



**MEMORANDUM:** All Chief Financial Officers  
**FROM:** Jonathan Batty, Director, Election Finances  
and General Counsel  
**DATE:** May 28, 2010  
**TOPIC:** Legislative changes to the *Election Finances Act*

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### INTRODUCTION

The *Election Finances Act (EFA)* was amended on May 18, 2010 when Bill 231, the *Election Statute Law Amendment Act, 2010*, received Royal Assent.

The new legislation has made significant changes to how a Chief Financial Officer (CFO) will perform their duties and responsibilities under the *EFA*.

The following provisions took immediate effect on May 18, 2010:

1. **Acceptance of contributions greater than \$25 other than by cheque, money order or credit card (for individuals)**
2. **Clarification regarding contributions from Estates**
3. **Cancellation notices for tax credit receipts**
4. **New blackout restriction on polling day surveys**
5. **Elimination of blackouts on 'Official' web sites**
6. **New formula for calculating Campaign Expense Limits**

Additionally, on June 1, 2012 some parties will be required to maintain an electronic database for recording contributions and issuing receipts. Parties will also be able, if they wish, to voluntarily begin to use the database as early as June 1, 2011.

The *Election Statute Law Amendment Act, 2010* can be found on the E-laws website <http://www.e-laws.gov.on.ca/index.html> but, as of the date of this memo, the changes have not yet been incorporated into an updated consolidated version of the *EFA*.

We have set out the new provisions and describe their effect in detail below.

Appendix A (attached) contains the tables to be inserted into your CFO Handbook, which list the relevant sections of the Guidelines that change because of the amendment of the *EFA*.

#### **DETAILED DESCRIPTION OF CHANGES**

##### **1. Acceptance of contributions greater than \$25 other than by cheque, money order or credit card (for individuals)**

Sections 16(2) and 37.11 of the *EFA* now allow contributions greater than \$25 to be accepted using methods other than cheque, money order or credit card

Section 16(2) now reads:

16.(2) Money contributed to political parties, constituency associations, candidates or leadership contestants registered under this Act in amounts in excess of \$25,

(a) shall not be contributed in the form of cash; and

(b) shall be contributed,

(i) in a manner that associates the contributor's name and account with the payment, or

(ii) by a money order signed by the contributor.

While the requirement remains that cash cannot be accepted for contributions greater than \$25, it now allows for modern banking practices such as Debit cards and other methods where the contributor and their account information can be confirmed.

Corporate credit cards can also be used. The CFO will need to verify that the contributor is the corporation and make the receipt out to the entity whose funds have been contributed.

These requirements have also been added to section 37.11 for third parties.

## 2. Clarification regarding contributions from Estates

Section 16(4) has been added to the *EFA* and states:

16(4) An estate may make contributions to parties and constituency associations, and for the purposes of those contributions, a person and his or her estate are deemed to be one person.

The guidelines [Party (PG.04) and Association (G.04)] to the *EFA* have permitted registered parties and constituency associations to accept contributions “from a deceased person's estate if as a result of a specific bequest in the last will and testament”. The *EFA* has been updated to include specific language reflecting current practice. The *EFA* now specifically deems that a person and, when deceased, that person's estate are one contributor.

## 3. Cancellation notices for tax credit receipts

Subsection 17 (1) of the *EFA* is amended and now states (emphasis added):

17. (1) Where the chief financial officer learns that any contribution received by or on behalf of the political party, constituency association, candidate or leadership contestant for whom he or she acts was made or received in contravention of any provision of this Act, the chief financial officer shall, within thirty days after learning that the contribution was made contrary to this Act and upon obtaining the contributor's copy of the receipt issued under this Act, **or cancelling the receipt and giving the contributor notice of the cancellation**, return the contribution or an amount equal to the sum contributed.

This provision will now allow a CFO to issue a cancellation notice and provide a refund to a contributor, within thirty days of being made aware of receiving an ineligible contribution.

Cancellation notices may be used to cancel hard copy tax credit receipts and for e-receipts (after parties begin to issue receipts electronically).

