

How Does Bill C - 24 Affect You?

Presentation to Electoral District Associations

February 23, 2004



AGENDA

- Introduction
- What is Bill C-24
- Current Status
- Registration
- Financial Agents, Electoral District Agents and Auditor Responsibilities
- Financial Reporting
- Contributions
- Expenditures
- Nomination Contests
- Elections
- 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 –effective January 1, 2004
 - Limits on political contributions
 - Leadership campaign disclosures
 - Public financing of political parties
 - Nomination campaigns disclosures
 - Spending limits on parties and nomination contestants
 - Disclosure of expenses and contributions
 - Registration of Electoral District Associations (EDAs)

Bill C - 24

Introduced significant administrative complexity to recording, financing and reporting

EDAs may register or not registered with Elections Canada (EC)

Elections Canada materials available:

- Registered Association Handbook - (EC 20082)
- Registered Association Financial Transaction Return – (EC 200081)
- Electronic Financial Returns Manual and Application
- Several information sheets

Current Status

- Party decided not to have EDAs registered.
- Local EDA to recommend a Registered Agent who would report to the Chief Agent of the Party
- Benefit – Easy to setup and have EDA operational quickly, audit not required
- Costs – Paperwork to Party PQ, Cannot take corporate donations



Current Status

- **Registered Agent**

- Bank accounts of the EDAs were transferred to Party
- Officer of Party given signing authority over local accounts
- Paperwork onerous



Current Status

Registered Agent

◆ Persons not Eligible

- Election officer
- 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

◆ May be a corporation

Registration

- Must register with Chief Electoral Officer (CEO)
- Registration Forms enclosed
- Benefit – Control of own \$\$\$ and destiny
- Costs – Annual Filings, Paperwork, Risks, Financial Agent & Auditor required

Registration

Allows an Electoral District to:

- Accept contributions
- Provide goods or services or transfer funds to a candidate endorsed by a registered party, another registered association , or the registered party
- Accept surplus funds from a candidate, leadership contestant or nomination contestant
- Accept transfers from their registered party, another registered association or candidates endorsed by the party
- Issue Tax Receipts

Registration

- **Registration application must include:**
 - Name of Association and Electoral District
 - Name of Registered Party
 - Address where records are kept and to which communication may be addressed
 - Name and addresses of Chief Executive Officer (president), other officers, financial agent, electoral agents and auditor

Registration

- **Registration application must include:**
 - Declaration of the President
 - Financial Agent must sign Consent to Act
 - Terms and Conditions of Electoral District Agents Appointments
 - Auditor must sign Consent to Act
 - Declaration and Consent by Leader of the Registered Party

Changes to Registration

- Any change to the registration information must be reported in writing to the CEO within 30 days
- Report must be certified by the Electoral District Association president



Deregistration

- Failure to provide documents
- Failure to file returns
- Voluntary (signed by President and Financial Agent)
- At the request of the registered party (signed by leader and two officers)

Financial Agents

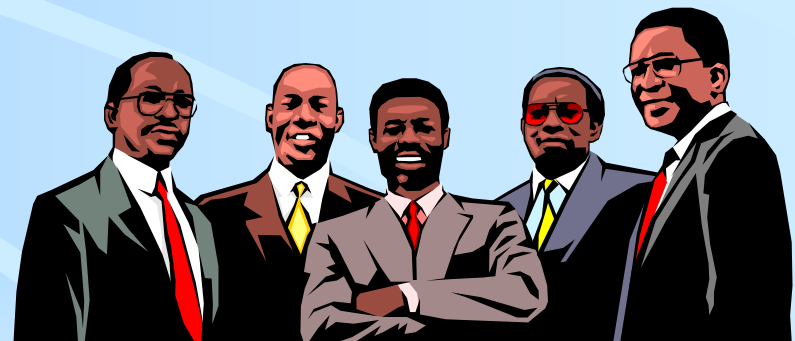
- **Appointment**

- No definition in the Election Act
- Assume appointment by Electoral District Association
- Can be a corporation
- To administer the financial transactions and to report on them



Electoral District Agents

- Appointment by Electoral District Association
- Definition includes the Financial Agent
- Authorized to accept contributions
- Authorized to incur and pay expenses



Electoral District Agents

- **Person 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

Auditors

- **All Registered EDAs must appoint Auditor**
- **May act for more than 1 EDA or Party**
- **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.



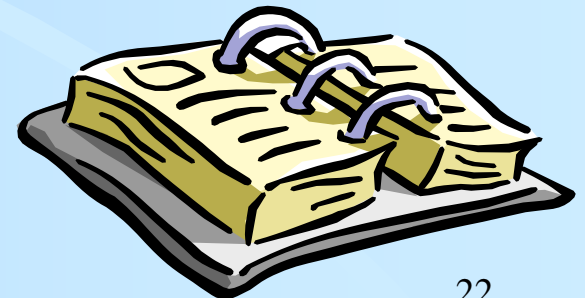
Auditor

- **Person not eligible**

- an election officer or a member of the staff of a returning officer
- Chief agents of registered or eligible party or registered agents of registered party
- Candidates and official agents of candidates
- Electoral district agents of registered associations
- Leadership contestants and their campaign agents
- Nomination contestants and their financial agents
- Financial agents of registered third parties

