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Introduction

Your municipality's returning officer has accepted your nomination paper. That officially makes you a candidate in the current election.

You are now required to comply with the regulations governing political financing. These regulations aim to ensure fairness among all candidates in the election. For example, you will need to file a form detailing the financing of your election campaign. All candidates need to file this form, regardless of whether they incur expenses or not and whether they are elected or not. Even candidates who withdraw their nomination need to file it.

This guide aims to answer questions you may have about the expenses you may incur and the donations you may receive to cover them.

The guide is divided into two parts. The first introduces the main regulations that candidates need to follow. Part 2 provides answers to frequently asked questions that were not addressed in Part 1.



1 Main regulations to follow

All municipalities with a population of less than 5,000 are subject to the regulations governing political financing laid out in Chapter XIV of the *Act respecting elections and referendums in municipalities* (AERM). You may begin collecting donations (referred to as “gifts” in the AERM) or incurring expenses on January 1st of the election year, in the case of a general election, or on the date of the notice of vacancy, in the case of a by-election.

Here is a summary of the regulations governing political financing and expenses.

1.1 Financing your election campaign

A candidate may cover expenses relating to his or her election campaign in two ways.

A. Using a personal donation

“Personal donation” refers to the total amount that a candidate pays out of his or her own property to promote his or her election. This amount cannot exceed \$1,000 during the relevant period (s. 513.1.1). Expenses should be paid by cheque, credit card, or debit card. They cannot be paid in cash.

B. Using donations from contributors

Any amount of money that another person gives to you for the purpose of promoting your election constitutes a donation. Any natural person may provide you with a donation. Donations from legal persons (companies, corporations or other organizations) are strictly prohibited. Nor may a legal person pay any of your campaign expenses or provide you with goods or services free of charge to promote your election. Rather, it needs to invoice you for any goods and services at current market prices.

An individual person may provide you with a maximum of \$200 over the course of the same electoral event.

Any donation of money over \$50 needs to be paid using a cheque signed by the contributor, drawn on his or her personal account in a financial institution with an office in Québec and made payable to you (since you are the only person authorized to collect donations for your campaign). Only donations of \$50 or less may be made in cash or by bank transfer.

→ **Important**

You are not required to issue a contribution receipt to a person providing you with a donation. Nor do such donations make the contributor eligible for a tax credit. Likewise, expenses incurred for elections held in municipalities with a population of less than 5,000 are not eligible for reimbursement.

1.2 Respecting the donation limit

Only a candidate running for election may incur and pay expenses to promote his or her election. Such expenses cannot exceed the combined total of the personal funds you contribute to your campaign and the donations you receive from contributors to promote your election. Any goods and services you use to promote or oppose the election of a candidate need to be reported on the form titled “Donors list and return of expenses” (DGE-1038).

1.3 Filing the form

Any person running as a candidate in an election in a municipality with a population of less than 5,000 is required to duly complete and submit the form titled “Donors list and return of expenses” (DGE-1038) to the treasurer of the municipality **no later than 90 days after polling day**.

A candidate who fails to file the form titled “Donors list and return of expenses” (DGE-1038) within 90 days after polling day commits the offence described in section 628.1 of the AERM. Such a candidate becomes liable to a fine of \$50 a day for each day of delay (s. 642).

Once you have submitted your form to the treasurer, he or she will provide you with a copy. You need to retain this copy for seven years, along with all supporting documents related to your income and expenses (invoices, bank statements, etc.).

1.4 Following the provisions of the Act

Always comply with the Act. Otherwise, you may face criminal penalties.

Under section 610.1(1) of the AERM, a candidate commits an offence if he or she collects a donation from a legal person, or collects one or more sums totalling over \$200 from a natural person (\$1000 if the contributor is the candidate himself or herself).

Under section 610.1(2), a legal person or a natural person making a donation in excess of the allowable limit commits an offence. Under section 610.1(3), any person other than a candidate who collects such a donation also commits an offence.

A person convicted of any of these offences is liable to the following penalties:

- a) For a first offence, to a fine of not less than \$5000 nor more than \$20,000 in the case of a natural person or, in the case of a legal person, to a fine of not less than \$10,000 nor more than \$50,000;
- b) For any subsequent conviction within 10 years, to a fine of not less than \$10,000 nor more than \$30,000 in the case of a natural person or, in the case of a legal person, to a fine of not less than \$50,000 nor more than \$200,000 (s. 641.1).

All information related to a conviction in connection with the offences described in section 610.1(2) of the AERM will be transmitted to the Associate Commissioners for Audits at the Unité permanente anticorruption, as well as to the Secrétariat du Conseil du trésor, for appropriate action under the *Act respecting contracting by public bodies* (s. 648.1).

The offences described in subparagraph 2 of section 610.1 of the AERM also constitute corrupt electoral practices (s. 645). A person found guilty of an offence that constitutes a corrupt electoral practice loses his or her election rights for a period of five years.

