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Backgrounders

Elections Canada: General Information: Backgrounders

REGISTRATION AND POLITICAL FINANCING OF ELECTORAL DISTRICT ASSOCIATIONS – NEW RULES ON JANUARY 1, 2004

New rules for electoral district associations came into effect on January 1, 2004. The rules are part of important changes to the *Canada Elections Act* made by Parliament in June 2003.

This backgrounder summarizes the main changes affecting electoral district associations in the amended *Canada Elections Act*, and is not intended to be a comprehensive outline of the Act's new provisions. Six other backgrounders summarize changes affecting individuals, corporations and trade unions, registered political parties, leadership contestants, candidates and nomination contestants.

The most significant changes affecting electoral district associations – often known as riding associations or constituency associations – concern registration, contributions, financial reports and public disclosure of information.

Registration of associations

If an electoral district association of a registered political party wants to accept contributions, provide goods and services or transfer funds, it must apply to the Chief Electoral Officer to be registered. Registration allows the association to:

- accept contributions
- provide goods and services and transfer funds to a candidate endorsed by a registered party
- provide goods and services and transfer funds to a registered party or a registered association
- accept the surplus electoral funds of a candidate, the surplus leadership campaign funds of a leadership contestant, and the surplus nomination campaign funds of a nomination contestant

An application for registration of an electoral district association of a registered party may be submitted to the Chief Electoral Officer by the association, and must include:

- the full name of the association and of the electoral district
- the full name of the registered party
- the address of the office of the association at which records are maintained and to which communications may be addressed
- the names and addresses of the chief executive officer and other officers of the association
- the name and address of the appointed auditor of the association
- the name and address of the financial agent of the association

The application must be accompanied by:

- the signed consent of the financial agent
- the signed consent of the auditor
- a declaration signed by the leader of the party certifying that the association is an electoral district association of the party

The Chief Electoral Officer must register an electoral district association that meets these requirements. The association is registered as of the date on which the Chief Electoral Officer enters it in the registry of electoral district associations.

A registered party may not have more than one registered association in an electoral district.

Agents and auditor

An electoral district association must appoint one *financial agent* and one *auditor*. The financial agent is responsible for administering the association's financial transactions and for reporting on them. If the association has accepted contributions or incurred expenses of \$5,000 or more in a fiscal year, its auditor must prepare an audit report on the association's financial transactions return.

A registered association may also appoint *electoral district agents*, who are authorized to accept contributions and to incur and pay expenses on behalf of the association. Within 30 days of an agent's appointment, the association must give the Chief Electoral Officer a report listing the name and address of the agent, any terms and conditions of the appointment, and a certification by the financial agent. The financial agent is considered to be an electoral district agent.

The Act gives details on who are eligible and ineligible to serve as agents and auditors.

Limits on contributions

Any individual who is a Canadian citizen or permanent resident of Canada may contribute up to \$5,000 in total in a calendar year to a particular registered political party and its registered electoral district associations, nomination contestants and candidates.

Contribution limits are adjusted annually for inflation.

Limits on contributions by corporations and trade unions

A corporation or trade union may contribute up to \$1,000 in total in any calendar year to the registered associations, nomination contestants and candidates of a particular registered party.

Certain corporations and trade unions are not eligible to make a contribution:

- a corporation that does not carry on business in Canada
- a trade union that does not hold bargaining rights for employees in Canada
- a corporation that is wholly and directly owned by the Crown, and its wholly owned subsidiary, or
- a corporation that receives more than 50 percent of its funding from the federal government

A special provision applies if two elections are held in an electoral district in a single calendar year, and a corporation or trade union has already made a contribution to a registered association in that electoral district before the first election day. In that case, the corporation or trade union may make further contributions of up to \$1,000 to the registered association in the same electoral district during the election period for the second election.

Unlimited contributions

There is no limit to a contribution made in an individual's will as an unconditional, non-discretionary contribution ("testamentary disposition").

