



Written Opinions, Guidelines and Interpretation Notes

The Chief Electoral Officer issues guidelines and interpretation notes on the application of the *Canada Elections Act* to registered parties, registered associations, nomination contestants, candidates and leadership contestants, in accordance with section 16.1 of the *Canada Elections Act*. Before the issuance of any guideline or interpretation note, registered federal political parties and the Commissioner of Canada Elections are consulted and invited to provide comments on a draft version. Guidelines and interpretation notes provide guidance and promote consistency in the interpretation and application of the Act. However, they are for information only and do not displace the provisions of the Act.

Interpretation Note: 2016-01 (September 2016)

Fundraising

Note about currency (July 2019): *With the adoption of Bill C-76 (S.C. 2018, c. 31), some legal references and background in this interpretation note have become outdated. However, the overall analysis and interpretation remain valid.*

Issue

The contribution definitions in the *Canada Elections Act* (“CEA”) do not specify how to determine what portion of an amount given during a fundraising activity is a political contribution. In particular, it is not clear how to address situations in which contributors receive a benefit in exchange for making a contribution. This interpretation note seeks to clarify these points and, to the extent possible, harmonize Elections Canada’s administration of contribution rules with that of the Canada Revenue Agency (“CRA”).

For candidates and parties, this note also clarifies when fundraising expenses are election expenses.

Interpretation

Contributions to political entities are subject to the controls and reporting requirements in the CEA. When an amount of money is simply given to a political entity with nothing received in return, the full amount is a contribution. The situation is more complicated when a benefit goes back to the contributor. In such cases, it is necessary to determine what portion of the money given is a contribution.

Benefits provided to contributors

- (1) When a political entity provides a benefit (t-shirt, coffee cup, etc.) to a contributor in exchange for a contribution, the fair market value of that benefit should be deducted from the amount given to determine the contribution amount. The fair market value of the benefit is generally the amount the political entity paid a commercial provider for the property or service (i.e. the retail price).

- (2) However, if the benefit is not significant, the entire amount given is a contribution. This is because a minimal benefit is presumably not central to the contribution, and therefore does not indicate an exchange. The benefit is considered significant only if its fair market value exceeds 10% of the amount given or \$75, whichever is less. Note that this *de minimis* threshold (below which the benefit is deemed insignificant) does not apply to cash or near-cash benefits, such as gift certificates; nor does it apply to the value of an activity that is central to a fundraising event, such as the meal provided at a ticketed fundraising dinner.¹
- (3) For candidates and parties, expenses incurred to produce and distribute promotional materials that are distributed during an election period are election expenses.

Activities involving the sale of property or services at more than fair market value

Ticketed fundraising events

- (4) When a ticketed fundraising event such as a dinner or a golf tournament is held for the primary purpose of soliciting monetary contributions through ticket sales (including events with an entrance fee), the amount of a ticket purchaser's monetary contribution is the ticket price less the fair market value of the benefit that the bearer is entitled to receive. The "Practical Application" section of this note further explains how the fair market value of the benefit is determined.
- (5) For candidates and parties, expenses incurred to hold a ticketed fundraising event during an election period are not election expenses; they are specifically excluded from that definition by the CEA. However, expenses incurred to produce and distribute promotional materials that are distributed during an election period are election expenses. This includes materials promoting the event and any promotional items distributed at the event.

Sale of branded goods

- (6) When branded goods such as pens, coffee cups or t-shirts are sold by a political entity, any amount the purchaser pays in excess of the item's fair market value is a contribution. In this case, because the sale of the branded good is the fundraising activity, the *de minimis* threshold does not apply. The value of the item sold is always deducted from the amount paid to determine the contribution amount, regardless of the item's fair market value.
- (7) For candidates and parties, expenses incurred to produce and distribute branded goods (i.e. promotional materials) that are distributed during an election period are election expenses.