The current practice of retrieving the contributor's copy of a tax credit receipt and then issuing a refund is still available.

The cancellation notice cannot be used to resolve existing receipting / compliance matters for which the CFO has already had thirty days to take corrective action.

We will provide a copy of the cancellation notice on the Elections Ontario web site by June 4, 2010 for your use.

#### **4. New blackout restriction on polling day surveys**

Section 36.1 has been added to the *EFA* and states:

36.1(1) No person shall publish, broadcast or transmit to the public, in an electoral district on polling day before the close of all the polling stations in that electoral district, the results of an election survey that have not previously been made available to the public.

(2) Subsection (1) also applies in respect of corporations, trade unions, political parties, constituency associations and third parties.

(3) In this section, “election survey” means an opinion survey of how electors voted or will vote at an election or respecting an issue with which a political party or candidate is associated.

This section prohibits the release of opinion surveys of how electors voted or will vote before the close of polls on Election Day. This applies to all election surveys that were not made available to the public prior to polling day.

#### **5. Elimination of blackouts on ‘Official’ web sites**

Subsection 37(7) has been added to the *EFA* and states:

37. (7) This section does not apply to an official website of a registered party, registered candidate or registered constituency association on the Internet.

This subsection provides an exemption for official web sites of registered parties, registered candidates or registered constituency associations from the campaign advertising blackout periods polling day. This will allow these political entities to edit / update their web sites on polling day and the day before polling day (General Election) and also during the initial blackout period, from the day the writ is issued to the 22<sup>nd</sup> day before polling day (by-elections).

#### **6. New formula for calculating Campaign Expense Limits**

Subsection 38(3.2) of the *EFA* has been amended and states:

38. (3.2) For the purposes of subsections (1) and (3), the number of electors is the greater of,

(a) the number of electors shown in the list of electors furnished to candidates under clause 19 (3) (c) of the *Election Act*; and

(b) the number of electors entitled to vote, as determined by the Chief Electoral Officer under the *Election Act*.

In calculating the campaign expense (spending) limit, the elector count to be used, is the higher of the preliminary or the final elector count. This will allow campaigns to budget with greater accuracy based on the preliminary elector count provided, without risk of overspending due to a final elector count being lower than the preliminary count.

## **7. Parties to maintain Electronic database for recording contributions and issuing receipts**

Section 25.1 has been added to the *EFA*. [See Appendix B]

This section makes it mandatory by June 1, 2012 for some registered parties to electronically record contributions and generate tax credit receipts from an electronic database for the party, its constituency associations and candidates.

The requirement to have an electronic database is mandatory for:

1. a party that fielded candidates in more than 50% of the electoral districts in 2007; or,
2. a party that fields candidates in more than 50% of the electoral districts in a future general election; or,
3. a party that has been required to, or opted to, use an electronic database but fields candidates in fewer than 50% of the electoral districts in a future general election.

According to our records, the following parties will be required to use an electronic database by June 1, 2012:

- Family Coalition Party of Ontario [FCP]
- The Green Party of Ontario [The Ontario Greens]
- New Democratic Party of Ontario [ONDP]
- Ontario Liberal Party [OLP]
- Progressive Conservative Party of Ontario [PC Party]

In advance of the June 1, 2012 deadline, some parties may choose to use an electronic database as early as June 1, 2011, by providing written notice to the Chief Electoral Officer.

After June 1, 2012, any party using an electronic database will need to ensure that only its central party CFO (or people working directly for that CFO) will issue tax credit receipts for contributions received on or after that date. While constituency association, candidate and party CFO's accepting a contribution will be required to record the contribution in the electronic database, the **CFO's for constituency associations and candidates can no longer issue receipts. This is a major change to the EFA.**

However, parties that are not required to have a database, or that choose not to opt in before June 1, 2012, can issue receipts in the same way they do now. **For parties that are not required to use an electronic database, the CFO's for constituency associations and candidates can still issue receipts.** Elections Ontario will continue to issue hard copy receipts to these parties and the CFO's of their candidates and constituency associations.

