



Written Opinions, Guidelines and Interpretation Notes

Guideline: 2017-01

Political Financing Handbook for Candidates and Official 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>It states that a “person who is not qualified as an elector” is not eligible to be the OA. Are you able to include specifics or a footnote on “who is not qualified as 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”.</p> <p>The row about not qualifying as an elector has been deleted.</p> <p>Similar changes have also been made in the registered party and registered association handbooks.</p>
<p>Chapter 2</p> <p>Examples on p. 26: would benefit from including what the reporting requirements of the OA would be in each scenario (i.e. what do they need to input in EFR?).</p> <p>In example 2, please emphasize that the OA cannot accept the \$2,000 and return \$450 (or whatever amount would put them under the limit). They must return the cheque uncashed. I could see a scenario where the OA would feel it is acceptable to cash the cheque and only return the amount that puts the individual over the limit.</p>	<p>Reporting requirements have been added and example 2 has been modified as suggested.</p> <p>Similar changes have also been made in the registered party and registered association handbooks.</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. 12</p> <p>Paragraph/Section: Table describing eligibility to be an Official Agent</p> <p>Particulars: First and seventh lines of the eligibility table: Line 1 states "Individual who is a Canadian citizen or permanent resident: Yes"; seventh line states "Person who is not qualified as an elector: No."</p> <p>Comment: An individual must be an elector to be eligible to be an Official Agent. The first line of the table should be more specific; instead of saying a Canadian citizen or Permanent Resident is eligible, and that anyone not an elector is not eligible, the table should simply say right off the top that "Any person who is qualified as an elector" is eligible.</p>	<p>Based on several comments received, the first row has been modified to read: "Canadian citizen who is at least 18 years old".</p> <p>The row about not qualifying as an elector has been deleted.</p> <p>Similar changes have also been made in the registered party and registered association handbooks.</p>
<p>Chapter 1: Reference Tables and Timelines, p. 10</p> <p>Paragraph/Section: Starting the candidate's campaign: fourth step</p> <p>Particulars: States: The campaign can start incurring expenses and accepting contributions, loans or transfers before the election is called as long as the campaign has an official agent, an auditor and a bank account.</p> <p>Comment: It would be helpful for the reference table in this section to specifically note that although a candidate can start accepting contributions before being confirmed as a candidate, these contributions are not eligible for a tax receipt.</p>	<p>The following text has been added: "Keep in mind that tax receipts cannot be issued for contributions received before the candidate is officially confirmed by the returning officer."</p>
<p>Chapter 1: Reference Tables and Timelines, p. 17</p> <p>Paragraph/Section: Important reminders for candidates and their official agents</p> <p>Particulars: N/A</p> <p>Comment: The DO list should specify that only the Official Agent can accept contributions for the campaign.</p>	<p>The following item has been added to the DO list: "Ensure that only the official agent accepts contributions."</p>

<p>Chapter 2: Contributions, p. 24</p> <p>Paragraph/Section: Examples 1 through 4</p> <p>Comment: For greater clarity, these examples should specify that if these dates do not fall within a writ period, the receipts issued are not tax receipts.</p>	<p>Eligibility for tax receipts is covered on the previous page of the handbook. As the rules are not simple (e.g. there is an exception for contributions in transit on election day), repeating the rules in the examples about contribution dates may slow down comprehension of the main point.</p>
<p>Chapter 5: Other Cash Inflows, p. 35</p> <p>Paragraph/Section: Table summarizing inflow type, description and examples: Bank Interest</p> <p>Particulars: The description for Bank Interest states: Interest earned on the campaign bank account is other inflow, along with the date received.</p> <p>Comment: This sentence is confusing to read; the date received is not a part of the other inflow, although it needs to be recorded. Suggest: "Interest earned on the campaign bank account is other inflow. This must be reported along with the date received."</p>	<p>The phrase "along with the date received" is not central to the description and 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. Role and appointment process – official agent, p. 12</p> <p>In response to the question "Who is eligible?" "Yes" is checked off next to "Individual who is a Canadian citizen or permanent resident." However, under s. 477.2(d) of the <i>Canada Elections Act</i> (Act), a person who is not an elector is ineligible to be an official agent. Consequently, we should specify that "a Canadian citizen who is an elector" is eligible to be an official agent. Therefore, a permanent resident cannot be appointed to be an official agent.</p>	<p>Based on several comments received, the first row has been modified to read: "Canadian citizen who is at least 18 years old".</p> <p>The row about not qualifying as an elector has been deleted.</p> <p>Similar changes have also been made in the registered party and registered association handbooks.</p>
<p>2. Transfers – types and rules, p. 16</p> <p>The answer is "No" in response to whether it is possible to make a monetary or non-monetary transfer from candidate to candidate. 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>