¹ The threshold of 10% of the amount given or \$75 is aligned with the *de minimis* threshold used by the CRA. Refer to [Income Tax Technical News, No. 26](#), for more information on the CRA's administrative approach to determining the eligible amount and the amount of an advantage for both political and charitable contributions.

Auctions

- (8) Any property or service that is donated to be auctioned is a non-monetary contribution equal to the commercial value of the property or service. If the commercial value is \$200 or less, and the donation is from an individual² not in the business of selling that property or service, the non-monetary contribution is deemed to be nil.
- (9) An individual who buys an item at an auction is making a monetary contribution equal to the amount bid less the fair market value of the property or service. In this case, because the sale of the auctioned item is the fundraising activity, the *de minimis* threshold does not apply. The value of the item sold is always deducted from the amount bid to determine the contribution amount, regardless of the auctioned item's fair market value. However, if the auctioned property or service is not available on a commercial basis, the entire amount of the winning bid is a contribution.³
- (10) Expenses incurred by candidates or parties to purchase items that will be sold at their auction during an election period are not election expenses, unless the items promote the candidate or party (e.g. branded goods).

Other activities that generate contributions

Non-ticketed events

- (11) Contributions may be solicited at events such as dinners or cocktail parties held without ticket sales or entrance fees. In these cases, attendees receive the benefit (e.g. food or drink) regardless of whether or not they make a contribution; no benefit is received in exchange for making a contribution. Therefore, the fair market value of any benefit received is not deducted from any amount given. The entire amount the individual gives is a contribution.
- (12) For candidates and parties, because non-ticketed events are not directly linked to accepting contributions, the expenses incurred to hold such events during an election period are election expenses.

Draws

- (13) An individual who purchases a ticket for a draw for the chance to win property or a service is making a contribution equal to the ticket price.⁴
- (14) For candidates and parties promoting a draw during an election period, the expenses incurred for its promotion are election expenses, irrespective of when the draw occurs.

² The term "individual" used in this interpretation note refers to a Canadian citizen or permanent resident.

³ Although the entire amount bid is a contribution under the CEA and subject to related controls, CRA guidelines indicate that if the value of an advantage provided to a contributor cannot be readily ascertained, no tax credit will be allowed.

⁴ Although the draw ticket price is a contribution under the CEA and subject to related controls, CRA guidelines indicate that no part of the draw ticket price is a gift and, accordingly, no tax credit will be allowed.

Contribution processing fees

(15) For candidates and parties, expenses for fundraising activities are not election expenses. This means expenses incurred to process contributions accepted during an election period – including bank charges, credit card processing fees, other payment service fees, and salaries of fundraising staff and of administrative staff for hours worked to process contributions – are not election expenses. However, expenses for distributing promotional materials during an election period are election expenses. This means staff salaries related to producing and distributing promotional materials, including materials used to solicit contributions, are election expenses. The “Analysis and Discussion” section of this note further explains how fundraising expenses are treated.

Legal Framework

The CEA’s basic regulatory structure for political contributions and fundraising expenses is as follows:

- Only individuals who are Canadian citizens or permanent residents can make political contributions.
(s. 363(1))
- A monetary contribution is an amount of money provided that is not repayable.
(s. 2(1))
- A non-monetary contribution is the commercial value of a service, other than volunteer labour, or of property or of the use of property or money to the extent that they are provided without charge or at less than their commercial value.
(s. 2(1))
- If a ticketed fundraising activity is held for the primary purpose of soliciting a monetary contribution through ticket sales, the amount of the contribution is the difference between the ticket price and the fair market value of the benefit the ticket entitles the bearer to receive.
(s. 377)
- Both monetary and non-monetary contributions are subject to contribution limits.
(ss. 2(1), 367)
- An election expense includes any cost incurred, or non-monetary contribution or transfer received, by a registered party or a candidate, to the extent that the property or service that the cost was incurred for or that was received as a non-monetary contribution or transfer is used to directly promote or oppose a registered party, its leader or a candidate during an election period.
(s. 376(1))
- Expenses for a fundraising activity are excluded from election expenses.
(s. 376(2))
- Despite the exclusion of expenses for a fundraising activity, expenses related to the production and distribution of promotional materials during an election period are election expenses.
(s. 376(3)(a) and (b))
- Election expenses of parties and candidates are subject to election expenses limits.
(ss. 430, 477.49)

