



Written Opinions, Guidelines and Interpretation Notes

Guideline: 2017-03

Political Financing Handbook for Registered Parties and Chief Agents

Comments made during formal consultation period of July 17 to 31, 2017

Comments received from the Green Party of Canada	Elections Canada response to the Green Party of Canada
<p>Chapter 1</p> <p>I didn't notice anywhere it confirms that non-monetary contributions are not eligible for tax receipts.</p>	<p>The following text has been added in Chapter 2, under Issuing contribution receipts: "Tax receipts can be issued only for monetary contributions."</p>
<p>Chapter 8</p> <p>p. 66: "If a leader attends a candidate event unrelated to the leader's tour, the expenses are those of the candidate, not of the party. Any incremental expenses incurred by the leader to attend such an event are to be reported as a transfer from the party to the candidate's campaign."</p> <p>I found the second sentence to be unclear. An example would be helpful.</p>	<p>The following example has been added:</p> <p>"The leader's tour has planned stops in Toronto and Ottawa on Thursday and Friday. A candidate asks the party leader to join an event in Hamilton on Thursday night. The incremental expenses for the party leader to attend the Hamilton event, such as added travel costs, are a transfer from the party to the candidate's campaign."</p> <p>This example has also been added to the candidate handbook.</p>
Comments received from the Liberal Party of Canada	Elections Canada response to the Liberal Party of Canada
<p>Chapter 1: Reference Tables and Timelines, p. 15</p> <p>Paragraph/Section: Failure to submit reports or financial returns: risk of deregistration, 3rd bullet</p> <p>Particulars:</p> <p>States "a declaration by the party leader, submitted by June 30 each year, regarding the party's fundamental purpose to participate in public affairs."</p> <p>Comments:</p> <p>If this references EC 20360 <i>General Form—Political Party</i>, we don't see where there is mention of the fundamental purpose.</p>	<p>It is mentioned in the leader's declaration under Section B, Type 3 of the general form.</p>

<p>Chapter 1: Reference Tables and Timelines, p. 18</p> <p>Paragraph/Section: Reporting deadlines during the fiscal year</p> <p>Particulars: “Change in registry information” column, <i>General Form—Political Party</i></p> <p>Comments: The form number EC 20360 should be added.</p>	<p>To save space, no form numbers are included in the graphic. They are included in the more detailed <i>Reporting timeline</i> table in Chapter 10.</p>
<p>Chapter 1: Reference Tables and Timelines, p. 18</p> <p>Paragraph/Section: Reporting deadlines during the fiscal year</p> <p>Particulars: “Annual reports on June 30” column, <i>General Form—Political Party</i></p> <p>Comment: The form number EC 20360 should be added.</p>	<p>See the response above.</p>
<p>Chapter 1: Reference Tables and Timelines, p. 19</p> <p>Paragraph/Section: Role and appointment process—party leader</p> <p>Particulars: Who is eligible? All three bullets</p> <p>Comment: Having three bullets unnecessarily complicates the presentation. One bullet, slightly modified, would suffice. The bullet should read “Individual who is a Canadian citizen and resides in Canada and is an elector.”</p>	<p>Based on several comments received, the first row has been modified to read: “Canadian citizen who is at least 18 years old and resides in Canada”.</p> <p>The row about not qualifying as an elector has been deleted.</p>
<p>Chapter 1: Reference Tables and Timelines, p. 20</p> <p>Paragraph/Section: Role and appointment process—party officers</p> <p>Particulars: Who is eligible? All three bullets</p> <p>Comment: Having three bullets unnecessarily complicates the presentation. One bullet, slightly modified, would suffice. The bullet should read “Individual who is a Canadian citizen and resides in Canada and is an elector.”</p>	<p>See the response above.</p>

