchased by Aamil for \$275.
 - **Has Aamil made a political contribution? What value?**
 - **Answer:** Yes, Aamil has made a political contribution of \$100.
 - \$275 price paid - \$175 fair market value of T.V. = \$100 contribution

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.

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.

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.

Determining market value of contributed property and services [section 185]

If property (goods) or services are donated at no cost, the value of the contribution is the market value of the goods and 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. Market value includes applicable taxes.

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

Examples:

1. If a printer provides campaign signs at no charge, the market value would be what the printer would normally charge, including taxes, for those signs.
2. If a landlord 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.

Discounted property and services [section 180(2)]

If property (goods) or services are provided at less than market value, the provider of the property or services is making a political contribution equal to the difference between the market value and the amount charged.

Example:

A printer gives a discount on signs. The signs would normally cost \$1,500, but the printer only charges \$1,000. The printer's contribution is valued and recorded as \$500. (\$1,500 minus \$1,000).

Income tax receipts [section 192]

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

Elections BC does not provide income tax receipts. Candidates, registered political parties and registered constituency associations must have their own tax receipts printed. For information on what must be included on a tax receipt and for samples of tax receipts, see pages 27-30.

Income tax receipts for contributions to candidates

For candidates, income tax receipts may only be issued for contributions of money given after the candidate has been issued a certificate of candidacy by Elections BC. A candidate's financial agent cannot issue income tax receipts for contributions received before that date, and may only issue income tax receipts for money received while the individual remains a candidate – that is, until the date of the return of the writ of election – unless the individual earlier withdraws, dies, or is declared by a court to no longer be a candidate under section 66 of the *Election Act*.

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

Candidates are entitled to receive income tax receipts if they donated money during the eligible period but:

- the money must be given to the financial agent and deposited into the campaign account
- income tax receipts cannot be issued for expenses paid directly by the candidate out of their own pocket

If an income tax receipt was inadvertently given for a prohibited political contribution or a political contribution of goods 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 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

Income tax receipts for contributions to registered political parties and registered constituency associations

Registered political parties and registered constituency associations can issue income tax receipts for monetary contributions received at any time. However, a political party or constituency association that was or is suspended, cannot issue income tax receipts for political contributions received while suspended.

Income tax receipts cannot be issued for political contributions of property or services.

If an income tax receipt was inadvertently given for a prohibited political contribution or a political contribution of goods 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 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

Income tax receipts for contributions to nomination contestants or leadership contestants

Income tax receipts **cannot** be issued for contributions to potential candidates, or nomination 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.

Registered political parties and registered constituency associations may not issue income tax receipts on behalf of potential candidates, nomination contestants or leadership contestants, and may not accept political contributions with the understanding that the contribution will be given to a contestant.

Calculation of income tax credits

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

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

Content requirements for income tax receipts

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 given names 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 General Voting Day

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

- the name of the organization as filed with the Chief Electoral Officer, and
- the identity number assigned to the organization by the Chief Electoral Officer (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 preprinted 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 recorded 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

Suggested receipt format for political contributions for income tax purposes - candidates

Official Receipt for British Columbia Income Tax Purposes (serial number)

Receipt for a contribution to the campaign to elect _____
(name of candidate)

Identity number: _____ Issued at: _____

Date received: _____ Date issued: _____

We acknowledge, with thanks, your contribution of: \$ _____

Contributed by (please print):
Name: _____
Street: _____
City: _____
Postal Code: _____

(Financial Agent)

Electoral District: _____ Date of General Voting Day: _____

**Suggested receipt format for political contributions for income tax purposes -
registered constituency associations or registered political parties**

Official Receipt for British Columbia Income Tax Purposes (serial number)

Receipt for a contribution to _____
(name of registered constituency association or registered political party)

Identity number: _____ Issued at: _____

Date received: _____ Date issued: _____

We acknowledge, with thanks, your contribution of: \$ _____

Contributed by (please print):

Name: _____

Street: _____

City: _____

Postal Code: _____

(Financial Agent)

Transfers

Recording transfers within a party organization [section 180(6)]

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

This applies to money, other property or services made or received by a:

- **candidate's** election campaign to or from
 - the registered political party
 - a registered constituency association, or
 - another candidate of the same registered political party
- **registered constituency association** to or from
 - its registered political party
 - any candidate who represents its political party, or
 - the independent MLA supported by the constituency association
- **registered political party** to or from
 - its registered constituency associations
 - any candidate who represents the party, or
 - its leadership contestants
- **leadership contestant** to or from
 - their registered political party

Who cannot make or receive transfers?

