

常見問題-選舉申報書

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- 問題 19：候選人要在何時提交選舉申報書？
- 問題 20：如果候選人的選舉申報書逾期或沒有遞交，會有什麼後果？
- 問題 21：選舉申報書供公眾查閱的副本上的個人資料會否被遮蓋？

更改選舉申報書內的錯漏

- 問題 22：如候選人在提交選舉申報書的限期前，發覺自己已經提交的選舉申報書有錯漏，他／她可否作出更改？
- 問題 23：若候選人在提交選舉申報書的限期後自行發現他／她的選舉申報書內有錯誤及／或虛假陳述，他／她應如何處理？

選舉開支

問題 1： 鄉郊代表選舉的選舉開支最高限額是多少？

答案 1： 根據《選舉開支最高限額(鄉郊代表選舉)規例》(第 554B 章)第 2 條，在鄉郊地區的選舉中，每名候選人的選舉開支的最高限額為：

(a) 如該鄉郊地區的選民人數不多於 1,000	18,000 元
(b) 如該鄉郊地區的選民人數多於 1,000 但不多於 5,000	28,000 元
(c) 如該鄉郊地區的選民人數多於 5,000	38,000 元

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問題 2： 如何決定某項開支項目應否計算為選舉開支？

答案 2： 根據《選舉(舞弊及非法行為)條例》(第 554 章)第 2 條，選舉開支指就某選舉的候選人而言，任何在選舉期間或之前或之後，由該候選人或由他人代該候選人為促使該候選人當選，或為阻礙另一候選人當選，而招致或將招致的開支，並包含貨品及服務而用於上述用途的選舉捐贈的價值。個別開支項目是否應當作選舉開支，應視乎有關個案的情況而定，例如開支的性質、其招致的情況及環境等。候選人應就情況考慮某項開支項目是否符合選舉開支的定義。候選人亦可參閱《鄉郊代表選舉活動指引》附錄十三所列的會被計算為選舉開支的項目。候選人如對某項開支項目應否計算為選舉開支有疑問，他／她應諮詢其法律顧問。任何因此而招致的法律費用，不會計算為選舉開支。

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問題 3： 如某項開支涉及選舉有關的用途和其他用途，候選人應如何計算選舉開支？

答案 3： 如一項開支涉及多於一項用途，應就與選舉有關的用途和其他用途分攤該項開支。候選人應把相關細項列入他／她的選舉申報書。根據一般原則，時間及用量是相關的考慮因素。候選人可以參考填寫選舉申報書的指南中有關分攤開支的例子。

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問題 4： 如在選舉期間重用舊有物資作選舉用途，候選人應如何計算相關選舉開支？

答案 4： 如重用舊有物資作選舉用途（例如重新使用舊的宣傳板），舊有物資的估計價值和其重新修整所招致的費用，均須計入選舉開支內，並須清楚在選舉申報書

分開列明。候選人無需就舊有物資的估計價值提交發票及收據，但若重新修整該舊有物資的費用為 500 元或以上，則須附有由提供貨品或服務的機構或人士發出的發票及收據。

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問題 5： 如候選人某項選舉廣告的開支為零，候選人仍需要在選舉申報書 D 部作出申報嗎？

答案 5： 民政事務總署會根據候選人於「選舉廣告資料摘要」或中央平台或候選人平台所列的選舉廣告資料，例如發布日期、樣式、尺寸及發布數量等查核選舉申報書。因此，候選人應根據於上述表格或平台所列的選舉廣告數量及種類，計算及填寫選舉申報書 D 部的選舉開支。即使開支的價值極低，候選人必須就招致或將招致的所有選舉開支在選舉申報書中申報。即使某項選舉廣告的開支為零，候選人亦應在選舉申報書中列出該項目及註明相關開支為零，以供民政事務總署查核。（透過互聯網發布的選舉廣告開支申報方法，請見問題 6。自行印製選舉廣告的開支的申報方法，請見問題 18。）

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問題 6： 如候選人透過互聯網發布選舉廣告，候選人該如何申報相關的選舉開支？

答案 6： 如候選人透過互聯網發布大量選舉廣告（包括選舉網站、社交媒體平台、即時通訊程式等），雖然必須在「選舉廣告資料摘要」或中央平台或候選人平台提供每次發布的相關資料，但在填寫選舉申報書時，若要就每次發布計算相關開支，則可能有一定難度。因此，在候選人須申報所有選舉開支的大前提下，民政事務總署可接受以下申報選舉開支的方法：