<p>Chapter 1: Reference Tables and Timelines, p. 21</p> <p>Paragraph/Section: Role and appointment process—chief agent</p> <p>Particulars: Who is eligible? First line, second line, and seventh line</p> <p>Comment: If a corporation (which is a person) can be a chief agent, making what one might construe as a reference to being qualified as an elector is incorrect.</p>	<p>This issue is addressed by changing the rows as described above.</p>
<p>Chapter 1: Reference Tables and Timelines, p. 21</p> <p>Paragraph/Section: Role and appointment process—chief agent</p> <p>Particulars: Who is eligible? Eighth line</p> <p>Comment: The wording regarding eligibility to enter into contracts should be clarified, perhaps with examples/facts, as someone reading the manual does not have greater clarity on what is intended by simply reading the line.</p>	<p>The following text has been added: “(e.g. a dissolved corporation or a person with a diminished mental capacity)”.</p> <p>Similar changes have also been made in the candidate and registered association handbooks.</p>
<p>Chapter 1: Reference Tables and Timelines, p. 22</p> <p>Paragraph/Section: Role and appointment process—registered agents</p> <p>Comment: There should be a comment as in the last Handbook that a Party may appoint as many registered agents as it needs to.</p>	<p>This is mentioned in the Appointment process section of the table, which says: “The registered party may appoint any number of registered agents at any time.”</p>
<p>Chapter 1: Reference Tables and Timelines, p. 22</p> <p>Paragraph/Section: Role and appointment process—registered agents</p> <p>Particulars: Who is eligible? First line, second line, and seventh line</p> <p>Comment: If a corporation (which is a person) can be a registered agent, making what one might construe as a reference to being qualified as an elector is incorrect.</p>	<p>This issue is addressed by changing the rows as described above.</p>

<p>Chapter 1: Reference Tables and Timelines, p. 23</p> <p>Paragraph/Section: Role and appointment process—auditor</p> <p>Particulars: Who is eligible? First line</p> <p>Comment: A “person” includes a corporation. “Individual” should be used. Perhaps the use of the word “corporation” in the first instance is redundant given the reference to “provincially incorporated” later?</p>	<p>The wording “person who is a member in good standing of a corporation” is taken directly from the <i>Canada Elections Act</i> (“CEA”). The reference to provincial incorporation was added to provide greater certainty that the corporation, association or institute must be incorporated at the provincial level.</p>
<p>Chapter 1: Reference Tables and Timelines, p. 23</p> <p>Paragraph/Section: Role and appointment process—auditor</p> <p>Particulars: Who is eligible? Second line</p> <p>Comment: Perhaps the use of the word “corporation” in the first instance is redundant given the reference to “provincially incorporated” later?</p>	<p>See the response above.</p>
<p>Chapter 1: Reference Tables and Timelines, p. 25</p> <p>Paragraph/Section: Transfers—types and rules</p> <p>Particulars: To and From labels</p> <p>Comment: Would it not be more correct to use the labels “Nomination Contestant Campaign,” “Leadership Contestant Campaign” and “Candidate Campaign”?</p>	<p>The wording is consistent with the CEA, which talks about transfers to contestants or candidates rather than to their campaigns.</p>
<p>Chapter 1: Contributions, p. 28</p> <p>Paragraph/Section: Who can contribute?</p> <p>Particulars: Second paragraph</p> <p>Comment: Age limit has been added as a consideration in this Handbook with the suggestion of practising due diligence. No suggestions or examples are provided of what this due diligence might entail.</p>	<p>For greater clarity, the text has been modified to read: “Contributions can be accepted from minors, but political entities should consider whether the person is contributing willingly and using their own property or money.”</p> <p>This change has also been made in the candidate and registered association handbooks.</p>