A candidate who fails to file the form titled “Donors list and return of expenses” (DGE-1038) within 90 days after polling day also commits an offence (s. 628.1). Such a candidate is liable to a fine of \$50 for each day of delay (s. 642).

Also, a natural person who makes a donation over \$50 other than by cheque or other order of payment drawn on his or her personal account is liable to a fine of up to \$500 (ss. 636.2 and 644.1).

1.5 Specific rules for candidates who belong to a recognized or unrecognized ticket


If you belong to a ticket (regardless of whether it has been recognized by the returning officer), you still retain your independence and need to maintain full control over your campaign's income and expenses. Each candidate manages his or her own campaign independently of the other candidates on the ticket. Donations cannot be made out to the ticket. Any contributors wishing to support you must make their donations payable in your name.

Furthermore, whether recognized or unrecognized, a ticket cannot incur expenses related to your campaign. These regulations apply to all candidates, regardless of whether they belong to a recognized ticket or not.

However, members of a ticket may incur joint expenses related to their respective campaigns. Joint expenses are those whose cost is attributable to some or all candidates on a ticket, where the exposure generated by the expense benefits more than one candidate. For example, the cost of an election sign displaying a photo of only one candidate but with the name of the ticket can be considered a joint expense, since the name of the ticket promotes all its members. Members of a ticket who incur a joint expense need to allocate the cost equally among themselves. Each candidate should report his or her individual share on form DGE-1038, according to the guidelines provided in directive D-M-XIV-1.

In such cases, suppliers need to invoice each candidate separately for his or her share of the expense. If a supplier is unable to provide multiple invoices, one of the candidates should pay the entire amount and then distribute photocopies of the invoice to the other candidates on the ticket, indicating the amount owed by each of them, so that they may reimburse him or her.

In summary, each candidate on the ticket will need to file his or her own DGE-1038 form, making sure to include all donations and expenses related to his or her election campaign.



2 Frequently asked questions

2.1 Reportable election expenses

What expenses need to be reported?

All election-related expenses, that is to say anything that promotes your election. That includes expenses incurred prior to the election period. Direct mail, photocopies and office or venue rentals (including all associated costs) are examples of election-related expenses. Personal expenses (gas, meals) are not considered election-related expenses.

Should I treat the use, for campaign purposes, of goods I already own as an election-related expense?

No. You only need to report goods acquired during the period beginning January 1st of the election year in the case of a general election, or beginning the date of the notice of vacancy in the case of a by-election.

Should I report the cost of an advertisement in the local newspaper as an election-related expense?

Yes. Anything that promotes your election should be reported as an expense.

I bought advertisements on social media to gain more exposure. Should I report this expense on form DGE-1038?

Yes. Since you incurred an expense, you need to report it on form DGE-1038. However, if you use only free social media services, you would not need to report it.

Should I treat travel costs, such as gas and meals, as election-related expenses?

No, those costs are considered personal expenses. You do not have to report them on form DGE-1038.

If I want to recruit one or more drivers to get out the vote, is that an election-related expense?

That is considered an expense if the drivers are paid for their work or if you pay to rent one or more vehicles for the purpose. If volunteers use their own cars, then it is not considered an election-related expense.

Can a candidate elected unopposed publish a thank-you message in a newspaper? If so, should the cost be treated as an election-related expense?

Yes, a candidate can publish such an ad. The cost of the advertisement does not need to be reported on form DGE-1038, since it does not promote his or her election. However, the ad should not promote or oppose any other candidates still running for election.

The local newspaper (print or digital edition) is publishing an article where all the candidates can present their programs, free of charge. Is that legal?

Yes. Newspaper articles are not considered expenses.

Can the outgoing mayor rent out a municipally owned site (e.g., a campground) on polling day?

Yes, so long as the location is available for rent by any candidate. The expense needs to be paid at current market prices and reported on form DGE-1038.

2.2 Volunteer work

If friends or family members volunteer to help with my campaign for free, do I need to report this on form DGE-1038?

No, because the work is performed by volunteers. Volunteer work does not need to be reported as an expense.

I insist on paying for my volunteers' meals. Is that considered an election-related expense?

It depends on when the meal takes place. A meal eaten before polling stations close needs to be reported on form DGE-1038. However, a meal eaten after polling stations close is not considered an election-related expense, since it does not promote your election. You can pay for such a meal without reporting it on form DGE-1038.

Can a graphic designer help me by producing pamphlets, brochures or a digital document free of charge?

Such work is considered volunteer work if the graphic designer does it on his or her own time, without receiving any compensation. Under those circumstances, you do not need to report it. However, if the graphic designer uses paper for printing or sends out direct mail, you need to report these services as election-related expenses. You will need to cover such expenses using donations.

Can a natural person collect donations to promote the election of a candidate?

Yes, but the person should be familiar with directive D-M-XIV-1 and ensure that all donations he or she collects comply with the Act.

For more information

Contact the treasurer of your municipality or visit Élections Québec's website at electionsquebec.qc.ca.