- (1) 負責在互聯網發布選舉廣告的助理薪金及互聯網服務費，可分別在選舉申報書 C 部及 E 部申報；
- (2) 一個選舉網站的設計及製作費用可在選舉申報書 D8 部申報為一項開支；
- (3) 如某選舉廣告涉及獨立開支（例如影片製作費），可在選舉申報書 D8 部申報為一項開支，並註明該選舉廣告是經互聯網發布及其製作日期；
- (4) 所有透過互聯網發布的選舉廣告之開支，可在選舉申報書 D8 部按互聯網媒介的類別申報（例如選舉網站、社交媒體平台、即時通訊程式），列出經該類媒介發布的選舉廣告數目，註明所有相關的選舉開支是否已在上述相應的部分申報，並填上選舉申報書相關部分的編號以供民政事務總署查核。如透過互聯網發布的選舉廣告尚有其他選舉開支，亦應在選舉申報書 D8 部申報。候選人可以參考填寫選舉申報書的指南中 D8 部的例子。

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問題 7： 如在提交選舉申報書的限期前仍有未支付之索款，如水費或電費，但無法在限期前得知相關的款額，候選人應如何在選舉申報書內申報相關的開支？

答案 7： 候選人應把未支付之索款填寫在選舉申報書的 G 部。如候選人未能在限期前得知索款的金額，他／她可以在選舉申報書的 G 部填寫有關索款的估價或寫上「？」。候選人必須確保在支付索款後的 30 天內，向有關選舉主任確定有關金額及提交每項 500 元或以上的選舉開支的發票及收據，以證明索款已如期支付。

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問題 8： 如候選人已製作一批選舉廣告，但最後只發布了部分，候選人應如何把該開支在選舉申報書中申報？

答案 8： 根據《選舉(舞弊及非法行為)條例》(第 554 章)第 2 條，任何為促使該候選人當選，或為阻礙另一候選人當選，而招致或將招致的開支，均屬於選舉開支。選舉開支涵蓋與選舉的進行和管理有關的活動或事宜。換言之，候選人須把整筆有關選舉開支在選舉申報書內申報。

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問題 9： 候選人如何申報交通費開支？

答案 9： 候選人須把交通費的詳情，例如交通工具類別、單位收費、數目／數量／期間，列明於選舉申報書內。如某項交通費開支是 500 元或以上，候選人須提交該項開支項目的發票及收據。請注意，增值電子儲值卡(例如八達通卡)的收據不可以作為選舉開支項目的收據提交。由於增值電子儲值卡並非一項交通費開支，而增值收據亦不能顯示上述交通費的詳情，因此不符合法例要求。如選舉期間的交通費開支總額是 500 元或以上，但當中每一程交通費是少於 500 元，候選人只須把交通費的詳情列明於選舉申報書內，無需提交發票及收據。

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問題 10： 選舉日後，候選人仍須處理有關選舉的事後工作(例如移除選舉廣告、處理剩餘的選舉捐贈、繳付選舉活動開支等)。有關開支，例如代理人及選舉助理的薪金和競選辦公室租金，是否應計入選舉開支內？

答案 10： 根據《選舉(舞弊及非法行為)條例》(第 554 章)第 2(1) 條，選舉開支(election expenses)的定義是—

「就某項選舉的候選人而言，指在選舉期間前、在選舉期間內或在選舉期間後，由該候選人或由他人代該候選人—

- (a) 為**促使**該候選人當選；或
- (b) 為**阻礙**另一候選人當選，

而招致或將招致的開支，並包括包含貨品及服務而用於上述用途的選舉捐贈的價值。」

如果某些服務／貨品的開支是在選舉期間招致的，即使該項服務的終止日期或實際付款可能是在選舉日之後，這些已招致的費用應計入選舉開支。

候選人應根據因選舉有關用途而招致的租金及辦公室開支金額申報選舉開支。候選人租用辦公室進行競選活動時，如有關租約指定須租用該辦公室直至選舉日結束後的一個日期，而若有關租賃開支是在選舉期間招致的，只要該辦公室是一直只用作選舉有關用途，候選人則必須將整筆租賃開支計算為選舉開支（包括租約內橫跨選舉日之後的部分）。假如候選人在選舉日後不再使用該辦公室作選舉有關用途，他／她應將有關租約內涉及選舉日之後的租賃開支分攤，並在選舉申報書內說明有關選舉日之後的租賃開支因與選舉無關而不計算在選舉開支內。此外，如辦公室並非只用於選舉有關用途（例如與其他人士分租或用作議員辦事處），應就選舉有關用途和其他用途分攤租金及辦公室開支，並將計算方式詳列於選舉申報書。上述安排亦適用於代理人及選舉助理的薪金開支。