<p>Chapter 2: Contributions, p. 28</p> <p>Paragraph/Section: Limits on contributions, loans and loan guarantees to a registered party</p> <p>Comment: Other than the table line item using the word “each”, there is no discussion that the annual limit applies to contributions made to each registered party.</p>	<p>In the first example, the following text has been added: “He could still make a contribution to political entities of other registered parties.”</p> <p>This change has also been made in the candidate and registered association handbooks.</p>
<p>Chapter 2: Contributions, p. 29</p> <p>Paragraph/Section: Party convention or leadership convention fees are contributions</p> <p>Particulars: Last paragraph</p> <p>Comment: The guidance advises that room costs are not to be deducted as a personal benefit for a party convention. The guidance in the <i>Fundraising</i> OGI (2016-01) advises that room costs are to be deducted as a personal benefit. The guidance for conventions and fundraising events needs to be the same.</p>	<p>The difference is intentional: the nature of the events causes the room rental to be a benefit in one case and not in another. A party convention is not a fundraising event, so the rooms serve a practical function for the party more so than an entertainment function for participants. What is more, given the average cost of convention facilities, no contribution would be made if the pro-rated rental cost was deducted from the amount given by participants. This would be contrary to the CEA, which states that convention fees are a contribution.</p>
<p>Chapter 2: Contributions, p. 29</p> <p>Paragraph/Section: Sponsorship or advertising at a political event is a contribution</p> <p>Comment: Referencing our comments to the <i>Contributions and Commercial Transactions</i> OGI (2017-06), we believe a fair market value for trade show sponsorship and advertising can be established, and the different guidance provided in OGI 2017-06 compared to that provided in the 2008 draft Interpretation Sheet on sponsorship and advertising is not supported by corresponding legislative change.</p>	<p>As noted in response to your comment on OGI 2017-06, Elections Canada believes that sponsorship or advertising at a political event cannot be adequately compared to the same activity in a regular market because, in the former case, the transaction ultimately results in the purchase of political goodwill. We believe our final position is well founded and protects the goals of the political financing regime.</p>

<p>Chapter 2: Contributions, p. 30</p> <p>Paragraph/Section: Accepting and recording contributions</p> <p>Particulars: Second table, “From a partnership,” second and third bullets</p> <p>Comment: Previous guidance from Elections Canada had confirmed that a partnership’s authorized individual could communicate on behalf of each contributor, but that the partnership needed to retain evidence from each partner to support the contributions. In the third bullet, should the word “reduced” not be replaced with “increased”?</p>	<p>As a best practice, the political party should retain a copy of the instructions signed by each contributing partner. The word “must” has been replaced with the word “should” in the first two bullets. The third bullet refers to reducing a partner’s draw of income from the partnership by the same amount as their contribution. It has been reworded for clarity.</p> <p>The latter change has also been made in the candidate and registered association handbooks.</p>
<p>Chapter 2: Contributions, p. 32</p> <p>Paragraph/Section: Determining the date a contribution is made</p> <p>Particulars: Example #4</p> <p>Comment: This guidance is new. General guidance on recognizing the point of contribution is when it is in the hands of the chief agent. Because of perhaps an inadvertent banking error, a contribution being charged back because of non-sufficient funds should not be considered as not making a contribution if the donor rectifies the matter within a reasonably short period of time.</p>	<p>It is Elections Canada’s position that a contribution is not made if the payment is not successfully deposited. The date associated with the next successful attempt must be reported as the date the contribution is made.</p>
<p>Chapter 2: Contributions, p. 33</p> <p>Paragraph/Section: Returning or remitting ineligible contributions</p> <p>Particulars: Example #3</p> <p>Comment: The example should be modified to explain that an individual can invoice the chief agent for any amount in excess of the contribution limit if there is an understanding to do so beforehand.</p>	<p>It is acceptable for a contributor to invoice the party for the amount over the limit at the time the non-monetary contribution is made. However, if a non-monetary contribution is used and is later found to be over the limit, the CEA requires that its commercial value in excess of the limit be remitted to the Receiver General. The contributor cannot retroactively invoice the amount to the party.</p>