Analysis and Discussion

The full amount of a contribution made to a federal political entity is subject to the controls and reporting requirements in the CEA. When a regulated entity raises money, it is therefore necessary to determine whether all or part of the funds raised constitute a contribution. If money that is not repayable is simply given to an entity with nothing received in return, the full amount is a contribution. At the other extreme, if the entity engages in a business transaction unrelated to its status as a regulated entity (for example, if a party sells used computers after an election), the amount the entity receives is not a contribution, as long as the amount reflects the market value of such a transaction.

The situation is more complicated when money flows to a political entity and an item or some benefit goes back to the contributor. In such cases, it is necessary to determine what portion of the money given is a contribution and what portion is simply other revenue.

Definition of a monetary contribution

A monetary contribution is defined in section 2 of the CEA as simply “an amount of money provided that is not repayable.” This definition does not provide sufficient guidance for determining what portion of an amount given during a fundraising activity is a contribution. In particular, it is not clear how to address more complex cases in which contributors receive a benefit in exchange for making a contribution.

Section 377 of the CEA provides some guidance in this respect for ticketed fundraisers: an individual’s contribution is the ticket price less the fair market value of the benefit received in exchange for the ticket. This provision essentially follows the concept of “split receipting,” which is the method used by the CRA to determine the eligible amount of a charitable or political gift for tax receipting purposes when the donor has received an advantage or benefit in return for his or her gift. The fair market value of the benefit that a donor receives is deducted from the fair market value of the gift to determine the amount eligible for tax credits, and both amounts are disclosed on the contribution receipt.⁵

Determining the value of a benefit received in exchange for making a contribution

In most situations, the fair market value of a benefit provided to a contributor is the amount the political entity paid a commercial provider for the property or service (generally the retail price).

Often, the value of the benefit provided to a contributor – for example, a party pin – is not significant. The benefit is provided as a thank you to contributors and may also serve to promote the political entity. In fact, the acceptance of a contribution and the subsequent provision of a benefit should be viewed as separate financial transactions.

For these reasons, and to harmonize with the CRA’s split-receipting method for tax credit purposes,⁶ as long as the value of the benefit is not significant, the entire amount given is a contribution. The benefit is considered significant only if its fair market value exceeds 10% of the amount given or \$75, whichever is less.

⁵ Refer to the CRA’s information page on [split receipting](#).

⁶ Individuals who make monetary contributions to registered parties, registered associations and candidates (for contributions received from the day the returning officer confirms the candidate’s nomination until 30 days after election day) are eligible for tax credits.

Note that this *de minimis* threshold does not apply to cash or near-cash benefits, such as gift certificates; nor does it apply to the value of an activity that is central to the fundraising event, such as the meal provided at a ticketed fundraising dinner.

Examples

1. In exchange for making a \$20 contribution, contributors receive a t-shirt with the party logo. The cost of the t-shirt was \$10. In this case, since the value of the t-shirt exceeds 10% of the amount given, \$10 is deducted from the amount given and the contribution is \$10.
2. Contributors who make a \$100 contribution receive a keychain with the party logo. The cost of the keychain was \$5. In this case, since the value of the keychain does not exceed the lesser of 10% of the amount given and \$75, nothing is deducted from the amount given and the contribution is \$100.

Benefits that are not commercially available

In some cases, a political entity may provide a benefit to contributors for which there is no fair market value.

For example, a political entity may give contributors access to the party leader or a prominent candidate in exchange for making a contribution. Since the benefit is not commercially available, its fair market value cannot be determined. In a political context, such a payment is usually made to show partisan support and to buy influence or goodwill. This is exactly the type of transaction that the CEA seeks to regulate through the contribution rules.