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選舉捐贈

問題 11： 候選人如何申報透過街頭募捐或網上眾籌所得的選舉捐贈？

答案 11： 如透過任何形式的籌款活動（例如街頭募捐或網上眾籌）所得的捐贈總額超過 1,000 元，但每位捐贈者的捐贈總額不超過 1,000 元，候選人只須在選舉申報書 H 部申報捐贈總額及註明每宗捐贈不超過 1,000 元。

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問題 12： 如有數項選舉捐贈是由同一位捐贈者捐出，而每項捐贈的金額總值不超過 1,000 元，候選人是否仍要向捐贈者發出選舉捐贈收據？

答案 12： 如屬同一捐贈者的捐贈及其價值總和超過 1,000 元，候選人便須向捐贈者發出收據，收據副本並須與選舉申報書一併提交。需要留意的是，收據上必須清楚列出捐贈者的姓名或名稱、地址和捐贈詳情，該款項才可以用作選舉開支。候選人應參閱及使用民政事務總署提供的「劃一格式選舉捐贈收據」。

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問題 13： 代理人在接受選舉捐贈時，有甚麼需要留意？

答案 13： 根據《鄉郊代表選舉活動指引》第 15.27 段，任何人或組織作為一名或多名候選人的代理人索取、收取或接受選舉捐贈，如同捐贈由候選人直接接受一樣，必須遵守《選舉(舞弊及非法行為)條例》的全部規定。為免捐贈者／市民有所混淆，請代理人留意並採取《鄉郊代表選舉活動指引》附錄十四所建議的要點及良好做法。

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問題 14： 劃一格式選舉捐贈收據（“捐贈收據”）上捐贈者的地址可否只填寫部分地址？捐贈收據及捐贈者詳情會否安排作公眾查閱？

答案 14： 捐贈者可選擇披露其屬意的地址，如辦事處或業務地址、通訊地址、住址或郵政信箱號碼。地址資料必須完整。選舉申報書及捐贈收據副本將備存於有關選舉主任的辦事處，由該選舉申報書及捐贈收據提交選舉主任的時間起，直至根據《選舉(舞弊及非法行為)條例》（第 554 章）第 41 條規定選舉申報書及聲明書可供公眾查閱的期間完結為止，供公眾查閱或提供予問取有關文件的副本的人士。選舉申報書以及捐贈收據副本內所有個人資料（捐贈者的姓名或名稱及地址除外）將會被遮蓋。

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填寫及提交選舉申報書

問題 15： 如某候選人的提名無效，或他／她已在提名期間退出選舉，他／她是否仍須遞交選舉申報書？

答案 15： 根據《選舉(舞弊及非法行為)條例》（第 554 章）第 2 條，「候選人」是指在某項選舉中接受提名為候選人的人，亦指在某項選舉的提名期結束前的任何時間曾公開宣布有意在該項選舉中參選的人。因此，即使某人在遞交提名表格後撤回他／她的提名，或被選舉主任決定為提名無效，或在選舉提名期結束前曾公開宣布有意參選但最終沒有遞交提名表格，他／她仍會被視作該次選舉的候選人，並須按《選舉(舞弊及非法行為)條例》（第 554 章）第 37 條在法定限期前提交選舉申報書（不論他／她是否曾招致選舉開支或接受選舉捐贈）。

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問題 16： 候選人在甚麼情況下需要就選舉開支項目提交發票及收據？如何符合發票及收據的要求？

答案 16： 根據《選舉(舞弊及非法行為)條例》（第 554 章）第 37 條，就每項 500 元或以

上的選舉開支，候選人須提交載有該項支出詳情的發票及收據。選舉開支的發票及收據可分為不同文件提交，亦可包含於同一份文件內。候選人提交的發票及收據必須載有以下資料：

- (a) 日期；
- (b) 開支項目的詳情（即貨品或服務的資料和金額）；
- (c) 提供貨品或服務的機構或人士（非候選人本人）的資料；及
- (d) 證明提供貨品或服務的機構或人士（非候選人本人）已全數收取有關款額的資料（例如收款人士的姓名及簽署或收款機構的蓋章或授權代表簽署）。

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問題 17： 如兩名或以上的候選人分攤一項選舉開支，他們應如何提交發票及收據？

