

How Does Bill C - 24 Affect You?

Presentation to Nomination Contestants and their Financial Agents

February 25, 2004



AGENDA

- ◆ Introduction
- ◆ What is Bill C-24
- ◆ Financial Agent and Auditor Responsibilities
- ◆ Nomination Campaign Procedures
- ◆ Typical Budget
- ◆ Contributions and Other Cash Receipts
- ◆ Campaign Expenses
- ◆ Reporting Requirements
- ◆ Closing out the Campaign
- ◆ Compliance and Enforcement
- ◆ Q & A

Introduction – Chim & Seto, LLP

- Auditors of Ontario Riding Associations
- Auditors for Federal Election Candidates
- Auditors for Ontario Election Candidates
- Auditors for Municipal Election Candidates
- Accountants for Federal Riding Associations
- Accountants for GTA Regional Council (political)
- Presentations to Electoral Districts on Bill C-24

Introduction – Ben Seto, FCA

- CA – 1981
- FCA – 2003
- Former V-P Ontario on National Party Executive
- Federal Riding Association – Membership Chair, Past President, Past Treasurer
- Provincial Riding Association – President, Past Fundraising Chair, Past CFO

Introduction – Ben Seto, FCA

- Federal Elections – Vice chair, Official Agent, etc
- Provincial Elections – Vice Chair, CFO, etc
- Federal Leadership Campaigns
- Ontario Leadership Campaigns
- Impact CA Program – CICA Liaison with MPs
- ICAO Liaison with MPPs

Bill C-24

- An Act to Amend the Canada Elections Act and Income Tax Act – January 1, 2004
 - Disclosure of campaign expenses and contributions
 - Limits on political contributions
 - Registration of Electoral District Associations (EDAs)
 - Leadership campaign changes
 - Public financing of political parties
 - Nomination campaigns
 - Spending limits on parties and nomination contestants

Bill C- 24

Nomination contests - Primarily Section 478 of the Act

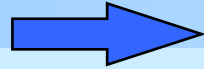
1. Introduced significant administrative complexity to recording, financing and reporting campaign
2. Elections Canada materials available:
 - Handbook for Nomination Contestants, Their Financial Agents and Auditors - (EC 20172)
 - Contestant's Nomination Campaign Return – (EC 20171)
 - Supplements to the Handbook for Nomination Contestants etc. (Available February 28)
 - Electronic Financial Returns Manual and Application
 - Several information sheets (6 at last count)
 - Web Video

Bill C-24

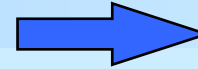
- ◆ Nomination contestant's campaign is deemed to start when it has received a contribution or when it has incurred a campaign expenditure
- ◆ \$1,000 or more in contributions or expenses - must file a nomination campaign return (if under – should inform Elections Canada)
- ◆ \$10,000 or more - must appoint auditor
- ◆ Campaign limit is 20% of allowed limit for previous election plus defined contestant personal expenses - range is between \$10,378 in Malpeque, PEI and \$16,889 in Peace River, Alberta
- ◆ Budgeting is critical - late bills and audit fees can push campaign over the limit
- ◆ Must appoint Financial Agent - only the financial agent can receive contributions and pay expenses

Campaign Process

Planning



Campaign



Post Election

Budget and Limits

Daily Tracking

Reporting/Filing to EC

Maintain Records

**Study Election Canada
(EC) rules**

Appoint Financial Agent

Spending limit

Develop budget

Establish controls

Set up accounts & books

Open bank account

Appoint Auditor

**Track contributions
and send receipts**

Track expenses

Prepare daily reports

**Pay all bills and
resolve all problems**

Financial statements

EC forms and returns

Audit of returns

**Filings to EC with all
back up**

Notice from EC

Final wrap up

Financial Agent Qualifications

Persons not Eligible

- an election officer or a member of the staff of a returning officer
- a candidate or nomination contestant
- an auditor appointed under the Act
- a person who is not an elector
- an undischarged bankrupt
- a person with no capacity to enter into contracts in province of residence

Financial Agent Responsibilities

- Must be an individual - Not a corporation
- Must consent to act and accept appointment in writing
- Must be replaced immediately if resigns or unable to act & Chief Electoral Officer (“CEO”) advised of replacement
- Acts as Treasurer of the campaign
- Opens and solely maintains the campaign bank account
- Receives and pays all monies for the campaign
- Administers all campaign financial transactions
- Budget control and keeping within the expense limit
- Reports in detail in accordance with the Act

Auditor

Auditor must be appointed when contributions or expenditures exceeds \$10,000 and replaced immediately if appointment is revoked

Eligibility

- a person who is a member in good standing of a corporation, an association or an institute of professional accountants; or
- a partnership of which every partner is a member in good standing of a corporation, an association or an institute of professional accountants.
- In Ontario, a person licensed by the Public Accountancy Act.