Indirect contributions

A registered electoral district association must not normally receive an indirect contribution – one that comes from the money, property or services of another person or entity (including companies, unions and associations), if that other person or entity gave it to the contributor to make a contribution to the association.

Nevertheless under certain circumstances, an unincorporated organization or association is allowed to make contributions to a registered association that come from money provided by an individual who is a Canadian citizen or permanent resident of Canada. The contributions must not exceed \$1,000 in total in any calendar year to the registered association. With each contribution the unincorporated association must also provide a statement containing the following information:

- the name and address of the individual who is responsible for the association
- the amount of the contribution
- the name and address of each individual whose money forms part of the contribution, the amount of money provided by that individual included in the contribution, and the date on which it was provided

A special provision applies if two elections are held in an electoral district in a single calendar year, and an unincorporated association has already made an indirect

contribution to a registered association in that electoral district before the first election day. In that case, the association may make further contributions of up to \$1,000 to the registered association in the same electoral district during the election period for the second election.

Transferring funds

A transfer of funds is allowed and is not considered to be a contribution if it is from a registered association to the party with which it is affiliated, another registered association of the party or a candidate endorsed by the party.

Providing goods and services

Providing goods or services is permitted and is not considered to be a contribution if it is from a registered association to the party with which it is affiliated, another registered association of the party or a candidate endorsed by the party.

An electoral district association of a registered party may provide goods or services to a leadership or nomination contestant only if it offers the goods or services equally to all contestants.

Receipts

Any person authorized to accept contributions to a registered electoral district association must issue a receipt for each contribution over \$25.

If the organizers of a registered association's meeting or fundraising event collect anonymous contributions of \$25 or less per person, the person authorized to accept those contributions must record a description of the function and its date, the approximate number of people present, and the total amount of anonymous contributions accepted.

Income tax credit

When Parliament changed the *Canada Elections Act*, it also changed the *Income Tax Act* to allow higher income tax credits for political contributions by an individual:

- for contributions up to \$400, a credit of 75 percent (for example, a \$300 credit for a contribution of \$400)
- for contributions from \$401 to \$750, a credit of \$300 plus 50 percent of the amount over \$400 (for example, a \$475 credit for a contribution of \$750)
- for contributions over \$750, the lesser of \$650 or \$475 plus 33½ percent of the amount over \$750 (for example, a \$650 credit for a contribution of \$1,275)

The credits apply to monetary contributions – supported by authorized receipts – to a registered party, a provincial division of a registered party, a registered electoral district association, and a candidate.

Election advertising expenses

During an election period, a registered association must not incur expenses for election advertising. Election advertising means the transmission to the public by any means

during an election period of an advertising message that promotes or opposes a registered party or the election of a candidate, including one that takes a position on an issue with which a registered party or candidate is associated.

Association's reports and statements

In addition to the information required in the application for registration, a registered association must provide the Chief Electoral Officer with:

- within six months after becoming a registered association, a statement of assets and liabilities, including any surplus or deficit, as of the day before the effective date of the registration, and a declaration by the financial agent that the statement is complete and accurate
- within 30 days after a change in any information in the application for registration (except for a change in the name of the registered party), a report of the change, certified by the chief executive officer of the association; if the change involves the replacement of the auditor or financial agent, the report must include the signed consent of the new appointee
- on or before May 31 of every year (or July 31 if an election campaign is in progress in the electoral district on May 31), a statement certified by the chief executive officer confirming the validity of the information about the association in the registry of electoral district associations, or if there has been a change in the information, the report of the change
- within five months after the end of the association's fiscal period, the financial agent's financial transactions return and associated documents

Financial transactions return

The fiscal period of a registered association is the calendar year. Within five months after the end of each fiscal year, the financial agent of a registered association must give the Chief Electoral Officer:

- a financial transactions return
- the auditor's report on the financial transactions return, if one is required because the association has accepted contributions or incurred expenses of \$5,000 or more in the fiscal year
- a declaration by the financial agent that the financial transactions return is complete and accurate
- any statements and declarations given to the financial agent concerning allowable indirect contributions from an association