答案 17： 發票及收據的正本應由其中一名候選人提交，而其他候選人應提交有關發票及收據的副本。候選人須在選舉申報書列出該項開支涉及的所有候選人的姓名，並註明發票及收據的正本由哪一位候選人提交，以便核實。

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問題 18： 如候選人自行印製選舉廣告（例如傳單），而估計價值為 500 元或以上，他／她應如何申報選舉開支及提交發票及收據？

答案 18： 如候選人自行印製選舉廣告，不論其估計價值如何，他／她均須依照《選舉(舞弊及非法行為)條例》（第 554 章）的規定申報在選舉申報書內。候選人應把製作選舉廣告的合理估計價值申報在選舉申報書內。如候選人自行印製選舉廣告而估計價值為 500 元或以上，他／她應提供相關的發票及收據，例如租用影印機、購買紙張或購買其他物料或服務的發票及收據，作為估計價值的依據。候選人可以參考填寫選舉申報書的指南中 D3 部的例子。

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問題 19： 候選人要在何時提交選舉申報書？

答案 19： 候選人必須在《選舉(舞弊及非法行為)條例》（第 554 章）第 37 條規定的限期屆滿之前，將填妥的選舉申報書經有關的選舉主任提交民政事務總署署長。選舉主任會在有關選舉結束後發信通知候選人提交選舉申報書的限期。

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問題 20： 如果候選人的選舉申報書逾期或沒有遞交，會有什麼後果？

答案 20： 根據《選舉(舞弊及非法行為)條例》(第 554 章)第 38 條，候選人如沒有按照第 37 條的規定提交選舉申報書，即屬犯罪 —

- (a) 如循簡易程序審訊，一經定罪，可處第 5 級罰款及監禁 1 年；或
- (b) 如循公訴程序審訊，一經定罪，可處罰款 200,000 元及監禁 3 年。

候選人如不能夠或沒有在准許的限期屆滿之前按照第 37 條的規定提交選舉申報書，可根據《選舉(舞弊及非法行為)條例》(第 554 章)第 40(1) 條向原訟法庭申請作出命令，容許候選人在原訟法庭指明的較長限期內，向有關主管當局提交選舉申報書。

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問題 21： 選舉申報書供公眾查閱的副本上的個人資料會否被遮蓋？

答案 21： 在供予查閱前，選舉申報書連同所有附件內所有個人資料（如有此資料，選舉捐贈的捐贈者的姓名及地址除外）將會被遮蓋。選舉申報書以及所有附件的副本將備存於有關選舉主任的辦事處，由有關文件提交選舉主任的時間起，直至根據《選舉(舞弊及非法行為)條例》(第 554 章)第 41 條規定選舉申報書及聲明書可供公眾查閱的期間結束為止，供公眾查閱或提供予問取有關文件的副本的人士。

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更改選舉申報書內的錯漏

問題 22： 如候選人在提交選舉申報書的限期前，發覺自己已經提交的選舉申報書有錯漏，他／她可否作出更改？

答案 22： 候選人如欲在限期前更改已遞交的選舉申報書內任何資料，他／她應在限期前向有關選舉主任提交一份附加聲明，述明所有更改的資料。候選人必須留意在提交有關的附加聲明時，他／她需要跟填寫選舉申報書一樣作出法定聲明。法定聲明可在各區民政事務處民政諮詢中心的監誓員、太平紳士或持有執業證書的律師面前作出。

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問題 23： 若候選人在提交選舉申報書的限期後自行發現他／她的選舉申報書內有錯誤及／或虛假陳述，他／她應如何處理？

答案 23： 根據《選舉(舞弊及非法行為)條例》(第 554 章)第 37A 條，如選舉申報書內有錯誤及／或虛假陳述（例如沒有於選舉申報書內列出任何選舉開支或選舉捐

贈或任何由其他人代表候選人於選舉中所接受的選舉捐贈，或某項選舉開支或選舉捐贈的款額不正確)；有關的錯誤及／或虛假陳述的累計總價值不超過 600 元；及在計算該等錯誤及／或虛假陳述的價值後，候選人的選舉開支亦不超過有關選舉訂明的最高限額，則候選人可以按簡易寬免安排修正有關的錯誤及／或虛假陳述如下。

候選人應以書面形式通知有關選舉主任及提供相關詳情，以便有關選舉主任考慮有關請求。如容許該候選人透過簡易寬免安排提交經修訂的選舉申報書是合適，有關選舉主任會代表民政事務總署署長向該候選人發出通知。候選人在接獲通知後，在指定限期內，候選人可經有關選舉主任向民政事務總署署長提交一份經修訂的選舉申報書。該份經修訂的選舉申報書應為早前經有關選舉主任呈交民政事務總署署長的選舉申報書副本，並標示該等錯誤或虛假陳述事項的修訂。透過簡易寬免安排而經修訂的選舉申報書一經提交予選舉主任，即不得撤回或作進一步修改。