As such, a non-repayable amount of money given for a benefit that is not available on a commercial basis falls squarely within the ordinary meaning of a monetary contribution.

Note: The CRA's approach differs. For tax purposes, if the fair market value of a benefit received in exchange for making a contribution cannot be reasonably ascertained, no amount is eligible for a tax credit.⁷

Fundraising expenses (for candidates and parties)

When candidates and parties conduct fundraising during an election period, they must be aware of how the election expense definition applies.

An election expense is any cost incurred, or any non-monetary contribution or non-monetary transfer received, by a registered party or candidate, to the extent that the property or service is used to directly promote or oppose a registered party, its leader or a candidate during an election period.

Despite the fact that fundraising helps to promote parties and candidates, the CEA excludes expenses for fundraising activities from election expenses. This means that expenses incurred to process contributions – such as bank charges, credit card processing fees, other payment service fees, and salaries of fundraising staff and of administrative staff for hours worked to process contributions – are also not election expenses.

However, the exclusion is not absolute. Expenses for producing, distributing, broadcasting or publishing promotional materials that are distributed during the election period are election expenses. Examples include the following:

- producing and distributing invitations to a ticketed fundraiser

⁷ [Income Tax Technical News, No. 26](#), "Proposed Guidelines on Split-Receipting," Overview, paragraph (b).

- procuring and distributing promotional items, such as pens or t-shirts
- producing and mailing a letter or pamphlet that solicits contributions
- producing and using a script for telephone calls that solicit contributions

Expenses for activities conducted during an election period that are not directly linked to soliciting contributions are also election expenses. In these cases, incurring an expense and accepting a contribution are separate transactions. Examples of such activities include the following:

- non-ticketed events held to promote a party, its leader or a candidate, where contributions are also solicited
- door-to-door promotion of a party, its leader or a candidate, where contributions are also solicited (in this case, salaries or other amounts paid to canvassers are election expenses)
- contacting electors by phone or by other means to promote a party, its leader or a candidate, where contributions are also solicited (in this case, salaries paid to staff are election expenses)

Practical Applications

The remainder of this document explains how the interpretation applies to various fundraising activities.

Sale of branded goods

Political entities may sell branded goods in an effort to promote themselves and, in some cases, generate contribution revenue.

Contributions

When a branded good is sold for more than its fair market value (i.e. more than the amount the political entity paid a commercial provider for the item), the purchaser is making a political contribution. The *de minimis* threshold does not apply in this case because the sale of branded goods is the fundraising activity. Therefore, regardless of the value of the goods that are sold, the contribution amount is always the sale price less the fair market value of the item purchased.

Expenses

For candidates and parties, the expenses incurred to produce and distribute branded goods (i.e. promotional materials) that are distributed during an election period are election expenses.

Example

In order to raise funds, coffee cups with the party logo are sold for \$15. The coffee cups were purchased for \$5 each. The contribution being made by each individual who purchases a coffee cup is \$10 (\$15 – \$5).

Auctions

Political entities may choose to raise funds through auctions, where property or services are sold to the highest bidder. An auction may lead to contributions from both the donor of the property or service that is auctioned and the winning bidder.

Donor's contribution

If the auctioned property or service is donated, its commercial value is a non-monetary contribution. Commercial value is defined in section 2 of the CEA as the lowest amount charged at the time that it was provided for the same kind and quantity of property or service, or for the same use of property or money, by:

- the person who provided it (if the person who provided the property or service is in that business), or
- another person who provides that property or service on a commercial basis in the area (if the person who provided the property or service is not in that business).

If the commercial value of a non-monetary contribution is \$200 or less, and it is from an individual not in that business, the contribution amount is deemed to be nil.

Purchaser's contribution

An individual who buys an auctioned property or service makes a contribution if the bid amount exceeds the fair market value of the property or service. The fair market value is generally the amount that would be paid for the property or service in a commercial market.

