

**TREATMENT OF CERTAIN EXPENSES INCURRED BY A CANDIDATE RUNNING
IN BOTH THE BY-ELECTION AND SUPERSEDING GENERAL ELECTION**

This document complements the Frequently Asked Question and other material available regarding the rights and obligations of persons who were candidates in a by-election which is cancelled (i.e. the writ is withdrawn) for a general election.

In the case of a by-election superseded by a general election, there are in fact and in law, two elections and two election periods immediately following each other. For candidates running in both the by-election and the general election, this implies, among other issues, that two separate bank accounts must be opened, one for each election, that expenses from each election must be paid from the appropriate bank account, remembering that no transfers may be done directly from one bank account to the other. The attribution rules are those described below.

The candidate's election expenses are those incurred by the candidate and his campaign to promote the candidate during the election period, that is, the period between the issue of the writ and polling day.

The cost or value of property or services used to directly promote or oppose a candidate outside this period does not constitute an election expense of the candidate but it may be an electoral campaign expense.

For the cost of the property or service to be claimed as an election expense, the important element is not when the expense is incurred or paid, or when the contribution or transfer is received, but when the property or service is used.

Where the expense is incurred outside the election period, but the property or service is used during the election period, the expense will be an election expense.

For example, if a radio advertising campaign is prepared before the election period, and the contract for the advertising time is signed before the election period, but the advertisements themselves are played during the election period, the costs of the production and distribution of the advertising will constitute election expenses. This is because the advertising is used during the election period even though the costs were incurred before the period.

Similarly, where the costs of a radio advertising campaign are incurred during an election period and the advertisement is played during the election period, the costs of producing and distributing the advertisement will constitute election expenses.

On the other hand, if the costs of the advertising campaign are incurred before an election period, and the advertisement is played only before the election period, the costs of producing and distributing the advertisement will not constitute election expenses.

In some cases, a property or a service will be used both before and during the election period. Depending upon the nature of the property or service, it may be necessary to allocate an expense between election expenses and non-election expenses where the property or service is used both inside and outside the election period.

For example, if a candidate's campaign rents an office for 50 days and the election period lasts 40 days, the rental costs of 40 days will be an election expense, whereas the rental costs for the other 10 days will not be an election expense. **However, if a by-election is superseded by a general election, the rental costs incurred during the election period of the superseding general election will be election expenses of that second electoral event.**

In some other cases, the commercial value of the property or services used during the election period will count as an election expense, even if the property or the product of the services is also used outside the election period. This will be the case where the cost of the property or service would need to be incurred regardless of the length of time for which it is used.

For example, if a campaign places signs up for a 50-day period and the election period lasts 40 days, the full commercial value of producing the same number and quality of signs must be counted as an election expense. The fact that the campaign used the signs outside the election period does not mean that their cost can be pro-rated. This is because the cost or commercial value of producing such signs is no different if they are up for 1 day or 50 days. **In the case of a by-election superseded by a general election, the full commercial value of producing all signs must be counted as an election expense of both elections. This is because the signs produced for the by-election are also used for the general election.**

Similarly, if a candidate has telephone lines or Internet access installed in a campaign office **for a by-election that is superseded by a general election**, the full cost of installation must be counted as an election expense **of both electoral events**. This is because regardless of how long the telephone lines or Internet connection is used, the full cost of having the service installed would still need to be incurred. However, only those costs related to the use of the telephone lines during an election period will constitute an election expense **of that election**.

However, if the campaign purchases an asset that has a normal economic life of more than a year (for example a computer) and uses it during the election, the value of the asset for the purpose of calculating the amount of the election expense for each election is the equivalent commercial value of renting a similar asset for the same period during the election. **In the case of a by-election that is superseded by a general election, and for the purposes of establishing the amount of election expenses incurred by the candidate's campaign for this asset, the equivalent commercial value of renting a similar asset would be apportioned between the two elections based on the number of days in each electoral event.**

For example, let's assume that the candidate's campaign has purchased two computers for the by-election; the by-election lasts 25 days before being superseded by a general election with a 40 days election period. In such a case,

the commercial value that must be attributed to the computers for the by-election is the commercial value of renting similar equipment for 25 days, while the commercial value that must be attributed to the computers for the general election is the commercial value of renting similar equipment for 40 days.

An electoral campaign return must be produced for each of the two electoral events. The reimbursement of election expenses incurred during the by-election is as provided for in s. 470 of the *Canada Elections Act*, that is, an eligible candidate would qualify for a reimbursement amount that is the lesser of:

- the election expenses limit for the electoral district; and
- the amount by which the total of the candidate's election expenses and personal expenses, as disclosed in his or her electoral campaign return, exceeds the total value of contributions (and not the transfers) that the candidate received.

The reimbursement of election expenses incurred during the general election is as provided for in ss. 464 and 465 of the Act. Note that election expenses are reimbursed only for the election in which they were paid.

Candidates and their campaign officials who are running in both election campaigns should not hesitate to call Elections Canada at 1-800-486-6563 if they have further questions on the treatment of election expenses or on any other related issue.