Elections Ontario is required to assess and approve all electronic databases before they are used by parties. The Chief Electoral Officer is also required to provide guidelines necessary for electronic receipting so as to ensure the information in the electronic database is accurate, verifiable and capable of being audited. These guidelines are to be published by January 1, 2011.

We will be consulting with registered parties in the fall on technical and other aspects in developing the guidelines for electronic receipting.

Staff at Elections Ontario is available to answer your questions and to provide the technical support required to comply with the new requirements of this legislation. Your primary contact persons at the Election Finances division for any enquiry on these new reporting requirements are the Managers, Frank Dolhai [frank.dolhai@elections.on.ca](mailto:frank.dolhai@elections.on.ca) (416) 326-3198 and Renee English [renee.english@elections.on.ca](mailto:renee.english@elections.on.ca) (416) 325-9456.

Please feel free to contact our office if you require further information.

JONATHAN BATTY  
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Encls.

p.c.: Presidents  
Registered Political Party Headquarters  
Auditors

Elections Ontario  
Election Finances Office

## Appendix A – Please insert this table into the front of your CFO Handbook

This table lists the relevant sections of the Guidelines to the Election Finances Act and Quick Guides that have been amended per the introduction of Bill 231.

	<b>Guideline Sections</b>	<b>Guideline / Quick Guide Name</b>
Acceptance of contributions greater than \$25 other than by cheque, money order or credit card (for individuals)	Page 4 Pages 18, 22 (2 references), 24 Pages 38 (3 references), 39 Page 47 G04.07, .09, .11, .18, .19, 29 G05.13, .30 G06.31 G10.08, .10, .12, .20, .21, .28 G11.15, .34 G15.08, 10, .11, .16, .17(a) G16.14, .29 G22.02, .07 G37.04 PG01.33 PG02.13, .31 (2 references), .33 PG05.07, .09, .11	Summary Of Duties Quick Guide to Election Finances Law  Quick Guide to Fundraising Activities Quick Guide to Political Contributions Guideline G04: CA – Rules on Contributions Guideline G05: CA – Campaign Period F/S Guideline G06: CA – Annual F/S Guideline G10: Candidate – Rules on Contributions Guideline G11: Candidate – Campaign Period F/S Guideline G15: Leadership Contestant – Rules on Contributions Guideline G16: Leadership Contestant – Contest Period F/S Guideline G22: Receipts for Contributions Guideline G37: Unincorporated Associations or Organizations Guideline PG01: Political Parties – Annual F/S Guideline PG02: Political Party – Campaign Period F/S  Guideline PG05: Political Parties – Rules on Contributions
Clarification regarding contributions from Estates	Pages 18, 22 G04.02 PG05.02	Quick Guide to Election Finances Law Guideline G04: CA – Rules on Contributions Guideline PG05: Political Parties – Rules on Contributions
Cancellation Notices for tax credit receipts	G01.15, .16, .17, .18 G.04.36 G05.17, .19, .30 (2 references) G06.17, .30, .31 G10.09, .35 G11.19, .21, .34 (2 references) G22.09, .11, .13, .13a, .13b, .23 G36.03 PG01.17, .19, .33 (2 references) PG02.17, .19, .33 (2 references) PG05.08, .36	Guideline G01: Summary of Duties of Chief Financial Officers Guideline G04: CA – Rules on Contributions Guideline G05: CA – Campaign Period F/S  Guideline G06: CA – Annual F/S Guideline G10: Candidate – Rules on Contributions Guideline G11: Candidate – Campaign Period F/S  Guideline G22: Receipts for Contributions  Guideline G36: Borrowing Guideline PG01: Political Parties – Annual F/S Guideline PG02: Political Party – Campaign Period F/S  Guideline PG05: Political Parties – Rules on Contributions
New blackout restriction on polling day surveys	Pages 12, 30, 31 G23.02, .05	Quick Guide to Election Finances Law Guideline G23: Political Advertising Limitations – Time and Rates
Elimination of blackouts on 'Official' web sites	Pages 12, 30, G23.02, .05	Quick Guide to Election Finances Law Guideline G23: Political Advertising Limitations – Time and Rates
New formula for calculating Campaign Expense Limits	Pages 12, 28, 29 G11.33 G24.09 (a), .09 (b), .10 PG.02.30	Quick Guide to Election Finances Law Guideline G11: Candidate – Campaign Period F/S Guideline G24: Limit on Campaign Expenses Guideline PG02: Political Party – Campaign Period F/S.

