

A candidate* must lodge with the Chief Electoral Officer an election return by the statutory deadline (for District Council Election, it means before the expiry of the period of 60 days after the election is settled) as required under section 37 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap.554) (“ECICO”).

POINTS-TO-NOTE



A candidate has to lodge an election return even if he is returned uncontested, not elected or has not incurred any election expense.



A candidate must not make any materially false or misleading statement in the election return or the revised copy of the election return.



The election return must be accompanied by:

- (1) (in the case of each election expense of \$500 or more) an invoice and a receipt giving particulars of the expenditure issued by the goods or service provider;
- (2) (in the case of each election donation of more than \$1,000 in value) a copy of the receipt issued to the donor specifying the name and address of the donor and the particulars of the donation;
- (3) a copy of the receipt given by a charitable institution or trust of a public character to which the candidate has chosen to give his election donations (including anonymous election donations of more than \$1,000 in value, unused election donations and election donations that exceed the prescribed maximum amount of election expenses);
- (4) (if applicable) a written explanation setting out the reason why an election donation was not disposed of in accordance with paragraph (3) above; and
- (5) a declaration verifying the contents of the election return.

* A “candidate” is defined not only as a person who stands nominated as a candidate at an election, but also a person who, at any time before the close of nominations for an election, has publicly declared an intention to stand as a candidate at the election (even though the candidate has not submitted his nomination, has withdrawn his nomination after being nominated as a candidate or his nomination has been ruled invalid).



Clean Election Website www.icac.org.hk/elections

24-hour Report Corruption Hotline **25 266 366**

Clean Election Enquiry Hotline **2920 7878**



*Abide by the Rules
Support Clean Elections*

District Council Election

Reminder to Candidates on Election Return

Explanations of the legal requirements offered in this leaflet are broad and in summary form. Candidates and their election helpers are advised to refer to the text of the legislation and seek independent legal advice in case of doubt. Throughout this leaflet, the “male” pronoun is used to cover references to both the male and female. No gender preference is intended.

Q1

A serving District Council (“DC”) member would be running in the DC Election. Besides assigning his assistant to handle the electioneering matters, he also asked his friends to assist in promoting his election voluntarily and borrowed their vehicles for free in his electioneering activities during the election period. How should he declare the relevant election expenses and election donations?



A1

- Being a candidate, the serving DC member should count the expenses incurred for assigning his assistant to handle his electioneering matters towards his election expenses if the abovementioned expenses are incurred for the purpose of promoting his election. Hence, the candidate should calculate the working time spent by his assistant in handling the electioneering matters and include the salary of his assistant on a pro rata basis in his election expense, and clearly set it out in his election return.
- If the apportioned salary of the assistant for handling the electioneering matters is \$500 or above, the candidate has to make sure that his election return is accompanied by an invoice and a receipt issued by the assistant giving particulars of the expenditure e.g. name and salary of the assistant, and signature of the assistant to certify receipt of the relevant payment. (Remarks: The DC member is not allowed to claim reimbursement from the DC for the proportion of the assistant’s salary that has been counted as an election expense. He can only claim the remaining portion of the salary after deduction of the election expense.)
- If his friends assisted in promoting the candidate’s election in their own time, voluntarily, personally and free of charge, the service they rendered is regarded as “voluntary service” according to the ECICO, which is not regarded as an election expense or an election donation. Therefore, the candidate is not required to include such service cost as his election expense or to set it out in his election return.

Q2

Several candidates of the District Council Election rented an office for shared use of electioneering. How should they calculate the election expenses? A candidate reused old materials (e.g. publicity boards) that had been used at previous elections, and used materials provided by other organizations in his electioneering activities. How should he count the relevant election expenses and election donations? After the election, can the unused amount of election donations be appropriated by the candidate for providing community services in the future?



A2

- The above candidates should apportion the office rental and other expenses, such as the cost for purchasing stationery for electioneering, electricity expense, Internet service fees, etc. on a pro rata basis and clearly set out the expenses in the election return of individual candidate.
- If the election expense of each item after apportionment is \$500 or above, the election return must be accompanied by relevant invoice and receipt issued by the goods or service provider (e.g. property owner, suppliers, etc.), stating clearly how the election expense of each item is apportioned. Since the original invoices and receipts would have been submitted by one of the candidates, the other candidates should provide the copies of the relevant invoices and receipts, set out the names of all the candidates concerned who have shared the expenses in their election returns, and state the name of the candidate who has submitted the original invoices and receipts, so as to facilitate checking by relevant departments. The candidates who submit the copies should confirm in the form of declaration that the copies of invoices and receipts are true and correct.
- It is important to note that the relevant invoices and receipts should be issued by the goods or service providers. Invoices and receipts issued by the candidate himself, the personal office of the candidate or any person purchasing the expense item on behalf of the candidate, and the receipts for topping up the value of the electronic stored value card (e.g. Octopus Card) do not meet the statutory requirements.
- A candidate should make sure that if the old materials are reused for the purpose of promoting his election, the costs incurred in refurbishing as well as the estimated value of the old materials (e.g. the value after depreciation) have to be counted towards the candidate’s election expenses. The above estimated value and the cost incurred should be listed separately and set out clearly in the election return. If the

- The candidate has to include other relevant costs incurred incidental to the electioneering activities so arranged by his friends mentioned above, such as costs of buying publicity materials, postage of mailing election advertisements, etc. in his election expenses and clearly set out such costs, which do not fall within the definition of “voluntary service”, in his election return.
- According to the ECICO, any goods or service (excluding voluntary service) provided to a candidate for the purpose of promoting the election of the candidate or prejudicing the election of other candidates is an election donation. Its value is also an election expense. Therefore, the candidate’s free rental of vehicles from his friends for promoting his election is an election donation and its value is also an election expense. The candidate should set out the market rent of the relevant vehicles as an election expense as well as an election donation in his election return.
- If the value of each donation is more than \$1,000, the candidate concerned must, pursuant to the requirements of the ECICO, issue a receipt to each of the donors (i.e. the friends concerned) specifying the name and address of the donor and particulars of the donation. Copies of the relevant receipt must also be submitted with the election return.
- The other relevant expenses incurred while the candidate has used the above vehicles for his electioneering, such as gasoline fees and decoration of vehicle costs, should be counted as his election expenses and clearly set out in his election return.

cost incurred for refurbishing the old materials is \$500 or above, the relevant invoices and receipts issued by the goods or service providers should be submitted with the election return.

- If the materials provided by other organizations are given for the purpose of promoting the election of the candidate or prejudicing the election of other candidates, they are regarded as election donations. The same should be clearly set out by the candidate in the election return. If the value of an election donation is more than \$1,000, according to the ECICO, a candidate is required to issue a receipt to the donor specifying the name and address of the donor and particulars of the donation. A copy of the receipt must also be submitted with the election return. As the aforesaid candidate has used the said materials for his electioneering, he is also required to include the values of the materials in his election expenses and set out clearly such expenses in his election return.
- The ECICO provides that if a candidate or other person uses election donations for a purpose other than meeting, or contributing towards meeting, the candidate’s election expenses, or for a purpose other than promoting the election of the candidate or prejudicing the election of another candidate, he engages in corrupt conduct at an election. If the election donations have not been used for election purpose, the candidate must, pursuant to the requirements of the ECICO, ensure that the relevant election donations are given to a charitable institution or trust of a public character chosen by the candidate before the submission of his election return. He is also required to submit a copy of the receipt issued by the recipient organization together with his election return. Hence, the candidate must not use his unused election donations for a purpose other than meeting election expenses, such as for the purpose of providing community services in the future.