Even if the fair market value of the item is \$200 or less, its value is still deducted from the bid amount to arrive at the contribution amount. The *de minimis* threshold does not apply in this case because the sale of the property or service is the fundraising activity. Therefore, regardless of the value of the auctioned property or service, the contribution amount is always the winning bid amount less the fair market value of the item.

However, if the auctioned property or service is not available on a commercial basis, the entire amount of the winning bid is a contribution.

Expenses

In most cases, when an auction is held during an election period, expenses incurred by the candidate or party to purchase property or services that will be auctioned are not election expenses, because fundraising expenses are excluded from that definition. However, because expenses for producing and distributing promotional materials are specifically included, if any of the auctioned items promote a party, its leader or a candidate (such as branded goods), expenses incurred by the party or candidate for such items are election expenses.

Examples

1. An individual donated a painting to a candidate's campaign for sale at an auction organized to raise funds for the campaign. A local art dealer appraised the painting at \$450. During the auction, the winning bid for the painting was \$600.

The contribution amounts are as follows:

- The donor of the painting made a \$450 non-monetary contribution to the campaign.
- The winning bidder made a monetary contribution equal to the amount paid less the fair market value of the painting: $\$600 - \$450 = \$150$.

In addition, \$450 (the painting's commercial value) is an electoral campaign expense not subject to the election expenses limit.

2. An individual (who is not in the business of selling office furniture) donated an office chair to a candidate's campaign for sale at an auction organized to raise funds for the campaign. The chair retails for \$150. During the auction, the winning bid for the chair was \$250.

The contribution amounts are as follows:

- The donor of the chair made a non-monetary contribution to the campaign that is deemed to be nil (since the commercial value is less than \$200, and the chair was provided by an individual not in the business of selling chairs).
- The winning bidder made a monetary contribution equal to the amount paid less the fair market value of the chair: $\$250 - \$150 = \$100$.

Ticketed fundraising events

When a fundraising event such as a dinner or a golf tournament is held for the primary purpose of soliciting monetary contributions through ticket sales (including events with an entrance fee), the amount of a ticket purchaser's monetary contribution is the ticket price less the fair market value of the benefit that the bearer is entitled to receive. The *de minimis* threshold may apply to benefits that are not central to the event.

Benefits

In the case of a ticketed fundraising dinner, the benefit received by each ticket purchaser includes the following:

- if the event is held in a rented venue, the fair market value of the room rental and catering, pro-rated on the basis of the expected number of attendees
- if the event is held in a restaurant, the amount the restaurant would normally charge for the meal
- if the event is held in a private venue, the fair market value of the meal; no value is attributed to the use of an individual's private residence
- door prizes, pro-rated on the basis of the expected number of attendees (*de minimis* threshold may apply)
- complimentary items such as pens or keychains (*de minimis* threshold may apply)

In the case of a ticketed golf tournament, the benefit received by each ticket purchaser includes the following:

- green fee (excluded for golf club members whose green fees are already paid)
- cart rental
- meal
- complimentary items (*de minimis* threshold may apply)
- door and achievement prizes, pro-rated on the basis of the expected number of attendees (*de minimis* threshold may apply)

In both cases, the fair market value of producing and distributing materials promoting the event, including ticket printing, is not included in the benefit received because attendees do not gain from such activities.

Calculation of the benefit's value

The fair market value of the benefit is determined based on the expected, rather than the actual, number of attendees. For example, an individual will receive the same dinner in the same venue regardless of the actual number who attend. This fixed value is important in terms of contribution limits: it is necessary to determine the amount of the ticket purchaser's contribution in advance of the event so that individuals do not unknowingly exceed their limit.

Note that the expected number of attendees used in the calculation has to be reasonably supported by evidence (e.g. size of room rented, number of meals ordered).

Expenses

When a ticketed fundraising event is held during an election period, most expenses incurred by the party or candidate are not election expenses, because fundraising expenses are excluded from that definition. However, because expenses for producing and distributing promotional materials are specifically included, any such expenses incurred before or during the fundraising event are election expenses. This includes expenses for promoting the event, printing tickets, and producing and distributing promotional items.

