

# Presentation to Candidates and their Official Agents

April 7, 2004



# AGENDA

- ◆ Introduction
- ◆ Bill C-24
- ◆ Qualifications & Responsibilities
- ◆ Campaign Process
- ◆ Contributions and Other Cash Receipts
- ◆ Campaign Expenses
- ◆ Reporting Requirements
- ◆ Closing out the Campaign
- ◆ Compliance and Enforcement
- ◆ Q & A

# Introduction – Chim & Seto, LLP

- Accountants for Federal Electoral District Associations (EDAs)
- Auditors of Ontario Riding Associations
- Auditors for Federal Election Candidates
- Auditors for Ontario Election Candidates
- Auditors for Municipal Election Candidates
- Presentations to EDAs, Nomination Contestants and Candidates 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
  - Limits on political contributions
  - Registration of Electoral District Associations (EDAs)
  - Leadership campaign changes
  - Public financing of political parties
  - Disclosure of Leadership and Nomination campaigns contributions and expenditures
  - Spending limits on Leadership and Nomination contestants

# Bill C- 24

## Minimal effect on Candidates

- Reduction of % votes required for rebate – from 15% to 10%
- Election expense rebate increased from 50% to 60% (note: rebate is based on **PAID** expenses)
- Contribution limits
- Pre-writ periods (deemed candidate if received contribution or incur expense – must appoint Official Agent)

# Candidate Responsibilities

- Ultimately responsible for the campaign
- Appoints Official Agent and auditor
- Must sign a declaration



# Official Agent Qualifications

## Persons not Eligible

- an election officer or a member of the staff of a returning officer
- a candidate
- 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

# Official 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
- Disposes of the surplus

# Auditor

## 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

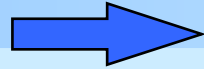
- Election officer or staff
- Chief agent and registered agents of a party
- Candidates and Official Agents of Candidates
- Electoral District Agents of registered EDAs
- Leadership contestants and their financial agents
- Nomination contestants and their financial agents
- Financial agents of registered third parties

# Auditor Responsibilities

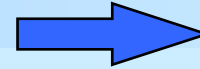
- Provide a statement accepting appointment
- Examine books, records, invoices, bank statements and cancelled cheques
- Perform necessary tests and verifications to enable auditor opinion
- Prepare report to Official Agent stating that return to Elections Canada accurately presents financial transactions in books and records
- Subsidy for audit fees paid by Elections Canada

# Campaign Process

**Planning**



**Campaign**



**Post Election**

**Budget and Limits**

**Daily Tracking**

**Reporting/Filing to EC**

**Maintain Records**

**Study Election Canada (EC) rules**

**Appoint Official 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**

# Contributions

Accounts are needed for each class of contributor, including identifying

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

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

# Contributions

No tax receipts in pre-writ period

No tax receipts for Non-monetary contributions

Tax receipts only for contributions received after candidate has filed papers with EC to 30 days after polling date.

Contribution limits for 2004 to all political entities

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

- \$5,000 for individuals (Canadian citizens & permanent residents only)
- \$1,000 for corporations, trade unions and associations



# Contributions

## Official Tax Receipts

- 75% on first \$400
- 50% of the next \$350, and
- 33 1/3% over \$750

To a maximum credit of \$650

- To be issued within 30 Days After Polling Day
- Transmission to Returning Officer
  - Used, Unused and Cancelled Receipts
  - Record of Official Receipts
- Submission to Canada Revenue Agency

# Contributions

## 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 Official 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 Official 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

## 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 contribution 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, associations and nomination contestants



# 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
- Election Surveys or Research
- Rent, heat and light
- Other (incl phone)
- Salaries and wages
- Misc (inc non-candidate travel)
- Candidate's personal expenses (lodging, transportation, meals, child care, disability, etc. supported by detailed form)
- Expenses not subject to limits

# Expenditures

## Payment other than Election expenses (reported to EC)

- Discounts
- Unpaid Claim
- Advances
- Loan repayments
- Transfers to Party
- Transfers to registered EDA
- Transfer to Candidate's own Nomination Campaign
- Residual Value of Assets and unused inventory

# Campaign Expenses

Expense reasonably incurred by or on behalf of a Candidate during an election including personal expenses of Candidate

Campaign expenses is limited based on number of eligible voters plus defined Candidate personal expenses (estimates ranges from \$51,890 in Malpeque, PEI to \$84,445 in Peace River, Alberta)