就《選舉(舞弊及非法行為)條例》(第 554 章)第 37A 條適用範圍以外選舉申報書內的錯誤及／或虛假陳述，候選人可根據《選舉(舞弊及非法行為)條例》(第 554 章)第 40(3) 條向原訟法庭申請作出命令，容許候選人更正在選舉申報書或附於該申報書的任何文件內的錯誤及／或虛假陳述。

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民政事務總署

2022 年 10 月

Frequently Asked Questions – Election Return

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Election Expenses

Q1: What are the maximum amounts of election expenses for the Rural Representative Election?

A1: In accordance with section 2 of the Maximum Amount of Election Expenses (Rural Representative Election) Regulation (Cap. 554B), the maximum amount of election expenses per candidate at an election for a Rural Area is:

(a) where there are not more than 1,000 electors for the Rural Area	\$18,000
(b) where there are more than 1,000 electors but not more than 5,000 electors for the Rural Area	\$28,000
(c) where there are over 5,000 electors for the Rural Area	\$38,000

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Q2: How to decide whether a particular item of expenditure should be regarded as an election expense?

A2: In accordance with section 2 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), election expenses, in relation to a candidate at an election, means expenses incurred or to be incurred, before, during or after the election period, by or on behalf of the candidate for the purpose of promoting the election of the candidate, or prejudicing the election of another candidate, and includes the value of election donations consisting of goods and services used for that purpose. Whether a particular item of expenditure should be regarded as an election expense is a question of fact to be answered in the circumstances of each case, such as the nature, circumstances and context of the expenditure. Candidate should consider whether a particular item of expenditure falls within the definition of election expense based on the circumstances. Candidate can also make reference to items of expenses to be counted towards election expenses listed at Appendix 13 of the “Guidelines on Election-related Activities in respect of the Rural Representative Election”. Candidate should consult his/her legal adviser if he/she has doubt as to whether an expenditure item should be counted as an election expense. Any legal fees incurred as a result will not be regarded as election expenses.

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Q3: If an expense is incurred for election-related purpose and other purpose, how should a candidate calculate the election expense?

A3: If an expense is incurred for more than one purpose, there is a need for apportionment of the expenses between election-related purpose and any other purpose. Candidate should include relevant particulars in his/her Election Return. As a general principle, time and usage are relevant factors for consideration. Candidate can make reference to the example of apportionment in the Guide on Completion of Election Return.

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Q4: If old materials are used for election purpose during the election period, how should a candidate calculate the related election expense?

A4: On re-use of old materials for election purpose (for example, re-use of old publicity boards), the estimated value of old materials and the cost incurred for refurbishing the same should be counted towards the election expenses, and should be set out separately in the Election Return. There is no need to submit invoice and receipt for the estimated value of the old materials. However, if the cost for refurbishment of those old materials is of \$500 or more, the invoice and the receipt issued by the organization or person providing the goods or services should be attached.

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Q5: If the cost of an election advertisement of a candidate is zero, does the candidate still need to declare at Section D of the Election Return?

A5: The Home Affairs Department will check the Election Return based on the information of the election advertisements as stated in the “Information Sheet in relation to Election Advertisements” or on the Central Platform or Candidate’s Platform, such as date of publication, type, size, number of copies published, etc. Therefore, candidate should calculate and enter the election expenses at Section D of the Election Return based on the quantities and types of election advertisements as stated on the aforesaid forms or platforms. No matter how minimal the value of the expense is, candidate should declare all the election expenses that have been incurred or will be incurred in the Election Return. Even if the expense for a particular election advertisement is zero, the candidate should also declare the item and state clearly the corresponding expense as zero in the Election Return for checking by the Home Affairs Department. (For the declaration of election advertisements published through the internet, please see Q6. For the declaration of election expenses of self-produced election advertisements, please see Q18.)

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Q6: If a candidate publishes election advertisements through the internet, how should the candidate declare the related election expense?