<p>3. Important reminders for candidates and their official agents – Do, p. 17</p> <p>The “Exceptions” should state that the official agent’s authorization to pay petty expenses must be given <i>in writing</i>.</p>	<p>The text has been modified as suggested.</p>
<p>4. Limits on contributions, loans and loan guarantees to a candidate, pp. 20 and 21</p> <p>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 serves 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.</p> <p>This comment is also applicable to the following sections:</p> <ul style="list-style-type: none"> • On page 15, 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 29, the last sentence of the paragraph under the heading “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 	<p>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.</p> <p>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.</p>

<p>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.</p> <ul style="list-style-type: none"> • On pages 30 and 31, under the headings “Loans from individuals” and “Overdraft and line of credit,” the three references to the “contribution limit” could be replaced by references to the defined expression “limit for loans and loan guarantees.” 	
<p>5. Transfers sent to the candidate’s campaign – Transfers before an election, p. 34</p> <p>The sentence under the heading “Transfers before an election” indicates that the nomination contestant is authorized to make non-monetary transfers to a candidate. However, this is not permitted by law.</p> <p>Moreover, opening a bank account for the campaign is listed as one of the conditions which the candidate’s official agent is required to fulfill before a candidate can receive a monetary or non-monetary transfer. The Act does not impose this requirement as a prerequisite for the candidate to accept or receive a non-monetary transfer. 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 term “nomination contestant” has been deleted from the introductory sentence. The third list item has been modified to read: “<i>in the case of monetary transfers</i>, the official agent has opened a campaign bank account”.</p>
<p>6. Typical fundraising activities – Sale of branded goods, p. 40</p> <p>The information in the second paragraph under “Contributions” indicates that when a person 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 Act’s principles.</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>7. What are election expenses?, p. 49</p> <p>Paragraph four states that the expression “‘directly promoting or opposing a candidate’ [...] 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 candidate] is to be understood broadly and includes expenses for running a campaign, such as office rental, telecommunication services, etc.”</p>
<p>8. Typical election expenses, p. 51</p> <p>In the first paragraph under the subheading “Election advertising,” the words “a registered party or” should be added immediately after “opposing” and before “the election of a candidate.”</p>	<p>The definition in this handbook does not mention advertising by registered parties because it is tailored to candidate campaigns.</p>
<p>9. Use of existing resources, p. 57</p> <p>It is suggested that the word “elected” be replaced with the word “incumbent” at the end of the second line of the second paragraph. The use of parliamentary resources by an incumbent Member of Parliament during the electoral campaign constitutes a contribution by the Member of Parliament and an expense by the campaign, if the campaign did not pay for the use of these resources; this is the case whether or not the incumbent Member of Parliament is re-elected.</p>	<p>The word “elected” has been deleted in this section and in two other sections where it is irrelevant.</p> <p>A similar change has also been made in the registered party handbook.</p>
<p>10. Candidate’s personal expenses, p. 59</p> <p>In the first paragraph under the subheading “What are the candidate’s personal expenses?” the words “of a personal nature” should be added after “expenses” in the definition for “personal expenses” in order to ensure greater clarity, as follows: “Personal expenses of the candidate include <i>expenses of a personal nature</i> that are reasonably incurred in relation to the candidate’s election campaign.”</p>	<p>To avoid repeating the word “personal” as a descriptor, the paragraph has been modified to read: “Personal expenses of the candidate include the following types of expenses listed in the <i>Canada Elections Act</i> and reasonably incurred in relation to the candidate’s campaign: [list of expenses]”.</p>
<p>11. Reimbursements and Subsidies, p. 75</p> <p>In the second paragraph under the subheading “Return of the candidate’s nomination deposit,” the requirements that the candidate must fulfill in order to be entitled to a refund of the candidate’s deposit, in addition to filing the required reports and returning unused receipts to the CEO, also include returning copies of receipts. Although the return of used receipts is required under the <i>Income Tax Act</i>, s. 477.77(1)(a) of the Act does not specify this requirement.</p>	<p>While s. 477.77 does not require the return of used paper tax receipts, Elections Canada cannot know if all unused receipts have been returned unless copies of used and cancelled receipts are included as well. Waiting to submit used receipts with the electoral campaign return may simply delay the refund of a candidate’s deposit.</p>

The following parties did not submit comments to Elections Canada regarding OGI 2017-01:

- 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