Rebate is 60% of (paid election expenses plus candidate's personal expenses – max to limit)

Goods and services, purchased or donated, are reportable expenses

# Campaign Expenses

Volunteer labour is excluded with some limited exceptions

Exception is donated services where it is a normal business activity of the donor. (i.e. a webmaster donating his service to maintain a website)

# 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

# Excluded expenses

Not counted towards expense limits

- Pre-writ expenses
- Nomination expenses \*\*
- Fund-raising expenses
- Unused inventory
- Victory party
- Legal, accounting and audit fees

# Campaign Expenses

## Payment of account and unpaid claims

- Claims only valid if Candidate or Official agent entered into contract for good or service
- All bills are the responsibility of the Candidate - not the Official 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 Official agent
  - < \$50 - Need proof of payment and record of what was purchased
- Non-monetary expenses
  - Documentation about non-monetary contribution applies here

# Candidate's Personal Expenses

- Reasonable expenses incurred by Candidate for campaign
- These don't count toward the campaign expense limit
- Campaign workers may use goods or services of Candidate as long as there is no additional cost
- Incremental expenses of Candidate 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

# Closing out the Campaign

- Dispose of the surplus, if any
  - EC will send a notice of the estimated surplus
  - Official agent must dispose of it within 60 days after notice
  - Pay surplus to
    - Registered EDA or registered party
    - Or the Receiver General
  - Within 7 days of disposition, file Candidate's Statement of Surplus

# Closing out the Campaign

- 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
- File update to original return, if necessary

# Materials Available

Elections Canada materials available:

- Handbook for Candidates, Their Official Agents and Auditors - (EC 20190)
- Electronic Financial Returns Manual and Application
- Several information sheets
- Web Video

# Forms

- Candidate's Electoral Campaign Return (EC 20120)
- Electronic Financial Return (EFR) available
- Candidate's Statement of Personal Expenses (EC 20220)
- Candidate's Statement of Surplus (EC 20140)
- Contributions Received Prior to January 1, 2004 (EC 20161)
- Contribution from an Association as Defined by Subsection 405.3(3) (EC 20160)
- Receipt for a Contribution to a Candidate at an Election of a Member to Serve in the House of Commons of Canada (EC 20026)

# Reporting Requirements

- Record of Official Receipts
- Candidate's Return Respecting Election Expenses (and Candidate's Statement of Personal Expenses)
- Candidate's Supplementary Return Respecting Election Expenses (Unpaid Claims)
- Candidate's Statement of Surplus
- Amended Return

# Candidate's Electoral Campaign Return (EC20120 or EFR)

- Parts 1 to 4
- Supporting Documentation (bank statements, returned cheques, deposit slips, invoices, leases, etc)
- Candidate's Statement of Personal Expenses (EC 20220)
- Auditor's Report
- Deadline: 4 Months After Polling Day



# Candidate's Supplementary Return Respecting Election Expenses

- Supplier's Invoice received within 3 months after polling day, if not:
  - Judge's Order for the Supplier
- All Invoices must be paid within 4 months after polling day, if not:
  - Judge's Order required
  - Official Agent report to EC
  - Payment must be within 7 days after the Judge's Order

# 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 Candidate and/or Official 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 Candidate and/or Official 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

# DOs

- Official agent and auditor must be appointed before initiating any financial transactions;
- Official agent must open a bank account;
- A budget is established based on the spending limit;
- Contributions must be deposited in the bank account and expenses must be paid through the bank account;
- Expenses must be paid to get the 60% rebate;
- Official agent keeps all supporting documentation;
- Official receipt issued only by the Official Agent and only if candidate officially nominated;
- Ensure that the Candidate's Return is submitted on time;
- Ensure that any campaign surplus is transferred in compliance with the Act.

# DON'Ts

- Candidate cannot pay any campaign expenses other than the candidate's personal expenses;
- Candidate cannot advance any money to the campaign without going through the Official Agent;
- Candidate cannot accept any contributions, as this is the Official Agent's responsibility;
- Do not go over spending limit (wilfully) 502(1)(c)

# Questions and Answers

**[www.elections.ca](http://www.elections.ca)**

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

Phone: 1-800-486-6563

**[www.chimseto.ca](http://www.chimseto.ca)**

**[bseto@chimseto.ca](mailto:bseto@chimseto.ca)**

**905-513-7773**



**The End  
Thank You**