Auditor Qualifications

Persons not Eligible

- Election officer or staff
- Chief agent and registered agent of a party
- Candidates and financial agents of candidates
- Electoral district agents of registered associations
- Leadership contestants and leadership campaign agents
- Nomination contestants and their financial agents
- Financial agents of registered third parties

Auditor Responsibilities

- Provide a statement accepting appointment
- Examine books, records, invoices, bank statements and cancelled cheques
- Perform necessary tests and verifications to enable auditor opinion
- Prepare report to financial agent stating that return to Elections Canada accurately presents financial transactions in books and records
- No subsidy for audit fees

Nomination Campaign Procedures

- The registered party/EDA submits a report to EC identifying:
 - The start and end dates of the nomination contest
 - The name and address of nomination contestants and their financial agents
 - The winner of the contest
- EC will be looking for the Campaign Return and Declarations of contestant and financial agent to match against these submissions by the party
- Even if the nomination contestant dies, his or her declaration of accuracy of the return at end of process is deemed to be provided to EC

Typical Budget - Aggressive Campaign

Office Costs	\$ 1,800 to 2,400
➤ Office rent	
➤ Furniture rent	
➤ Fax and copier	
➤ Computers	
➤ Office Supplies	
Signs and Advertising	1,400 to 1,900
Brochures	1,500 to 2,100
➤ Printing	
➤ Mailing	
Fundraising Costs	1,500 to 2,100
➤ Stationery	
➤ Postage	
Voter ID/GOTV	2,200 to 2,600
Financial Agent	500 to 700
Contingency	<u>1,000 to 1,200</u>
Sub-Total before Audit	\$ 9,900 to 13,000
Audit Fees	<u>\$ 1,500</u>
TOTAL	\$ 9,900 to \$14,500

Receipts

Contributions

Accounts are needed for each class of contributor, including identifying

monetary and non-monetary and whether they're over or under \$200

- Individuals
- Nomination contestant
- Corporations
- Trade Unions
- Associations
- Returned contributions
- 'Pass the Hat' events
- Sale of merchandise
- Anonymous contributions
- Ineligible contributions
- Unpaid claims

Contributions & Cash Receipts

Contributions are not tax deductible/creditable

Contribution limits for 2004 to all political entities

(Note: Financial agent only responsible for limits to his own campaign)

- \$5,000 for individuals (Canadian citizens & permanent residents only)
- \$10,000 for nomination contestants to their own campaign
- \$1,000 for corporations, trade unions and associations

Contributions & Cash Receipts

Rules for contribution amounts

- \$25 or less - Don't need to identify source
- Over \$25 - Must issue receipt - non monetary too
- \$25.01 to \$200 - Must report name
- Over \$200 - Must report name and address

Monetary contributions are amounts not repayable

- Deemed accepted when received by financial agent

Fund raising dinners & merchandise

- Only amount exceeding FMV is a contribution

Contributions

Non-monetary contributions

- Commercial value of service (except volunteer labour), property or use of property provided free or at less than commercial value
- Non monetary contributions are also an expense
- Accepted when financial agent authorizes use of service or property
- Also applies to use of capital assets - desks, computers, dialers,etc.
- Interest on loans less than prime rate

Contributions

Nomination contestants' own contributions

- Must be through financial agent
- Amounts in excess of personal expenses
- Amounts from their own funds

Unpaid claims

- With some exceptions, claims unpaid after 18 months deemed a contribution on date expense was incurred.