<p>Chapter 2: Contributions, p. 34</p> <p>Paragraph/Section: Flowchart 1</p> <p>Particulars: Last decision point, “Can it be returned to contributor?”</p> <p>Comment: There may be merit in expanding this to more clearly delineate why a contribution can or cannot be returned to the contributor.</p>	<p>The following note has been added below the flowchart: “For example, the contributor’s address is known and there are no obstacles to prevent the return.”</p> <p>This change has also been made in the candidate and registered association handbooks.</p>
<p>Chapter 3: Loans, p. 36</p> <p>Paragraph/Section: Types of loans – Overdraft and line of credit</p> <p>Particulars: Third bullet</p> <p>Comment: Additional comment may be useful on how to report the interest rate if the rate has been variable during the reporting period.</p>	<p>The instruction on how to report a variable interest rate is available on the financial return itself: the rate should be entered as a percentage above or below prime.</p>
<p>Chapter 5: Fundraising, p. 42</p> <p>Paragraph/Section: Examples</p> <p>Particulars: Example #2</p> <p>Comment: The example states the personal benefit should be calculated in advance of the event. Generally, the CRA requires that calculations be based on actual costs, not estimated costs. There is good reason for this as estimated attendance and actual attendance may vary significantly, thus causing a material difference when using an estimate versus actual costs. Where the activity entails a unit cost per participant, such as food and beverage of \$20, using an estimate may be reasonable; however, where food and beverage costs bear no relation to estimated versus actual attendance, the use of an estimate will create an incorrect calculation for CRA purposes. To ensure contributors do not exceed their annual contribution limit, a political entity could provide an estimate of the personal benefit in advance of the event as guidance only.</p>	<p>Elections Canada notes your comment but maintains that the benefit must be calculated in advance. As stated in the handbook, an individual will receive the same dinner in the same venue regardless of the actual number of attendees. The benefit’s value and the contribution amount should not depend on the extent of profits (or losses) from an event.</p>

<p>Chapter 5: Fundraising, p. 45</p> <p>Paragraph/Section: Purchaser’s contribution</p> <p>Particulars: Third paragraph, second sentence</p> <p>Comment: The “Note” should be segregated and highlighted as with other notes provided in the Handbook.</p>	<p>In this case, the note is attached to the third paragraph so that it is not mistakenly applied to the first and second paragraphs.</p>
<p>Chapter 5: Fundraising, p. 46</p> <p>Paragraph/Section: Ticketed fundraising events</p> <p>Particulars: Benefit received</p> <p>Comment: No mention is made with respect to the treatment of gratuities and taxes. Ideally, Elections Canada guidance on this matter will mirror that of the CRA.</p>	<p>Elections Canada recognizes that it is preferable for our policies and those of the Canada Revenue Agency (“CRA”) to align. We are therefore taking an interim position that mirrors the CRA’s guidance on this topic while holding discussions with the agency.</p> <p>As a result, the section on ticketed fundraising has been modified to explain that, when calculating the benefit’s value at a ticketed fundraiser, agents must exclude sales taxes and gratuities from the cost of food and beverages.</p> <p>The interim changes have also been made in the candidate and registered association handbooks.</p>
<p>Chapter 5: Fundraising, pp. 46–47</p> <p>Comment: There are numerous uses of the word “expected” in these two pages. See point above regarding example #2 on page 42.</p>	<p>See the related response above.</p>
<p>Chapter 5: Fundraising, p. 47</p> <p>Paragraph/Section: Examples</p> <p>Particulars: Example #1</p> <p>Comment: The text is not clear on whether the door prize of a hockey ticket is provided to each attendee, or whether there is only one door prize for the entire event. This may lead to confusion.</p>	<p>Door prizes are generally limited in number and are not won by all attendees. However, no matter the number of prizes, their value is pro-rated based on the expected number of attendees when calculating the value of the benefit.</p>

<p>Chapter 5: Fundraising, p. 47</p> <p>Paragraph/Section: Examples</p> <p>Particulars: Example #2</p> <p>Comment: It is very common is golf tournaments to seek advertising sponsorships for holes. Often, an advertisement of some type or another is placed at each hole, typically on the flag pole itself. Based on CRA guidance, an income tax receipt can be issued for the hole sponsorship as long as the form of recognition conforms to the guidance, and there is no need to deduct the cost of the sign. We suggest including something along those lines in the Handbooks because flag sponsorship is common, and it will provide all of the relevant material in one area when factored with example #2.</p>	<p>An example of hole sponsorship by individuals has been added to the Sponsorship or advertising at a political event is a contribution section in Chapter 2. A reference to that section has been added to the golf tournament example in Chapter 5. Note that corporations, unions and other groups cannot participate in this kind of sponsorship.</p> <p>Similar changes have also been made in the candidate and registered association handbooks.</p>
<p>Chapter 6: Registered Party's Expenses, p. 50</p> <p>Paragraph/Section: Non-monetary contributions and transfers are also expenses or assets</p> <p>Particulars: Chart</p> <p>Comment: Perhaps there is merit in stating the table does not apply to volunteer services.</p>	<p>The following text has been added: "Keep in mind that if a service is provided free of charge by an eligible volunteer, there is no contribution and no expense. See Volunteer labour is not a contribution in Chapter 2, Contributions, for details."</p> <p>This change has also been made in the candidate and registered association handbooks.</p>
<p>Chapter 7: Election Expenses, p. 55</p> <p>Paragraph/Section: Limits on election expenses for by-elections</p> <p>Comment: This section seems out of sequence in the chapter, particularly given paragraphs 3 and 4 discuss election advertising expenses, when a full discussion of election advertising expenses commences on page 56. Consideration should be given to resequencing this section and removing paragraphs 3 and 4.</p>	<p>Elections Canada notes your comment. We will be developing an interpretation note on by-elections and will restructure the handbook once that consultation is concluded.</p>