- **nomination contestants** cannot make or receive transfers in relation to their contest (any money, other property or services received from a registered political party or registered constituency association are recorded and disclosed as political contributions)
- unregistered political parties, or
- unregistered constituency associations

Expenses

Contestant expenses [section 184]

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.

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

Personal election expenses of a contestant

The following are personal contestant expenses of a nomination or leadership contestant, if they are reasonable:

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

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 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 contest

There are no spending limits for nomination or leadership contestants but if during a campaign period, a candidate for a registered political party incurs nomination contestant expenses that in total exceed 10 percent of the candidate's election expenses limit, the excess is deemed to be election expenses of the candidate. For this purpose, the personal contestant expenses of the candidate are not to be included as contestant expenses.

Election expenses [section 183]

What is an election expense?

For a fixed date general election, an election expense is the value of property or services used within the period beginning 60 days before a campaign period and ending at the end of 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.

Note: For fixed date elections, there are two separate election expenses limits for registered political parties and candidates; one for the 60 day pre-campaign period, and one for the 29 day campaign period.

The 60 day pre-campaign period does not apply for a by-election or a general election not conducted on a fixed date. In these elections an election expense is the value of property or services used within the period beginning on the date the election is called and ending at the end of the campaign period.

These definitions mean that most things used in an election are election expenses, even if the items were purchased before the election was called.

What is not an election 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 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: Remember that 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 they do continue to get paid they are not volunteers and the value of their services is a contribution from their employer and an election expense.

If an individual uses paid vacation time to work on a campaign they will be considered 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.

Expenses at fundraising functions:

A deficit incurred in holding a fundraising function during a campaign period is an election expense and is subject to the campaign period election expenses limit. However, costs incurred to hold fundraising functions are election expenses not subject to the expenses limits.

Personal election expenses of a candidate:

The following are personal election expenses of a candidate or potential candidate, if they are reasonable:

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

Incurring and paying election and contestant expenses [section 193]

Election and leadership contestant expenses **must** only be incurred through the financial agent or an individual authorized in writing by the financial agent.

Note: The financial agent of a political party may incur leadership contestant expenses, but must notify the leadership contestant's financial agent within 60 days after a leader is selected, and the expense must be reported by the leadership contestant in their financing report.

Election and leadership contestant expenses cannot be paid unless

- the individual paying the expense is the financial agent or an individual authorized in writing by the financial agent, and
- it is paid out of the property of the organization or individual for whom it is incurred (i.e., from the bank account of the campaign, registered political party, registered constituency association or contestant) or reimbursed from the bank account if someone paid the expense and produces a receipt

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

Constituency associations incurring expenses on behalf of candidates [section 200]

A registered constituency association can only incur election expenses if:

- the expenses are made on its candidate's behalf, and
- the expenses are incurred after the election is called and before the individual receives their certificate of candidacy from Elections BC

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's financial agent to transfer funds to the candidate so the financial agent for the candidate can incur the expense.

Political parties incurring expenses on behalf of candidates [section 201]

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.

Recording expenses [section 177]

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 (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

Example:

1. A printer donates leaflets worth \$1,000 to a candidate's election campaign and the campaign distributes those leaflets during the 60 day pre-campaign period. What must the financial agent record?
Answer: an election expense of \$1,000 for the leaflets and a political contribution of \$1,000 from the printer.
2. Assume that the campaign in Example #1 only used half of those leaflets. What must the financial agent record?
Answer: the election expense would be recorded as \$500, other expenses would be \$500 and the political contribution from the printer would still be \$1,000.

Recording expenses for nomination contestants

In addition to the above requirements, nomination contestants must keep track of nomination contestant expenses and political contributions of property (goods) and services that are used by the nomination campaign. If a writ of election is issued during a nomination contest, it may be necessary to report those expenses.

Expenses Limits

There are spending limits for political parties and candidates in an election. 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 separate election expenses limits.

There are no limits to how much a leadership contestant can spend but a political party may impose rules on its leadership contestants.

Nomination contestants do not have spending limits but, as discussed on page 33, if during a campaign period, a candidate for a registered political party incurs nomination contestant expenses that in total exceed 10 percent of the candidate's election expenses limit, the excess is deemed to be an election expense of the candidate.

Political party election expenses limits [section 198]

For a fixed date general election the election expenses limits for a registered political party are:

- \$1.1 million during the period beginning 60 days before the campaign period, and
- \$4.4 million during the campaign period (the period from when the writ is issued up to the close of voting on General Voting Day)

These amounts are separate, and may not be combined or carried forward. There are serious consequences for exceeding these limits.