## Appendix B – **Section 25.1**

The *EFA* is amended by adding the following sections:

### **Electronic database for recording contributions and issuing receipts**

**25.1** (1) Each registered party shall maintain an electronic database that,

(a) allows the chief financial officers of the party and of its registered constituency associations and registered candidates to record all contributions received; and

(b) allows the chief financial officer of the party to issue receipts generated from the electronic database.

### **Recording of contributions**

(2) The chief financial officer of a registered party is responsible for ensuring that all contributions received by the party are recorded in the party's electronic database.

### **Same**

(3) The chief financial officer of a registered constituency association is responsible for ensuring that all contributions received by the association are recorded in the party's electronic database.

### **Same**

(4) The chief financial officer of a registered candidate who is not an independent candidate is responsible for ensuring that all contributions received by the candidate are recorded in the party's electronic database.

### **Issuing of receipts**

(5) The chief financial officer of a registered party is responsible for ensuring that receipts generated from the electronic database, whether in paper form or electronic form, are issued for all contributions received by the party and by its registered constituency associations and registered candidates.

### **Same**

(6) The chief financial officers of registered constituency associations and registered candidates shall not issue receipts for contributions, and subsection 25 (1) and clause 33 (4) (c) do not apply to them.

### **Cancellation of receipts**

(7) The chief financial officer of a registered party shall, immediately on receiving the Chief Electoral Officer's request to do so, cease issuing receipts for contributions.

## **Application rules**

(8) The following rules apply to a registered party on and after June 1, 2012:

1. The party must comply with subsection (1).
2. The chief financial officer of the party must comply with subsection (2).
3. The chief financial officers of the party's registered constituency associations must comply with subsection (3).
4. The chief financial officers of the party's registered candidates must comply with subsection (4).
5. The chief financial officer of the party must comply with subsection (5) in relation to contributions received on or after June 1, 2012.
6. Subsection (6) applies to the chief financial officers of the party's registered constituency associations.
7. Subsection (6) applies to the chief financial officers of the party's registered candidates.
8. Subsection (7) applies to the chief financial officer of the party.

## **Role of Chief Electoral Officer**

### **Guidelines**

**25.2** (1) The Chief Electoral Officer shall provide such guidelines as he or she considers necessary for electronic databases that are maintained for the purposes of section 25.1.

### **Same**

(2) Without limiting the generality of subsection (1), the guidelines shall deal with ensuring that,

- (a) the information in the electronic database is accurate;
- (b) the chief financial officer of the registered party has the ability to verify the information in the electronic database; and
- (c) the information in the electronic database is capable of being audited.

### **Publication**

(3) The Chief Electoral Officer shall publish the guidelines in *The Ontario Gazette* and on a website on the Internet.

### **Timing**

(4) The Chief Electoral Officer shall publish the first guidelines under subsection (3) on or before January 1, 2011.

### **Assessment**

(5) The Chief Electoral Officer shall assess each electronic database that is maintained for the purposes of section 25.1 and, if satisfied that the electronic database complies with the guidelines and with this Act, shall approve it.

### **Approval**

(6) The chief financial officer of a registered party shall ensure that,

(a) the party's electronic database receives the Chief Electoral Officer's approval before being launched; and

(b) any material changes to the party's electronic database receive the Chief Electoral Officer's approval before being launched.

### **Compliance**

(7) The Chief Electoral Officer shall advise and work with the chief financial officers of registered parties to promote compliance with section 25.1 and with subsection (6) of this section.

