

Disclosure of certain gifts and returns of election expenses

Reference: *Act respecting elections and referendums in municipalities* (AERM), ss. 513.0.1 to 513.3

PURPOSE

Mandate the form titled “List of contributors and return of expenses” (DGE-1038) and explain how to file it.

Any person having submitted a nomination paper is required to file this form to disclose the gifts received and the expenses incurred in the course of their campaign (or to disclose the absence of such gifts and expenses, where applicable).

IMPORTANT

All candidates are required to file this form, regardless of whether they have been elected or whether they have withdrawn their nomination during the campaign.

The form will not be accepted unless the candidate has signed either the section titled “Declaration of a candidate having received no gifts and having incurred no expenses” **or** the section titled “Declaration of a candidate having incurred expenses,” as the case may be.

DEFINITIONS

Gifts to disclose: All amounts of money paid to promote the election of a person who intends to run as a candidate or who is already doing so. Such amounts need to be recorded in the list of contributors. For the purpose of applying Chapter XIV of the *Act*, and although only gifts of money may be received, the Chief Electoral Officer treats as gifts the money used to pay for goods and services to promote the election of the candidate.

Treasurer: For the application of this directive, the word “treasurer” takes on the meaning given to it by section 364 of the *Act*: it may refer to the treasurer, the clerk-treasurer, or the head of the finance department of the municipality. When applying Chapter XIV, a treasurer acts under the direct authority of the Chief Electoral Officer (s. 376).

STATUTORY DEADLINE AND REQUIRED INFORMATION

According to section 513.1 of the *Act*, any person wishing to be a candidate for a seat on the council of a municipality with a population of under 5,000 must, within 90 days after polling day, submit to the treasurer of the municipality a list of persons who contributed one or more gifts of money totalling over \$50 to promote the candidate's election.

The candidate also needs to submit a return of all election-related expenses to the treasurer. The return must be in the form prescribed by the Chief Electoral Officer. Form DGE-1038, titled "List of contributors and return of expenses," is designed for this purpose. It is reproduced in the appendix.

In accordance with section 513.1.0.1 of the *Act respecting elections and referendums in municipalities*, every person described in the first paragraph of section 513.1 who has not received a gift of money or incurred an expense relating to their election shall, within 90 days after polling day, transmit to the treasurer a declaration to that effect. The declaration must be in the form prescribed by the Chief Electoral Officer.

CONTENT OF THE FORM

The form contains multiple sections.

Section 1: Candidate's personal information

The candidate needs to complete the various fields of this section to identify themselves and the seat for which they are running in the election.

If two or more candidates have come together to form a ticket recognized by the returning officer, they need to provide the full name of the ticket as indicated on their nomination papers.

Section 2: Declaration of a candidate having received no gifts and having incurred no expenses

If the candidate has not received any gifts and has not incurred any expenses relating to their election campaign, they need to complete this section, as well as sign and date the declaration where indicated. Such a candidate does not have to complete any other pages of the form. They are only required to submit the first page of the form to the treasurer of the municipality.

A candidate who has received at least one gift or incurred at least one expense should leave this section blank and complete all subsequent pages of the form titled "List of contributors and return of expenses."

Subsection: Acknowledgement of receipt (reserved for the treasurer of the municipality)

The treasurer should sign this section and enter the date on which they received the form from the candidate. This is to confirm the form's filing date.

IMPORTANT

Once the treasurer has signed the acknowledgement of receipt, they are required to provide the candidate with a copy of the form. The candidate should personally retain this copy of the form, along with all supporting documents related to their income and expenses (copies of cheques received, invoices, bank statements, deposit slips, etc.), for seven years.

Section 3: Contributors

In this section, the candidate should enter the total amount of expenses paid for out of their own property. This amount is their personal gift. Details of the corresponding expenses also need to be included in section 4 (Expense return).

The candidate must also enter details of gifts received from contributors.

IMPORTANT

The maximum amount of a gift that a candidate may contribute to themselves during an election out of their own property is \$1,000 (s. 513.1.1).

- Gifts of \$50 or less

The candidate must enter the total amount of all gifts of \$50 or less received in the "Gifts (\$)" column of the "Contributors of gifts of \$50 or less" line. The candidate should personally retain the names and addresses of contributors having made such gifts for seven years. These records may be requested by Élections Québec in the case of an audit.

- Gifts over \$50

The candidate must list the name and address of each contributor who has made one or more gifts of money totalling over \$50 to them. It must also specify the amount of the gift and the payment method. All gifts over \$50 need to be made by personal cheque. They must then enter the total amount of gifts received from these various contributors in the last column.

IMPORTANT

Gifts cannot be made by a legal person. Goods and services need to be invoiced at current market prices.

When all the totals have been entered, add them together at the bottom of the page (A + B + C).

Section 4 : Rapport de dépenses

IMPORTANT

The amount entered in the “Total gifts from the candidate and contributors” field can be no less than the total expenses entered in section 4 of the form (Expense return). This amount represents the maximum expenses that the candidate may incur.

In this section, the candidate needs to enter various information regarding any suppliers of goods and services related to one or more expenses incurred to promote their election campaign.

The candidate should then calculate the total of these expenses and record it in the “Total expenses incurred” field.

Expenses the candidate paid out their own property need to be recorded not only in this section, but also in section 3 (gift from the candidate’s personal funds).

IMPORTANT

The total amount of expenses should not be greater than the total amount of gifts received from all contributors (including the candidate themselves). No candidate may have more expenses than gifts.

If the candidate did not incur any election expenses, the candidate may enter \$0 in the “Total expenses incurred” field, unless they have completed section 2 of the form (Declaration of a candidate having received no gifts and having incurred no expenses).

Section 5: Declaration of a candidate having incurred expenses

Candidates who have incurred at least one expense should sign and date this declaration to confirm that all information provided is true, accurate and complete.

APPLICATION

This directive applies to any general election or by-election held in a Québec municipality with a population of under 5,000. Such municipalities are not subject to Chapter XIII of the AERM.

The treasurer of the municipality should provide a printed copy of this directive, including form DGE-1038 and the “Guide for Candidates” (DGE-1038.1), to any person who receives a “Nomination paper” form (SM-29). These documents are available in PDF format in the “Forms and guides” section of the Élections Québec website.

OFFENCES AND PENALTIES

Under section 610.1(1) of the AERM, a candidate is guilty of an offence if they collect a gift of money from a legal person, or collects one or more sums totalling over \$200 from a natural person (\$1,000 if the contributor is the candidate themselves).

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

A person convicted of any of these offences is liable:

- 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;
- a) 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). If a person is convicted of such an offence, they lose the right to exercise their election rights for a period of five years.

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

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

3. Contributors

CANDIDATE

Given name and surname	Gifts (\$)
Equal to the total amount that a candidate can pay out of their own property to promote their election (maximum amount: \$1,000)	A

CONTRIBUTORS OF GIFTS OF \$50 OR LESS	Gifts (\$)
Total amount of gifts of \$50 or less	B

CONTRIBUTORS HAVING MADE ONE OR MORE GIFTS TOTALLING OVER \$50

Given name and surname	Address	Municipality	Payment method	Gifts (\$)

No contributor may give more than \$200	Total	C
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Total gifts from the candidate and contributors	A + B + C
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4. Return of expenses			
No.	Supplier's name and address	Description of good or service	Amount paid
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
Total expenses:			\$

5. Declaration of a candidate having incurred expenses		
All information entered in this form is true, accurate and complete.		
<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Candidate's signature	<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Name (please print)	<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Date