A6: If candidate has published a large amount of election advertisements through the internet (including election website, social media platform, instant messaging application, etc.), although the related information for each publication must be provided in the “Information Sheet in relation to Election Advertisements” or on the Central Platform or Candidate’s Platform, there may be difficulties in calculating the related expenses for each publication when completing the Election Return. In this regard, in the premise that a candidate must declare all election expenses, the Home Affairs Department will accept the following methods of declaring election expenses:

- (1) the salary of an assistant who is responsible for publishing the election advertisements through the internet and the internet service fee can be declared at Section C and Section E of the Election Return respectively;
- (2) the design and production fees of an election website can be declared at Section D8 of the Election Return as an expense item;

- (3) if an election advertisement involves stand-alone expenses (e.g. video production fee), the expense can be declared at Section D8 of the Election Return as an expense item, and a remark that such election advertisement is published through the internet and the date of its production should be stated;
- (4) the expenses of all election advertisements published through the internet can be declared at Section D8 of the Election Return according to the types of internet media (for example, election website, social media platform, instant messaging application), listing the number of election advertisements published via the respective type of media, stating clearly whether all related election expenses have been declared at the said corresponding Section(s), and specifying the reference number(s) of the corresponding Section(s) of the Election Return for checking by the Home Affairs Department. If there are other election expenses of election advertisements published through the internet, they should also be declared at Section D8 of the Election Return. Candidate can make reference to an example at Section D8 in the Guide on Completion of Election Return.

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Q7: If there are outstanding claims by the Election Return submission deadline, such as water charge or electricity expense, but the relevant amount cannot be ascertained before the deadline, how can a candidate declare the related expenses in the Election Return?

A7: Candidate should declare the outstanding claims at Section G of the Election Return. If the candidate cannot ascertain the amount of outstanding claims before the submission deadline, he/she can write down the estimated value of the claims or “?” at Section G of the Election Return. Candidate must confirm the relevant amount and submit to the relevant Returning Officer the invoice and receipt for each item of election expense which is at \$500 or more within 30 days from the payment date to prove that the outstanding claims have been duly settled.

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Q8: If a candidate has produced one batch of election advertisements but has only published part of it in the end, how should the candidate declare such expense in the Election Return?

A8: In accordance with section 2 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), election expenses are expenses that are incurred or to be incurred, for the purpose of promoting the election of the candidate, or prejudicing the election of another candidate. Election expenses cover activities or matters relating to the conduct and management of the election. Accordingly, the candidate must declare the related election expense in full in the Election Return.

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Q9: How should a candidate declare travelling expenses?

A9: Candidate should set out the particulars of the travelling expenses, for example, the type of transport, unit charge and the number/quantity/duration in the Election Return. If the amount of a travelling expense is of \$500 or above, candidate should submit the invoice and receipt for that expense item. Please note that the receipt for value top-up of electronic stored value

cards (e.g. Octopus Card) is not acceptable as the receipt for an election expense item. As adding value into the electronic stored value card is not a travelling expense and the receipt cannot show the aforesaid particulars of the travelling expenses, the receipt for the value top-up cannot meet the statutory requirements. If the total amount of the travelling expense during the election period is \$500 or above but the transportation cost for each journey is less than \$500, the candidate should set out the details of travelling expenses in the Election Return but submission of invoice and receipt is not required.

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Q10: After the date of election, candidate still needs to handle the election-related follow-up work (for example, removal of election advertisements, handling of remaining election donations, settlement of expenses for election-related activities etc.). Should the relevant expenses, such as salary for agents and election assistants and rental of the election office, be regarded as election expenses?

A10: According section 2(1) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), election expense means – “in relation to a candidate at an election, means expenses incurred or to be incurred, **before, during or after the election period**, by or on behalf of the candidate for the purpose of –

- (a) **promoting** the election of the candidate; or
- (b) **prejudicing** the election of another candidate,

and includes the value of election donations consisting of goods and services used for that purpose.”

If the expenses of certain services/goods are incurred during the election period, even if the expiry date of the services or actual payment dates shall be later than the date of election, these incurred expenses should be included as election expenses.

Candidate should declare the election expenses based on the amounts of rental and office expenses incurred for election-related purpose. When a candidate rents an office for electioneering purposes, if the lease has specified a rental period which lasts beyond the date of election, and if the relevant rental expense is incurred during the election period, the candidate should include the whole rental expense (including the expense for the rental period after the date of election) as an election expense, if the office concerned is solely used for election-related purpose. If the candidate does not use the office for election-related purpose after the date of election, he/she should apportion the rental expense for the period after the date of election, and state in the Election Return that the rental expense for the period after the date of election is not for election-related purpose, thus it should not be counted as an election expense. Besides, if the office is not solely used for election-related purpose (for example, it is shared with other persons or used as a councillor’s office), the rental and office expenses should be apportioned between election-related purposes and those other purposes. The calculation should also be stated in detail in the Election Return. The above arrangement is also applicable to the salary expenses for agents and election assistants.