Anonymous contributions

- Class of contributor is unknown
- Over \$25 where name is not known
- Over \$200 where name and address are not known
- Numbered corporation where name of President or CEO unknown

Contributions

Ineligible contributions

- From individuals not Canadian citizens or permanent residents
- From corporations not doing business in Canada
- From trade unions not having bargaining rights for Canadians
- From Crown corporations
- From corporations getting more than 50% of funding from federal government
- Contributions exceeding limits

Contributions

Returning ineligible contributions

- Contribution from ineligible source must be returned
- If non-monetary, must return the commercial value in cash
- These must be disclosed if deposited to bank account
- Remit to Elections Canada if unable to return to contributor

Contributions received before January 1, 2004

These must be reported to EC but do not count towards campaign limit

Contributions

Under \$25 'Pass-the-Hat' and sale of merchandise contributions

- Average contribution must be \$25 or less
- At 'Pass-the-hat' events, must have a count of contributors
- Must not be obvious that there is a large contributor who should be identified
- Profit on merchandise must be \$25 or less
- No prohibition on raffles or lottery type of fundraising but check Provincial laws

Other Cash Receipts

Loans

- Treated as contributions for disclosure purposes
- Must disclose source, principal and interest rate
- Interest is a campaign expense
- Interest amount at less than prime rate is deemed a non-monetary contribution and an offsetting campaign expense

Transfers from registered parties and associations

- Cannot accept these unless they are provided to all contestants
- Must be goods or services only
- Cash transfers are prohibited, including loans

Other Cash Receipts

- These must be disclosed separately in the return
- Non contribution portion of fundraisers and merchandise sales
- Bank interest earned
- Refunds from suppliers
- Returned portion of advances
- Proceeds from sale of residual assets

Expenditures

The trick is to balance the requirements for campaign budget control with the Elections Canada reporting requirements.

Elections Canada Reporting Requirements

- Radio/TV advertising
- Other advertising
- Salaries and wages
- Rent, heat and light
- Other office expenses (incl phone)
- Non monetary contributions
- Audit fees
- Petty cash payments and contra
- Unpaid claims
- Nomination contestant's personal expenses (lodging, transportation, meals, child care, disability, etc. supported by detailed form)

Expenditures

Amounts not included in campaign expenses (reported to EC)

- Advances, Loan repayments, Transfers to Party, Transfers to registered EDA,

Other Accounts useful for budget setting and control

- Office rent, Furniture rent, Fax and copy machine costs, computers, office supplies, Signs, Brochures, Fundraising cost for mailouts, dialer rental

Campaign Expenses

Expense reasonably incurred by or on behalf of a contestant during a nomination contest including personal expenses of contestant

Campaign limit is 20% of allowed limit for previous election plus defined contestant personal expenses

Goods and services, purchased or donated, are reportable expenses

Campaign Expenses

Volunteer labour is excluded with some limited exceptions

Expenses of senators and elected members

- Includes Ministers, MPs and MPPs
- Their costs are allocated based on the proportion of time spent on the campaign
- Allocation must be reasonable

Exempt staff of ministers, party leaders and party employees

- Their time is not eligible as a contribution, so must be paid by the campaign

Campaign Expenses

Commercial value of signs used

- Used signs from prior campaigns are recorded as non-monetary contributions and as expense, at replacement cost of the signs
- If money paid to restore signs, value is still that of buying a similar restored sign

Capital assets

- Commercial value of the benefit derived from the asset - any reasonable method okay
- Asset may be sold at end of campaign

Fund-raising expenses

- Costs of holding a function are campaign expenses

Campaign Expenses

Payment of account and unpaid claims

- Claims only valid if contestant or financial agent entered into contract for good or service
- All bills are the responsibility of the contestant - not the financial agent
- Bills must be presented within 3 months after selection date - if later, special provisions apply.
- All bills must be paid within 4 months after selection date - it is an offence to pay them later
- EC authorization needed to pay claim after 4 months and return must be updated
- Claims unpaid after 18 months deemed a contribution

Campaign Expenses

Disclosure and reporting requirements

- Monetary expenses
 - \$50 or more - receipts needed by financial agent
 - < \$50 - Need proof of payment and record of what was purchased
- Non-monetary expenses
 - Documentation about non-monetary contribution applies here

Campaign Expenses

Disclosure and reporting requirements

Supporting documentation with campaign return

- All documents supporting expense - bank statements, deposit slips and cancelled cheques
- Statements and declarations provided to financial agent
- Contestant's written statement concerning personal expenses