### **Opting in before June 1, 2012**

**25.3** If a political party is registered under this Act on June 1, 2011 or becomes registered under this Act on or before May 31, 2012, the chief financial officer of the party may opt for early compliance at any time during the period that begins on June 1, 2011 and ends on May 31, 2012, in accordance with the following rules:

1. The chief financial officer may give the Chief Electoral Officer written notice of one of the following:

i. the party, its registered constituency associations and its registered candidates will comply with section 25.1,

ii. the party and its registered constituency associations, but not its registered candidates, will comply with section 25.1,

iii. the party and its registered candidates, but not its registered constituency associations, will comply with section 25.1, or

iv. the party, but not its registered candidates and registered constituency associations, will comply with section 25.1.

2. If the chief financial officer gives a notice described in paragraph 1,
  - i. the chief financial officer shall ensure that the party's electronic database receives the Chief Electoral Officer's approval before being launched, and
  - ii. on and after the effective date set out in the notice, the chief financial officer shall ensure that any material changes to the party's electronic database receive the Chief Electoral Officer's approval before being launched.
3. If the chief financial officer gives the notice described in subparagraph 1 i,
  - i. paragraphs 1, 2, 3, 4, 6, 7 and 8 of subsection 25.1 (8) apply on and after the effective date set out in the notice, and
  - ii. the chief financial officer must comply with subsection 25.1 (5) in relation to contributions received on or after the effective date.
4. If the chief financial officer gives the notice described in subparagraph 1 ii,
  - i. paragraph 1 of subsection 25.1 (8) applies on and after the effective date set out in the notice, except that the party's electronic database need not allow the chief financial officers of registered candidates to record contributions,
  - ii. paragraphs 2, 3, 6 and 8 of subsection 25.1 (8) apply on and after the effective date set out in the notice, and
  - iii. the chief financial officer must comply with subsection 25.1 (5) in relation to contributions received by the party and by its registered constituency associations on or after the effective date.
5. If the chief financial officer gives the notice described in subparagraph 1 iii,
  - i. paragraph 1 of subsection 25.1 (8) applies on and after the effective date set out in the notice, except that the party's electronic database need not allow the chief financial officers of registered constituency associations to record contributions,
  - ii. paragraphs 2, 4, 7 and 8 of subsection 25.1 (8) apply on and after the effective date set out in the notice, and
  - iii. the chief financial officer must comply with subsection 25.1 (5) in relation to contributions received by the party and by its registered candidates on or after the effective date.

6. If the chief financial officer gives the notice described in subparagraph 1 iv,
- i. paragraph 1 of subsection 25.1 (8) applies on and after the effective date set out in the notice, except that the party's electronic database need not allow the chief financial officers of registered constituency associations and registered candidates to record contributions,
  - ii. paragraphs 2 and 8 of subsection 25.1 (8) apply on and after the effective date set out in the notice, and
  - iii. the chief financial officer must comply with subsection 25.1 (5) in relation to contributions received by the party on or after the effective date.

### **Exemption, 50 per cent threshold**

**25.4** (1) Subsections (2) and (3) apply to a registered political party that has not, in the 2007 general election or in any subsequent general election, had official candidates in 50 per cent or more of Ontario's electoral districts.

### **Same**

(2) Section 25.1 does not apply in respect of the party unless the party's chief financial officer opts for compliance under section 25.3 or under subsection (3) of this section.

### **Opting in on and after June 1, 2012**

(3) The chief financial officer of the party may, at any time from June 1, 2012 onwards, opt for compliance by giving the Chief Electoral Officer written notice that the party will comply with section 25.1.

### **Loss of exemption**

**25.5** On and after the first anniversary of polling day in any general election in which a registered political party has official candidates in 50 per cent or more of Ontario's electoral districts for the first time,

(a) section 25.4 no longer applies to the party; and

(b) section 25.1 applies to the party.

If you have any questions, staff at Elections Ontario are available to answer your questions and to provide the technical support required to comply with the new requirements of this legislation.