



*Abide by the Rules
Support Clean Elections*

Reminder to Candidates on Election Return **Frequently Asked Questions**

Explanations of the legal requirements offered in this document are broad and often 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. They should also study in detail the relevant legislations and the guidelines issued by the Electoral Affairs Commission to avoid contravention of the related laws and regulations. The Independent Commission Against Corruption will accept no liability or responsibility for any loss caused to any person acting or refraining from acting in any way as a result of any material contained in this document. Throughout this document, the “male” pronoun is used to cover references to both the male and female. No gender preference is intended.

When completing the Election Return, candidates should also refer to the "Guide to Return and Declaration of Election Expenses and Election Donations" issued by the Electoral Affairs Commission.

Q1: Several candidates rent an office for shared use of electioneering. How should they calculate the election expenses? What should the candidates do if they have not received the electricity bill before the statutory deadline for lodging the election returns?

- A1:**
- 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. The invoices and receipts should also show the particulars of the expenditure (e.g. date of rental, name of the goods or service provider, details of goods or services, payment amount as well as the company chop/signature of the goods or service provider and the date of payment so as to certify that the said payment has been received in full by the goods or service provider). 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.
 - If the candidates have neither received nor paid the electricity bill before the deadline of lodging election returns as specified by the law, they should state the expected amount of electricity expense, scheduled date of payment of the outstanding claim in the election returns and undertake to settle the relevant claim according to the scheduled date. They should also submit the relevant invoice and receipt for an election expense of \$500 or above to the Registration and Electoral Office within 30 days from the payment date. Since the original invoice and receipt will be submitted by one of the candidates, the other candidates should provide copies of the relevant invoice and receipt.

Q2:

If a candidate asks the secretary of his company to assist in his electioneering matters during office hours, is it necessary for the candidate to include the relevant costs in connection with such service in his election expenses? What if the candidate's secretary provides the above assistance voluntarily during his day off? The candidate also hires more than 10 helpers to canvass votes for him during the election period. How should he calculate the election expenses?

A2:

- If the service rendered by the candidate's secretary during office hours is for the purpose of promoting the election of the candidate, any costs so incurred should be counted towards his election expenses. The candidate should estimate the working time spent by his secretary in assisting the candidate's electioneering matters and calculate the salary of his secretary, being an election assistant, on a pro rata basis as an election expense, and clearly set it out in his election return.
- If the apportioned salary of his secretary in assisting the candidate's electioneering matters is \$500 or above, the candidate has to make sure that his election return is accompanied by an invoice and a receipt giving particulars of the expenditure (e.g. name and salary of the secretary, and signature of the secretary to certify receipt of the relevant payment).
- If the secretary handles the electioneering matters for the candidate in his own time, voluntarily, personally and free of charge, the service he rendered is regarded as "voluntary service", which is not regarded as an election expense and 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.
- The candidate has to include other relevant costs incurred incidental to the electioneering service so arranged by the secretary 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. The candidate must ensure that the election return is accompanied by an invoice and a receipt of each election expense of \$500 or more. They should be issued by the goods or service provider (e.g. supplier of publicity materials, supplier of postage service, etc.) giving particulars of the expense (e.g. date of purchase, name of goods or service provider, details of goods or services, payment amount as well as the company chop/signature of the goods or service provider and the date of payment so as to certify that the said payment has been received in full by the goods or service provider).
- The expenses involved in hiring the helpers to canvass votes should be clearly set out in the election return of the candidate concerned. If the salary given to each helper is \$500 or above, the candidate must provide invoices and receipts showing the names of the helpers, dates and time of the services, amounts of salaries, etc. with the signature of each helper to confirm the receipt of the relevant payment in full.



Q3:

A candidate has borrowed some of his friends' vehicles for use in his electioneering activities. How should he declare the relevant expenses and donations?

A3:

- According to section 2(1) of the Elections (Corrupt and Illegal Conduct) Ordinance (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 simultaneously set out the market rent of the relevant vehicles as an election expense and 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 sections 19 and 37(2)(b)(ii) 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 vehicle decoration costs, should be counted as his election expenses and clearly set out in his election return. If the expense of any item is \$500 or above, the election return must be accompanied by an invoice or receipt issued by the goods or service providers (e.g. gasoline supplier, supplier of decoration materials for vehicles, etc.) giving particulars of the expense (including date, information and amount of the goods or services, information of the organization or person providing the goods or services, and information supporting that the organization or person providing the goods or services has received the relevant payment in full, such as name and signature of the recipient, or the stamp of the receiving organization or signature of its authorized person).

Q4:

In order to save expenses, a candidate reuses old materials (e.g. publicity boards) that had been used at previous elections, and uses materials provided by his friends or 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?

A4:

- 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 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 so as to comply with the requirements of section 37(2)(b)(i) of the ECICO.
- If the materials provided by the candidate's friends or 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 sections 19 and 37(2)(b)(ii) of 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.
- Section 18 of 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 sections 19 and 37(2)(b)(iii) 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 given 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.