Chapter 7: Election Expenses, p. 57

Paragraph/Section: Election advertising on the Internet

Particulars:

Last paragraph – removal of pre-existing content

Comment:

For ongoing entities, to suggest the removal of all pre-existing online content during a by-election is not practical and raises policy concerns.

First, having historical content available to the public serves the public interest and often will provide little to no electoral benefit. This guidance would mean treating as an “election expense” content which was not produced for, promoted in respect of or meaningfully accessed in a by-election. This would require parties to either drastically reduce the availability of historical content (which is not in the public interest) and/or significantly limit any other national spending on by-elections.

Second, there are practical concerns with this approach. In some cases, a deletion will mean the permanent erasure of content. For example, many web and social media platforms such as Twitter, Facebook, and others contain an ongoing historical record of past party activity that cannot be reinstated if deleted. Such content is typically historical in nature and incorporates an exchange of ideas that have minimal relevance to a current by-election. In other cases, the content may be outside the control of a party to remove altogether, leading to asymmetrical treatment of online content based on which platform it happens to be housed on.

Third, there are other legitimate, non-electoral national interests served by the inclusion of web content that should be permitted during a by-election. Taken literally, this guidance would have the effect of severely limiting other national web activity (i.e. making an unrelated AGM in a different region available online) during a by-election. The legislation clearly contemplates that an expense should only be attributable to an election to the extent used, directly or indirectly, in that election. In our view some kind of *pro rata* treatment (perhaps regional as opposed to by riding) needs to be applied to these expenses to conform to the legislation.

Elections Canada agrees that our current position on pre-existing web content is not practical, especially for a by-election. We will be developing new guidance to address this issue.

We are taking an interim position that pre-existing web content is an election expense of a party only if the content is produced or promoted for the purpose of the by-election. Both the production and distribution costs are included in the election expense.

The registered party handbook has been changed accordingly.

<p>Chapter 7: Election Expenses, p. 58</p> <p>Paragraph/Section: Voter contact calling services</p> <p>Comment: No mention is made in this section regarding CRTC requirements for registration. Such an addition would be useful.</p>	<p>The following note has been added: Note: A registered party must register with the Canadian Radio-television and Telecommunications Commission (CRTC) if it uses a calling service provider or automatic dialing-announcing device to make voter calls. Refer to the CRTC's Voter Contact Registry web page for details.”</p> <p>A similar change has also been made in the candidate and registered association handbooks.</p>
<p>Chapter 7: Election Expenses, p. 59</p> <p>Paragraph/Section: Travel expenses</p> <p>Comment: It would be beneficial to state that expenses to return staff to headquarters or other locations following an election are not an election expense.</p>	<p>The following text has been added: “Expenses incurred for return trips of the party leader, staff or campaign workers after the election period are not election expenses.”</p> <p>A similar change has also been made in the candidate handbook.</p>
<p>Chapter 7: Election Expenses, p. 59</p> <p>Paragraph/Section: Compensation</p> <p>Particulars: Second paragraph</p> <p>Comment: Perhaps a reference to the discussion of volunteer labour on page 29 would be useful.</p>	<p>The following text has been added: “For more information, refer to Volunteer labour is not a contribution in Chapter 2, Contributions.”</p> <p>To avoid repetition, the following sentences have been deleted: “Volunteer labour is any service provided free of charge by a person outside their working hours. It does not include a service provided by a self-employed person who normally charges for that service.”</p>
<p>Chapter 7: Election Expenses, p. 60</p> <p>Paragraph/Section: Examples</p> <p>Particulars: Example #2</p> <p>Comment: Clarity should be provided on volunteers using the party premises after the normal work day. Such use should not include the allocation of rental premises and related overheads, as to do so would significantly reduce the amount of rental premise cost allocated for daytime use by full-time staff. Incremental HVAC for after-hours use would be included as an election expense.</p>	<p>Elections Canada notes your comment. If the office is used by party volunteers after hours, a reasonable allocation of overhead costs must still be made. The allocation may include a combination of pro-rated and incremental expenses, such as HVAC. To do otherwise would allow organizations that are not eligible to make political contributions, such as corporations or trade unions, to offer political entities the use of their office space at no charge.</p> <p>Note that the guidelines issued under section 16.1 of the CEA are intended to provide general direction. Specific factual situations would be better addressed using the written opinion process in section 16.2.</p>