For a general election that is not conducted on a fixed date, the election expenses limit for a registered political party during the campaign period is \$4.4 million.

For a by-election, the total value of election expenses incurred by a registered political party during the campaign period must not exceed \$70,000.

If a campaign period in an electoral district is extended under section 65 (2) due to the death of a candidate, the expenses limit with respect to the electoral district in question is increased by \$70,000.

Constituency association election expenses limits [section 200]

A registered constituency association cannot incur election expenses on its own behalf. It may only incur election expenses on behalf of a candidate, and only during the period after the election has been called but before the candidate receives their certificate of candidacy. 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

Candidate election expenses limits [section 199]

For a fixed date general election the election expenses limits for a candidate are:

- \$70,000 during the 60 day pre-campaign period, and
- \$70,000 for the campaign period

These amounts are separate and may not be combined or carried forward. There are serious consequences for exceeding these limits.

For a general election that is not conducted on a fixed date or a by-election, the total value of election expenses incurred by a candidate during the campaign period must not exceed \$70,000.

If a campaign period in an electoral district is extended under section 65 (2) due to the death of a candidate, the expenses limit is:

- \$70,000 for a candidate who is nominated after the date new election proceedings are started
- \$140,000 for a candidate who was nominated before the new election proceedings were started

Limits are adjusted for changes to the consumer price index [section 204]

Beginning in 2010, election expenses limits will be adjusted for changes to the consumer price index. Adjusted amounts will be published on the Elections BC website and in the *B.C. Gazette* and communicated to registered political parties, registered constituency associations and candidates in the election.

Candidates' surplus election funds [section 205]

If, after all election expenses and other campaign-related expenses are paid, there is money left in the 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 the Chief Electoral Officer if there is no registered political party or registered constituency association

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

Expenses not to be included in expenses limits [section 203]

The following expenses are not to be included as election expenses for the purpose of determining whether an organization or individual has complied with an 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 event 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 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,
 - (i) carry or wear flags, badges or any other thing indicating that the individual promotes or opposes a particular candidate or registered political party, or
 - (ii) engage in any campaigning
 - (a) to promote or oppose, directly or indirectly, the election of a candidate, or
 - (b) 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 included for the purpose of calculating whether there has been compliance with an expenses limit is still subject to all other provisions of the *Election Act*.

Candidate who incurs election expenses over limit [section 217]

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 under section 219 of the *Election Act*, a 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 Chief Electoral Officer must present a report to the Speaker of the Legislative Assembly indicating that a Member of the Legislative Assembly may be subject to penalties for exceeding the election expenses limit, and
 - the Member ceases to hold office and the seat becomes vacant
 - at the end of the period for making an application to the Supreme Court for relief if no application is made, or
 - at the time the court refuses to grant relief from the election expenses limit

Furthermore, financial agents who incur election expenses in excess of the election expenses limits 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 [section 263].

Political party that incurs election expenses over limit [section 218]

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 under section 219 of the *Election Act*, 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 who incur election expenses in excess of the election expenses limits 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 [section 263].

Reporting

Summary of reports to be filed with the Chief Electoral Officer

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	June 29	\$100	Deregistration
Registered Political Party	Election Financing Reports	90 days after General Voting Day	120 days after General Voting Day	\$500	Deregistration
Registered Constituency Association	Annual Financial Reports	March 31	June 29	\$100	Deregistration
Registered Constituency Association	Election Financing Reports	90 days after General Voting Day	120 days after General Voting Day	\$500	Deregistration
Candidates	Election Financing Reports (including nomination contest information if applicable)	90 days after General Voting Day	120 days after General Voting Day	\$500	Loss of seat in Legislature if an MLA; disqualified from being a candidate in next general election; potential deregistration of political party
Leadership Contestant	Contestant Financing Report	90 days after a leader is selected	120 days after a leader is selected	\$500	Loss of seat in Legislature if an MLA; disqualified from being a candidate in next general election

In addition to the above penalties, the names of all registered political parties, registered constituency associations, candidates and leadership contestants that file late reports shall be published in the *B.C. Gazette*.

Section 225 of the *Election Act* allows organizations and individuals to apply to the Supreme Court for relief from their filing obligations.

All financing reports must be prepared in accordance with the *Election Act* on forms provided by Elections BC.

Note: If the filing deadline falls on a weekend or statutory holiday, the deadline will be 4:30 p.m. on the next business day.