Financial Reporting

- Within 6 months – must file statement of Assets and Liabilities with CEO including any surplus or deficit as of the day before the effective date of registration
- Declaration by Financial Agent that the statement is complete and accurate



Financial Reporting

- The Fiscal period must follow the Calendar year
- Confirmation of registration is required by May 31 of each year (July 31 if there is an election)
- Financial documents due 5 months after the end of each fiscal period

Financial Reporting

- Documents required to be filed by Financial Agent to Chief Electoral Officer
 - A financial transaction return
 - The Auditor's report on the return (if required)
 - A declaration of the completeness and accuracy of the return

Financial Reporting

- Contents of financial transactions return
 - A statement of the commercial value of goods or services provided or funds transferred
 - by the association to the party
 - from the party to the association
 - A statement of loans or security received
 - A statement that fully disclose financial loans for the purposes of the campaign
 - A statement of contributions received but returned to the contributor

Financial Reporting

- Contents of financial transactions return
 - A statement of contribution received
 - The number of contributors
 - The name and address of each contributor if the contribution is over \$200
 - The name of the Chief Executive Officer or President if the contributor is a numbered company
 - Balance sheet
 - Income statement

Financial Reporting

- When is an audit required?
 - If contributions accepted or expenses incurred is equal to or more than \$5,000
- How much is the audit fees subsidy?
 - Up to a maximum of \$1,500

Contributions



- Eligible to contribute:
 - Must be a citizen or permanent resident
 - Could be a corporation or trade union
- Ineligibility for corporation or trade union
 - A corporation does not carry on business in Canada
 - A trade union that does not hold bargaining rights for employees in Canada
 - A Crown corporation
 - A corporation in respect of which the government contributes more than 50% of its funding

Contribution limits

- Political contributions from individuals will be limited to a total of \$5,000 annually to a registered political party and its registered associations, nomination contestants and candidates.
- An additional \$5,000 to leadership contestants in a particular leadership contest.
- Corporations or trade unions are allowed to make contributions not exceeding \$1,000 in total in any calendar year to the registered associations.

Contributions

- **Return of contribution:**
 - Contributions received from an ineligible contributor must return within 30 days after becoming aware of the ineligibility, to the contributor
 - If funds were not returned to the contributor, it would be forfeited to the CEO

Contributions

- **Tax Receipting**

- Separate returns to be filed with CCRA due date same as the financial returns

- Must be authorized by Party Leader

- Political Contribution Tax Credits

- 75% on first \$400

- 50% on next \$350

- 33.33% over \$750

- to a maximum of \$650 tax credit



- Receipts not needed for contributions under \$25

Contributions

- **Non-Monetary contributions**
 - Income Tax Act prohibits the issuance of Tax Receipts
 - Must issue a receipt not valid for income tax purposes for amounts over \$25 (EC20024)

Loans

- Disclose source, principal amount borrowed, interest rates, repayment schedules and conditions
- Treated as contributions for disclosure purposes
- Interest is an EDA expense
- Interest amount at less than prime rate is deemed a non-monetary contribution and an offsetting expense
- Non repayments of loans treated as a contribution

Transfers

May accept transfers from

- Registered parties
- Other registered associations
- Candidates of the same party once officially endorsed by the party
- Leadership and nomination contestants of the same party

Must be goods or services only

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

- Expense reasonably incurred by the EDAs
- Goods and services, purchased or donated, are reportable expenses
- Volunteer labour is excluded with some limited exceptions
- Fund-raising costs of holding a function

Expenditures

- How do you claim expenses?
 - Electoral District Agents incur expenses
 - Must send the invoice to Financial Agent within three months after the expenses occurred
 - A claimant is barred from recovery of a claim that is sent after the three-month period
 - If a claimant dies, another three months applies

Expenditures

- Could irregular claims or payments be covered?
 - Authorized by CEO under reasonable grounds
 - Authorized by Judge under reasonable grounds
- The CEO may fix any terms or conditions that he or she considers appropriate on a payment that has been authorized

Expenditures

- What happens to an unpaid claim?
 - Deemed to be a contribution of the unpaid amount to the association
- Exceptions if it is subject to:
 - A binding agreement to pay
 - A legal proceeding to secure its payment
 - A dispute , or
 - Has been written off by the creditors

Nomination Contests

Obligations of Electoral District Associations

- Report to be filed with CEO within 30 days of selection date including
 - Date contest began
 - Selection Date
 - Name and Address of each contestant
 - Name and address of their Financial Agent
 - Name of person selected

Nomination Contests

Obligations of Electoral District Associations

- May not transfer funds to a nomination contestant (s).
- Can receive surplus funds from nomination contestants.

Nomination Contests-Transition

EDAs where nominations are in progress –
contest is run by Party – no action required
(?)

EDAs where the nominations are not yet set –
contests will be run by EDAs under new
rules

Election Period

- Prohibition of Activities of Registered Electoral District Associations
- May not incur expenses for election advertising
- % of vote required to get rebate reduced from 15% to 10%

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 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 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

Offences and Punishment Continued

- 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

www.chimseto.ca

bseto@chimseto.ca

905-513-7773



**The End
Thank You**