<p>Chapter 7: Election Expenses, p. 61</p> <p>Paragraph/Section: Billboards</p> <p>Particular: First paragraph</p> <p>Comment: It should be clarified that the election expense amount to be allocated for the rental of space for the billboard should be done on a <i>pro rata</i> basis of the number of days the billboard is shown during the election period over the total rental period.</p>	<p>The text has been modified to read: “Note that the commercial value of the structure is the lower of its purchase price or its rental cost <i>for the length of the election period.</i>”</p>
<p>Chapter 8: Working with Other Entities, p. 66</p> <p>Paragraph/Section: Leader’s tour</p> <p>Particulars: Example</p> <p>Comment: The example provided is contrary to previous guidance provided by Elections Canada. Prior Elections Canada guidance required that any activity involving the leader of a party would be deemed to be a leader’s tour expense and thus an expense of the party.</p>	<p>Elections Canada’s current position was refined in the handbook in July 2015 after consultation with parties. If the leader attends a candidate’s campaign event that is not part of the leader’s tour, the incremental expenses for the leader to attend are those of the candidate.</p>
<p>Chapter 9: Leadership and Nomination Contest Finances, p. 68</p> <p>Paragraph/Section: Contributions received during ticketed fundraising events</p> <p>Particulars: Personal benefit amount of a directed contribution</p> <p>Comment: In addition to the workaround examples provided, a leadership candidate campaign could invoice the party on a commercial basis (as described in Chapter 8) for the personal benefit amount of the ticket’s directed contribution, and the party could pay such an invoice on a basis as a service offered to all leadership candidate campaigns.</p>	<p>The following option has been added for managing the contribution and benefit amounts generated by ticket sales for a leadership fundraiser:</p> <p>“The individual may be asked to send the full amount to the party, and the leadership contestant may invoice the party for the benefit portion of the ticket price.”</p>