Annual financial reports by registered political parties and registered constituency associations [section 207]

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 political contributions the organization accepted during the year
- the total amount of all tax receipts issued for contributions received during the year
- the assets, liabilities and surplus or deficit of the organization at December 31
- any transfers of money, goods or services made or received by the organization during the year
- for fundraising functions held by or on behalf of the organization during the year
 - a description of the function
 - the date of the function, and
 - the cost, the gross income and the net income or loss arising from the function
- any income received and any expenditures made or incurred by the organization during the year, if these are not otherwise disclosed in the report
- all loans or guarantees received by the organization during the year and any conditions attached to them, including
 - the amount of the loan
 - the date the loan is due
 - the rate of interest charged for the loan
 - if the loan is received at a preferred interest rate:
 - the value of the resulting contribution
 - the date the loan was made
 - the full name of the lender
 - the class of lender, and
 - if the lender is a numbered corporation or a class 3, 4, 5 or 6 contributor, the full names of at least two individuals who are directors of the organization, or if there are no individual directors, who are principal officers or principal members of the organization

- any preferred rate loans received in prior years if there is an outstanding balance, indicating for each
 - the amount of the loan
 - the date the loan is due
 - the date the loan was made
 - the rate of interest charged for the loan
 - the full name of the lender
 - the class of lender, and
 - if the lender is a numbered corporation or a class 3, 4, 5 or 6 contributor, the full names of at least two individuals who are directors of the organization, or if there are no individual directors, who are principal officers or principal members of the organization
- any prohibited political contributions received during the year by the organization but returned to the contributor or forwarded to the Chief Electoral Officer

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 one or more of 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.

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 General Voting Day.

For example, if a contributor gave \$100 to 10 registered constituency associations for the same political party, in the same calendar year, the contributor's information would not appear in the constituency associations' 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 registered constituency associations x \$100 = \$1,000).

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.

The first report made by an organization must cover the period between the date of the statement of the assets and liabilities which was included in the application for registration, and December 31.

Election financing reports by registered political parties and registered constituency associations [section 210]

Within 90 days after General 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
- 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:

- 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
- 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 included for the purposes of determining whether the political party exceeded the applicable election expenses limits (i.e., election expenses not subject to the expenses limits by virtue of section 203. See page 40).
- any transfers of money, goods or services made or received from January 1 until the end of the campaign period
- any loans or guarantees received by the organization for election expenses and any conditions attached to them, including for preferred rate loans
 - the date the loan was made
 - the date the loan is due
 - the full name of the lender
 - the class of lender
 - if the lender is a numbered corporation or a class 3, 4, 5, or 6 contributor, the full names of at least two individuals who are directors of the organization, or if there are no individual directors, who are principal officers or principal members of the organization
 - the amount of the loan, and
 - the rate of interest charged for the loan
- for fundraising functions held by or on behalf of the organization from January 1 until the end of the campaign period
 - a description of the function
 - the date of the function, and
 - the cost, the gross income and the net income or loss arising from the function

- any prohibited political contributions received by the organization from January 1 until the end of the campaign period, but returned to the contributor or forwarded to the Chief Electoral Officer

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.

If a by-election is canceled because a general election is called, a report respecting the canceled 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.

Election financing reports by nomination contestants [section 209]

The *Election Act* does not require the filing of nomination contestant financing reports. However, if a nomination contestant becomes a candidate, information about the nomination contest must be included in the candidate's election financing report.

The election financing report must disclose:

- for each contributor who made one or more contributions to the nomination contest that in total have a value of more than \$250:
 - the name of the contributor
 - the class of the contributor
 - the date the contribution was made
 - the value of the contribution, and
 - if the contributor is a numbered corporation or a class 3, 4, 5 or 6 contributor, the full names of at least two individuals who are directors of the organization, or if there are no individual directors, two individuals who are principal officers or principal members of the organization
- for anonymous contributions received in relation to the nomination contest:
 - a description of the function
 - the date
 - the number of people in attendance, and
 - the total value of anonymous contributions received

- the aggregate value of all political contributions received and the total number of contributors
- any loans or guarantees received for nomination expenses including:
 - the date of the loan
 - due date of the loan
 - the lender's name
 - the lender's class, and
 - any conditions
- any nomination contestant expenses if they were incurred during the campaign period

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 percent of the candidate's limit are counted as election expenses.

Example:

The candidate spending limit during the campaign period is \$70,000. A nomination contest is held during the campaign period. A nomination contestant who became a candidate spent \$12,000 in the nomination contest. The excess must be attributed to election expenses. So \$5,000 would be counted towards the \$70,000 candidate expenses limit ($\$12,000 - (10\% \times \$70,000) = \$5,000$).