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Election Donations

Q11: How should a candidate declare the election donations received through on-street fundraising or internet crowdfunding?

A11: If the total sum of donations received through any form of fundraising activities (e.g. on-street fundraising or internet crowdfunding) is over \$1,000 but the total amount of donation of each donor does not exceed \$1,000, candidate is only required to declare the total sum of donations at Section H of the Election Return and state that each individual donation does not exceed \$1,000.

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Q12: If several election donations are donated by the same donor, and the total amount of each donation does not exceed \$1,000, does the candidate still need to issue the receipt for election donations to the donor?

A12: If the total value of donations received from the same donor is more than \$1,000, candidate must issue receipt to the donor, and the copy of receipt must be submitted together with the Election Return. Please note that the receipt must set out clearly the name and address of the donor and the particulars of the donation in order to use the donation as election expense. Candidate should make reference and use the “Standard Receipt for Election Donations” provided by the Home Affairs Department.

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Q13: When accepting election donation by agent, what should the agent pay attention to?

A13: In accordance with paragraph 15.27 of the “Guidelines on Election-related Activities in respect of the Rural Representative Election”, any person or organization acting as an agent to solicit, receive or collect election donations for a candidate or candidates should comply with all the requirements under the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) as if the election donations were received by the candidate direct. To avoid possible confusion to donors/members of the public, the agent is advised to note the points and adopt the good practice as suggested in Appendix 14 of the "Guidelines on Election-related Activities in respect of the Rural Representative Election" in relation to the collection of election donations.

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Q14: Whether the address of donor required in the Standard Receipt for Election Donations (“Donation Receipt”) can be filled in with a partial address? Whether that receipt and particulars of donor will be arranged for public inspection?

A14: The donor may choose to disclose an address that he/she/it prefers, for example, his/her/its office or business address, correspondence address, residential address or post office box number. The address information must be complete. Copies of the Election Return and the Donation Receipt will be kept at the office of the relevant Returning Officer and made available for public inspection or may be provided to any person asking for the copies of the relevant document from the time when the Election Return and the Donation Receipt concerned are lodged with the relevant Returning Officer until the end of the period for which copies of Election Return are available for public inspection under section 41 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554). **All personal data (except the name**

and address of the donor) in the copy of the Election Return and declaration and the Donation Receipt will be covered.

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Completion and Submission of Election Return

Q15: Is a candidate still required to submit the Election Return even if his/her nomination was ruled invalid, or he/she has withdrawn from the election during the nomination period?

A15: Under section 2 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), “candidate” means a person who stands nominated as a candidate at an election, and also means 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. Therefore, even if a person withdraws his/her nomination after submitting the nomination form, or is decided by the Returning Officer as not validly nominated, or has publicly declared an intention to stand as a candidate at the election before the close of nominations for the election but has not submitted the nomination form in the end, he/she will still be regarded as a candidate of the election, and must submit the Election Return before the statutory deadline (regardless of whether he/she has incurred election expenses or accepted election donations) pursuant to section 37 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554).

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Q16: Under what circumstances must a candidate submit invoice and receipt for an election expense? How are the requirements of invoice and receipt to be fulfilled?

A16: Under section 37 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), for each election expense of \$500 or more, candidate must submit an invoice and a receipt giving particulars of the expenditure. The invoice and receipt for an election expense may be submitted in separate documents or may be contained in the same document. Candidate shall submit invoices and receipts with the following particulars:

- (a) date;
- (b) details of the expense item (i.e. information and amount of the goods or services);
- (c) information of the organization or person (other than the candidate himself/herself) providing the goods or services; and
- (d) information supporting that the organization or person (other than the candidate himself/herself) providing the goods or services has received the relevant payment in full (e.g. name and signature of the recipient or the stamp of the organization or signature of its authorized person).

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Q17: If an election expense is apportioned among two or more candidates, how should they submit the invoice and receipt?

A17: The original invoice and receipt should be submitted by one of the candidates and the other candidate(s) should provide the copies of the relevant invoice and receipt. The candidate(s) should set out the names of all candidates involved in that election expense, and state in the

Election Return the name of the candidate who has submitted the original invoice and receipt so as to facilitate checking.

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Q18: If a candidate has produced election advertisements by himself/herself (e.g. handbills), and the estimated value is of \$500 or more, how should he/she declare the election expense and submit the invoice and receipt?