<p>Chapter 10: Reporting, p. 70</p> <p>Paragraph/Section: Reporting timeline chart</p> <p>Particulars: T2092—CRA</p> <p>Comment: The description uses the word “electronic,” and this may be confusing as most Government of Canada forms are now available electronically but can be filed on paper.</p>	<p>The word “electronic” has been deleted.</p>
<p>Comments received from the Commissioner of Canada Elections</p>	<p>Elections Canada response to the Commissioner of Canada Elections</p>
<p>1. Becoming a registered political party, pp. 10 and 11</p> <p>On page 10 of the English version, in the first paragraph in the box entitled “Why become a registered political party?” the text should be amended as follows to reflect the text in the Act and the French version of the document: “A political party is an organization one of whose fundamental purposes is to participate in public affairs by [...].”</p> <p>In the first bullet in the box entitled “Step 2: Becoming an eligible party” on p. 11, under “Elections Canada’s review of the application,” the words “registered or eligible” should be added before “party” to clarify that the objective is to avoid any confusion relating to the name or logo of a registered or eligible party.</p>	<p>The text has been modified based on your two suggestions.</p>
<p>2. Voluntary and involuntary deregistration of a registered party, p. 15</p> <p>In point 3, the current wording seems to indicate that the Court can issue an order requiring the Chief Electoral Officer to deregister a political party when the party, or one of its agents or officers, has been convicted of any offence under the Act. However, in s. 501(3) of the Act, Parliament has identified only certain offences which could result in such a consequence.</p>	<p>The text has been modified as follows: “A court orders Elections Canada to deregister the party because the party, its chief agent, a registered agent or one of its officers has been convicted of an offence under <i>subsection 501(3) of the Canada Elections Act.</i>”</p>
<p>3. Transfers—types and rules, p. 25</p> <p>The answer is “No” in response to whether it is possible to make a monetary or non-monetary transfer between candidates. However, the Act authorizes such transfers in the event of the dissolution of Parliament after the issue of a writ: see ss. 364(2)(f) and 364(3)(e) of the Act. These exceptions could be referenced in a footnote.</p>	<p>The following footnote has been added: “Candidates in a superseded by-election may transfer property, services and funds to their campaign for the general election.”</p>

4. Limits on contributions, loans and loan guarantees to a registered party, pp. 28 and 29

The table in Chapter 2, concerning contributions, indicates just one limit for contributions, loans and loan guarantees. In reality, there are separate limits: (1) a contribution limit that serves to determine whether or not **a contribution** is legal; (2) a separate limit for all contributions, loans and loan guarantees that serve to determine whether or not a **loan or a loan guarantee** is legal. There are separate offences for failing to comply with either of these limits. Moreover, the legal consequences for failing to comply with these limits are also different. The total amount of contributions exceeding the limit of \$1,550 described in (1) above must be returned to the donor or the Receiver General, as applicable. In contrast, there is no requirement to return an amount corresponding to the value of the surplus to the donor or Receiver General when the total amount of contributions, unpaid loans and loan guarantees on outstanding loans exceeds the limit described in (2) above, if the amount of the contributions itself does not exceed the limit described in (1). Consequently, it would be preferable to refer to the contribution limit in Chapter 2 only, which concerns contributions, and to address the separate limit which determines the legality of a loan or a loan guarantee in Chapter 3.

This comment is also applicable to the following sections:

- On page 24, it would be preferable to change the first note in order to clearly indicate that there are two separate limits: the first, which only covers contributions received and serves to determine the legality of a contribution; and the second—which covers the total amount of contributions, the unpaid balance of loans made during the period and the amount of any loan guarantees made during the period that an individual is still liable for—which serves to determine the legality of a loan or a loan guarantee.
- On page 35, the last sentence of the paragraph under the subheading “Loans from financial institutions” reads as follows: “The amount an individual guarantees is subject to the individual’s contribution limit.” This statement is not accurate; the contribution limit only serves to determine the legality of the amount of the contributions. At the beginning of Chapter 3, it would be preferable to define an expression such as the “limit for loans and loan guarantees,” and to indicate that it is the limit which serves to determine whether a loan or a loan guarantee is legal, and to which the total amount of contributions, unpaid loans and existing guarantees is subject.

Elections Canada notes your concerns. We believe this wording from 2015 is adequate for guidance purposes because the separate limits are, in practice, combined. As the suggested changes would affect many documents, we will take them into account when producing the next version of the handbooks and training products.

We also note the comment that there is no requirement to return a surplus amount when the amount of contributions itself does not exceed the limit described in (1). We agree that if a loan or loan guarantee puts an individual over the limit, the surplus amount does not need to be returned to the donor or lender, or remitted to the Receiver General. However, if a contribution puts the individual over the limit, the surplus amount of the contribution must be returned or remitted.