Election financing reports by candidates [section 209]

The financial agent of a candidate must file an election financing report with the Chief Electoral Officer within 90 days after General 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 included for the purposes of the election expenses limits
- for each contributor who made one or more contributions that in total have a value of more than \$250:
 - the name of the contributor
 - the class of the contributor
 - the date the contribution was made
 - the value of the contribution, and
 - if the contributor is a numbered corporation or a class 3, 4, 5 or 6 contributor, the full names of at least two individuals who are directors of the organization, or if there are no individual directors, two individuals who are principal officers or principal members of the organization

- for anonymous contributions:
 - a description of the function
 - the date
 - the number of people in attendance, and
 - the total amount of anonymous contributions received
- for all other political contributions
 - the aggregate value of the contributions received by class, and
 - the total number of contributors
- the total amount of all income tax receipts issued for contributions received
- any transfers of money, goods or services received from the candidate's registered political party, registered constituency association or from another candidate
- any transfers of money, goods or services made by the candidate to the candidate's registered political party, registered constituency association or to another candidate
- for any fundraising functions:
 - a description of the function
 - the date
 - the cost
 - the gross income, and
 - the net income or loss arising from the function
- any loans or guarantees received by the candidate including:
 - the date of the loan
 - due date of the loan
 - the lender's name
 - the lender's class, and
 - any conditions
- the political contributions accepted by the candidate as a nomination contestant if the candidate was a nomination contestant
- if the candidate incurred nomination expenses during the campaign period, those nomination contestant expenses that are not included as election expenses
- any surplus campaign funds or any equivalent deficit, as at the day the report is prepared
- details about any prohibited political contributions, and when they were returned to the contributor or turned over to the Chief Electoral Officer, and
- any other income or expenses not otherwise disclosed in the report

Financing reports by leadership contestants [section 211]

The financial agent of a leadership contestant must file a financing report with the Chief Electoral Officer 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
- for each contributor who made one or more contributions that in total have a value of more than \$250:
 - the name of the contributor
 - the class of the contributor
 - the date the contribution was made
 - the value of the contribution, and
 - if the contributor is a numbered corporation or a class 3, 4, 5 or 6 contributor, the full names of at least two individuals who are directors of the organization, or if there are no individual directors, two individuals who are principal officers or principal members of the organization
- for anonymous contributions:
 - a description of the function
 - the date
 - the number of people in attendance, and
 - the total amount of anonymous contributions received
- for all other political contributions
 - the aggregate value of the contributions received by class, and
 - the total number of contributors
- for any fundraising functions:
 - a description of the function
 - the date
 - the cost
 - the gross income, and
 - the net income or loss arising from the function
- details about any transfers given or received of money, goods and/or services

- any loans or guarantees received for contestant expenses, including:
 - the date of the loan
 - due date of the loan
 - the lender's name
 - the lender's class, and
 - any conditions
- details about any prohibited political contributions and when they were returned to the contributor or turned over to the Chief Electoral Officer

Auditing of financial reports [sections 213, 214]

If the total value of political contributions, election expenses (for both the 60 day pre-campaign period and the campaign period) or contestant expenses to be reported is \$10,000 or more, the financing reports must be audited and the financial agent must file a copy of the auditor's report with the financing report.

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 so the filing deadlines for reports are met.

Supplementary reports [section 212]

A supplementary report must be filed with the Chief Electoral Officer 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.

Offences and Penalties

General

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

Penalties include late filing fees, disqualification to run as a candidate, loss of a seat as an MLA and the suspension or deregistration of a political party or constituency association. See the table on page 42 for a summary of penalties related to late filing of reports.

The *Election Act* also establishes offences and an individual or organization who commits an election financing offence is liable to a fine of not more than \$10,000 or imprisonment for a term not longer than one year, or both [section 263].

Failure to file a report [sections 221, 222, 223, and 224]

Sections 221 to 224 of the *Election Act* deal with the implications of failing to file a financial report.

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 **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.

Exceeding election expenses limits [sections 217, 218]

Unless relief is granted by the B.C. Supreme Court, a candidate or political party whose election expenses exceed the applicable election expenses limits 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 limits, 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 limits, 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 [section 263].

False or misleading reports in relation to candidates or leadership contestants [sections 226, 266]

If a candidate or leadership contestant 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:

- 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, and
- a fine of up to \$20,000 or imprisonment for up to two years, or both

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.

False or misleading reports in relation to political parties or constituency associations [sections 227, 266]

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.

Questions?

For more information

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