The financial transactions return must set out:

- a statement of contributions (including loans) received by the registered association from individuals, corporations, trade unions and associations (that is, unincorporated organizations and all their divisions)
- the number of contributors in each group of individuals, corporations, trade unions

and associations

- the name and address of each association that made an indirect contribution, the amount of its contribution, the date on which it was received by the registered association, the name and address of each individual whose money forms part of the contribution, the amount of money provided by that individual that is included in the contribution, and the date on which it was provided to the association
- the name and address of each other individual, corporation, trade union and association that made contributions of a total amount of more than \$200, that total amount, the amount of each contribution, and the date on which it was received by the association
- for each corporation that is a numbered company and that made contributions of a total amount of more than \$200, the name of the chief executive officer or president of the company
- a statement of the association's assets and liabilities and any surplus or deficit in accordance with generally accepted accounting principles, including a statement of disputed claims and unpaid claims that are, or may be, the subject of an application to the Chief Electoral Officer or a judge
- a statement of the registered association's revenues and expenses in accordance with generally accepted accounting principles
- a statement of the commercial value of goods or services provided and of funds transferred by the registered association to the registered party, to another registered association or to a candidate endorsed by the registered party
- a statement of the commercial value of goods or services provided and of funds transferred to the registered association from the registered party, another registered association, a candidate, a leadership contestant or a nomination contestant
- a statement of loans or security received by the registered association, including any conditions on them
- a statement that provides full disclosure of financial loans for a campaign, including interest rates, repayment schedules and the name of the lender
- a statement of contributions (excluding loans) received by the registered association but returned in whole or in part to the contributors or otherwise dealt with in accordance with the Act

Auditor's report and payment

If the registered association accepted contributions or incurred expenses of \$5,000 or more, the association auditor must report to the financial agent on the financial transactions return. In accordance with generally accepted auditing standards, the auditor must make any examination that will enable him or her to give an opinion in the report about whether the return fairly presents the information contained in the financial records on which it is based.

The report must include any statement that the auditor considers necessary if:

- the financial transactions return does not fairly present the information contained in the financial records on which it is based, or
- based on the examination, it appears that the association has not kept proper accounting records

When the Chief Electoral Officer receives the financial transactions return, its associated documents and the auditor's invoice for the expenses incurred for the audit, he or she must give the Receiver General a certificate that sets out the amount to be paid the auditor from public funds, up to a maximum of \$1,500. The Receiver General then pays the auditor.

Deregistration

The Chief Electoral Officer may deregister a registered association:

- for failing to provide required documents or to file a financial transactions return
- if the association applies to be deregistered, or
- if the registered party applies to have the association deregistered

The Act stipulates the various procedures for involuntary and voluntary deregistration. If a registered party applies voluntarily to be deregistered, its registered associations will also be deregistered; similarly if the Chief Electoral Officer deregisters a party, its registered associations will be deregistered.

If the boundaries of an electoral district are revised as a result of a representation order under the *Electoral Boundaries Readjustment Act*, a registered association for the electoral district may file a notice with the Chief Electoral Officer supported by the leader of the registered party that it will continue as the registered association. The notice must be filed before the order comes into force. If the association does not give notice, it is deregistered when the representation order comes into force.

Public disclosure of information

The Chief Electoral Officer must publish:

- as soon as possible after receiving them, the returns on financial transactions of registered associations, and any updated versions of them
- 18 months after the end of the fiscal period, the list of unpaid claims that are deemed to be contributions

Publication may take place in any manner that the Chief Electoral Officer considers appropriate.

All reports and formal statements concerning registered associations are public records, and anyone may inspect them or get copies of them on request. In addition to the information published by the Chief Electoral Officer, they include all instructions, decisions and rulings by the Chief Electoral Officer on points about registered associations arising under the Act.