<ul style="list-style-type: none"> On page 36, under the subheadings “Loans from individuals” and “Overdraft and line of credit,” the three references to the “contribution limit” could be replaced with references to the defined expression “limit for loans and loan guarantees.” 	
<p>5. Transfers sent to the registered party, p. 40</p> <p>The Note could specify that transfers may not be accepted from provincial parties or provincial electoral district associations, as is the case in the corresponding Note in the draft versions of the handbooks for candidates and registered electoral district associations.</p>	<p>The note has been modified as suggested.</p>
<p>6. Transfers sent by the registered party, p. 40</p> <p>The use of the expression “before or after the election period” in the fourth paragraph seems to be redundant, considering the presence in the two related bullets of the expressions “before an election is called” and “after election day.” Moreover, in the first bullet of this paragraph, it is stated that before an election is called, a registered party cannot make a transfer to a candidate before the candidate opens a bank account for his/her campaign. Although this may be true for a monetary transfer, that is not the case for a non-monetary transfer. Indeed, opening a bank account for the candidate’s campaign is not a prerequisite for acceptance by the candidate of a non-monetary transfer.</p> <p>The fact that a candidate makes, accepts or receives a non-monetary transfer does not involve the payment or receipt of an amount of money; only financial transactions related to the campaign must be made through the candidate’s bank account. According to s. 477.46(3) of the Act, the campaign’s bank account must be debited and credited for payment or receipt of all money for a candidate’s electoral campaign.</p>	<p>The text has been modified to read as follows:</p> <p>“For transfers to a candidate, the following should be kept in mind:</p> <ul style="list-style-type: none"> before an election is called, transfers from the party to a candidate are allowed as long as: <ul style="list-style-type: none"> the candidate has appointed an official agent the candidate has appointed an auditor in the case of monetary transfers, the official agent has opened a campaign bank account”

<p>7. Typical fundraising activities – Sale of branded goods – Contributions, p. 44</p> <p>The information in the second paragraph under “Contributions” indicates that when an individual buys several branded goods during a fundraising activity, each of the products is considered to be a separate contribution from a <i>separate donor</i>. First of all, it is not, strictly speaking, the branded merchandise purchased which constitutes a contribution, but the difference between the price paid and the fair market value of the item. Second, treating the concomitant purchase by the same person of several branded goods as resulting in distinct contributions from separate donors could allow the contribution limits established in the Act to be circumvented. What if, for instance, a single person purchased, at once, one hundred items of branded merchandise which would each generate a contribution of \$25? Establishing a fictitious number of donors based on the number of products sold does not seem to be consistent with the principles referred to in the Act.</p>	<p>Elections Canada had considered the factors mentioned in your comment when establishing our position on this topic. We believe the branded goods regime is an unlikely target of abuse for over-the-limit or ineligible anonymous contributions since the amounts involved per item (\$20 or less to not generate a receipt) are small. Of course, if Elections Canada has reason to believe that a political entity or purchaser is using the branded goods regime to circumvent the contribution rules (as may be the case in the example you provided), we will refer the matter to the Office of the Commissioner of Canada Elections.</p>
<p>8. What are election expenses? p. 53</p> <p>Paragraph four indicates that the expression “‘directly promoting or opposing a registered party or its leader’ [...] is to be understood broadly as including expenses necessary to run a campaign.” However, an election expense may be incurred without being “necessary” to run a campaign. The language should therefore be broadened to include expenses necessary or deemed useful for running a campaign.</p>	<p>Elections Canada agrees that the language should be broadened. The text has been modified to read: “[The concept of directly promoting or opposing a party or its leader] is to be understood broadly and includes expenses for running a campaign, such as office rental, telecommunication services, etc.”</p>
<p>9. Election Expenses – Typical election expenses, p. 56</p> <p>In the first paragraph under the subheading “Election advertising,” it is suggested that the words “a registered party or” be added immediately after “opposing” and before “the election of a candidate.”</p>	<p>The phrase “the election of a candidate” has been replaced with “a registered party” so that the definition is tailored to registered parties.</p>

The following parties did not submit comments to Elections Canada regarding OGI 2017-03:

- Alliance of the North
- Animal Protection Party of Canada
- Bloc Québécois
- Christian Heritage Party of Canada
- Communist Party of Canada
- Conservative Party of Canada
- Libertarian Party of Canada
- Marijuana Party
- Marxist-Leninist Party of Canada
- National Advancement Party of Canada
- New Democratic Party
- Pirate Party of Canada
- Progressive Canadian Party
- Rhinoceros Party