Examples

1. A registered association holds a ticketed fundraising dinner in a rented venue. Fifty attendees are expected, and tickets are sold at \$150 each. The event includes dinner, a pen with a logo for each attendee, and hockey tickets as a door prize. The registered association incurs the following expenses:
 - room rental and catering: \$2,000 ($\$2,000 / 50 = \40 per attendee)
 - hockey tickets: \$400 ($\$400 / 50 = \8 per attendee)
 - pen with logo: \$10
 - ticket printing and flyer promoting the event: \$500

The contribution amount for each ticket purchaser is determined as follows:

Ticket price	\$150
Less:	
Room rental and catering	\$40
Hockey tickets*	\$8
Cost of pen with logo*	<u>\$10</u>
Contribution amount	<u>\$92</u>

*In this case, the total value of benefits received that are not central to the fundraising dinner (the hockey tickets and pen) exceeds 10% of the amount given ($\$18 / \$150 = 12\%$). Therefore, the benefit is considered significant and the *de minimis* threshold does not apply. The fair market value of these benefits is deducted from the ticket price.

2. A golf tournament is held during the election period to raise funds for the candidate's campaign. Participants are charged \$300, and 100 individuals are expected to attend. The campaign incurs the following expenses:
 - green fees: \$5,000 ($\$5,000 / 100 = \50 per participant)
 - cart rental: \$4,000 ($\$4,000 / 100 = \40 per participant)
 - golf shirt with party logo: \$15
 - door and achievement prizes: \$300 ($\$300 / 100 = \3 per participant)
 - mailing promoting the event: \$800

The contribution amount for each participant is determined as follows:

Participation fee	\$300
Less:	
Green fee*	\$50
Cart rental	\$40
Golf shirt**	-
Prizes**	-
Contribution amount	<u>\$210</u>

*If a participant is a golf club member and would not be charged a green fee, the cost of that benefit is not deducted from the participation fee. The contribution amount is \$260.

**In this case, the total value of benefits received that are not central to the golf tournament (the golf shirt and prizes) does not exceed 10% of the amount given ($\$18 / \$300 = 6\%$) or \$75. Therefore, the benefit is not considered significant and the *de minimis* threshold applies. The fair market value of these benefits is not deducted from the participation fee.

Note that the \$800 promotional expense is an election expense of the candidate, and the balance of the expense is an electoral campaign expense not subject to the election expenses limit.

Non-ticketed events

Political entities may hold an event for which no tickets are sold (and no entrance fee is charged at the door), but where contributions are solicited and received. In this case, the amount of an attendee's contribution is not reduced by the value of any benefit received (e.g. food or drink) because attendees would have received the benefit whether or not they contributed. The giving of a contribution and the provision of a benefit by the political entity are separate transactions. Any contributions received at non-ticketed events are simply contributions at the amount provided.

When a candidate or party holds a non-ticketed event during an election period, the expenses incurred are election expenses because they are not directly linked to accepting contributions. This rule allows such expenses to be classified with certainty, and prevents a candidate or party from manipulating their election expenses by classifying the event as a promotional or fundraising event.

Draws

An individual who purchases a ticket for a draw for the chance to win property or a service is making a contribution equal to the ticket price. A pro-rated portion of the prize value is not deducted from the ticket price because a value cannot be attached to the hope of winning.

Note: The CRA's approach differs. For tax purposes, no part of the cost of a ticket for a draw may be receipted for income tax purposes.⁸

For candidates and parties promoting a draw during an election period, the expenses incurred for its promotion are election expenses, irrespective of when the draw occurs.

Provincial or territorial regulations should be consulted prior to organizing draws or other lotteries. In jurisdictions where draws are permitted, a licence from the province or territory may be required.

⁸ [Income Tax Technical News, No. 26](#), "Proposed Guidelines on Split-Receipting."