A18: If a candidate has produced election advertisements by himself/herself, regardless of the estimated value, he/she should declare the estimated value in the Election Return as required under the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554). Candidate should declare the fair estimated value of the election advertisements' production cost in the Election Return. If a candidate has produced election advertisements by himself/herself and the estimated value is of \$500 or more, he/she should provide the related invoice and receipt, for example, the invoice and receipt of the rental of photocopier, the purchase of paper or the purchase of other materials or services, as the basis of the estimated value. Candidate can make reference to an example at Section D3 in the Guide on Completion of Election Return.

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Q19: When should the candidate submit the Election Return?

A19: Candidate must submit the completed Election Return to the Director of Home Affairs through the relevant Returning Officer before the statutory deadline as required under section 37 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554). The Returning Officer will issue letters to inform candidates of the deadline for lodging the Election Return after the election is settled.

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Q20: What are the consequences if a candidate submits the Election Return after the deadline or fails to lodge Election Return?

A20: Under section 38 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), a candidate who fails to lodge an Election Return as required by section 37 commits an offence and is –

- (a) if tried summarily, liable on conviction to a fine at level 5 and to imprisonment for 1 year; or
- (b) if tried on indictment, liable on conviction to a fine of \$200,000 and to imprisonment for 3 years.

If a candidate is unable or has failed to lodge an Election Return as required by section 37 before the end of the permitted period, he/she can apply to the Court of First Instance under section 40(1) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) for an order allowing the candidate to lodge with the appropriate authority an Election Return within such further period as the Court of First Instance specifies.

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Q21: Will the personal data in the public inspection copies of Election Return be covered?

A21: All personal data (if any, except the name and address of the donor of election donation) in the Election Return and all attachments thereto will be covered before being made available for inspection. Copies of the Election Return and Declaration and the attachments will be kept at the office of the relevant Returning Officer and made available for public inspection or may be provided to any person who asks for a copy of the relevant documents from the time when the relevant documents are lodged with the Returning Officer until the end of the period for which copies of Election Return are available for public inspection under section 41 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554).

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Amendment to Errors or Omissions in the Election Return

Q22: If a candidate identifies errors or omissions in a submitted Election Return before the deadline for submission of Election Return, can he/she make amendments?

A22: If a candidate wishes to amend any information in a submitted Election Return before the submission deadline, he/she should submit an additional declaration stating all the amended information to the relevant Returning Officer before the submission deadline. When submitting the relevant additional declaration, the candidate must also make a statutory declaration in the same way as in the Election Return. The statutory declaration can be made in the presence of a Commissioner of Oaths at the Home Affairs Enquiry Centre of the Home Affairs Department, a Justice of the Peace or a solicitor with a practising certificate.

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Q23: If a candidate has identified any error and/or false statement in his/her Election Return on his/her own after the submission deadline of the Election Return, what should he/she do?

A23: Under section 37A of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), where there are any errors and/or false statements in the Election Return (e.g. a failure to set out in the Election Return an election expense or an election donation received by or on behalf of the candidate in connection with the election or an incorrectness in the amount of an election expense or an election donation); the aggregate value of the errors and/or false statements does not exceed \$600; and the election expenses of the candidate do not exceed the maximum amount of election expenses prescribed for the election concerned after taking into account the value of the errors and/or false statements, the candidate may seek to have the errors and/or false statements rectified in accordance with the Simplified Relief Arrangement as follows.

Candidate should inform the relevant Returning Officer in writing providing all the necessary details for the relevant Returning Officer's consideration of the request. If it is deemed appropriate to allow the candidate to lodge a revised Election Return under the Simplified Relief Arrangement, the relevant Returning Officer, acting on behalf of the Director of Home Affairs, would issue a notice to that candidate. Upon receipt of the notice, the candidate may, within the specified period, lodge with the Director of Home Affairs through the relevant Returning Officer a revised Election Return which should be a copy of the original Election Return submitted to the Director of Home Affairs through the relevant Returning Officer earlier marked with the necessary corrections of the errors or false statements in question. The

revised Election Return made under the Simplified Relief Arrangement cannot be withdrawn or further amended after it has been lodged with the relevant Returning Officer.

For errors and/or false statements of the Election Return that are outside of the scope of section 37A of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), candidate can apply to the Court of First Instance under section 40(3) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) for an order allowing the candidate to rectify the errors and/or false statements in the Election Return or in any document accompanying the Election Return.

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Home Affairs Department

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