Campaign Expenses

Nomination contestant's personal expenses

- Reasonable expenses incurred by contestant for campaign
- These don't count toward the campaign expense limit
- Campaign workers may use goods or services of contestant as long as there is no additional cost
- Incremental expenses of contestant are okay and must be reasonable
- Categories include
 - Transportation costs to and within the electoral district
 - Temporary lodging
 - Meals and incidentals
 - Necessaries such as child and other care, personal disability, etc

Campaign Expenses

Unused inventory

- Not part of expenses and not part of spending limit
- Includes residual value of assets
- Must be sold at its commercial value

No reimbursements of expenses

- Nomination contestant is not reimbursed for campaign expenses
- It is an offense for campaign to exceed campaign limit
- Audit fees are not reimbursed by Elections Canada

Reporting Requirements

Nomination Campaign Return

1. Part 1 - Declaration
2. Part 2 - Contributions and Cash Receipts
 - a. Statement of contributions received - individuals
 - b. Statement of contributions received - corporations
 - c. Statement of contributions received - trade unions
 - d. Statement of contributions received - associations
 - e. Statement of contributions received - other associations
 - f. Statement of contributions received - operating loans

Reporting Requirements

Nomination Campaign Return

Part 2 - Contributions and Cash Receipts (con't)

- g. Statement of contributions received - contributions returned to donors or otherwise dealt with
- h. Statement of transfers received
- i. Statement of cash inflows other than contributions, loans and transfers
- j. Summary of contributions, transfers and other cash inflows

Reporting Requirements

Nomination Campaign Return Continued

3. Part 3 - Expenses
 - a. Statement of nomination campaign expenses
 - b. Statement of expenses other than nomination campaign expenses
 - c. Statement concerning personal expenses declared in 3a. above
 - d. Statement of unpaid claims declared in part 3a above
4. Part 4 - Campaign financial summary
5. Auditor's report
6. Nomination Contestant's Statement of Personal Expenses

Reporting Requirements

- Filing deadline - 4 months after selection date
- Can file electronically
- Extension to deadline is possible
- Refusal to extend deadline can be appealed in the courts
- EC can request amendment of return which, if refused, may be appealed in the courts
- Campaign can request EC to submit correction
- After 18 months, unpaid claims become deemed contributions subject to some exceptions

Reporting Requirements

Supporting Documentation

- Copies of all receipts issued for contributions
- Details of loans obtained
- All bills \$50 and over - Voucher Cover Template form is available
- Payments from petty cash under \$50 need only list nature of expenses together with proof of payments
- 'No charge' or pro-forma invoices for donated goods and services
- Donated goods or services valued at \$200 or less - no documentation needed and deemed value is nil

Closing out the Campaign

Four Steps

1. Deal with the unpaid claims
2. Dispose of the surplus, if any
 - EC will send a notice of the estimated surplus
 - Financial agent must dispose of it within 60 days after notice
 - Pay surplus to
 - Official agent of winning candidate
 - Registered EDA or registered party
 - Note: Cannot transfer to another nomination campaign
 - Within 7 days of disposition, file Nomination Contestant's Statement of Surplus

Closing out the Campaign

Four Steps

3 Close the campaign bank account

- After unpaid claims and surplus is paid, close bank account
- Send bank statements, deposit slips and cancelled cheques to EC

4 File update to original return, if necessary

Compliance and Enforcement

Commissioner of Elections Canada enforces the Act Offences and Punishment

- Strict liability offences - due diligence defence available
- Offences that prove intent to commit offence
- Penalties vary based on seriousness
- Summary conviction of contestant and/or financial agent
 - Fine of \$1,000 to \$2,000
 - Up to 1 year in jail, or both

Compliance and Enforcement

Offences and Punishment Continued

- Conviction indictment of contestant and/or financial agent
 - Fine of up to \$5,000
 - Up to 5 years in jail, or both

Additional penalties can include

- Community service
- Compensation to injured person(s)
- Performance of obligation that gave rise to offence
- Corrupt practices attract further penalties

Compliance and Enforcement

Other consequences of being found guilty of offences - for 5 years (7 years in the case of corrupt practices)

- Cannot be candidate in a federal election
- Cannot be an MP
- Cannot be appointed to an office of the Crown or by Governor in Council

A registered party can be fined up to \$25,000 for certain offenses

Questions and Answers

www.elections.ca

Elections Canada Support hot line
(8:00am to 5:00pm ET)

Phone: 1-800-486-6563

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905-513-7773



**The End
Thank You**