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Election Expenses

Q1: What is the maximum amount of election expenses for the 2018 Legislative Council Kowloon West Geographical Constituency By-election?

A1: In accordance with the Maximum Amount of Election Expenses (Legislative Council Election) Regulation (Cap. 554D), the maximum amount of election expenses per candidate for the 2018 Legislative Council Kowloon West Geographical Constituency By-election is \$1,821,000.

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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 the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), election expenses, in relation to a candidate at an election, mean expenses incurred or to be incurred before, during or after an election, for the purpose of promoting the election of the candidate, or prejudicing the election of another candidate or other candidates, and include 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 which may be counted towards election expenses listed at [Appendix Q of the Guidelines on Election-related Activities in respect of the Legislative Council Election](#). Candidate should consult his/her legal advisers if he/she has doubt as to whether an expenditure item should count as an election expense. Any legal fees incurred as a result will not themselves 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 expenses between election-related purposes and any other purposes. 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](#) and [the Video](#).

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Q4: If old material is used for election purpose during the election, 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 should be counted towards the election expenses, and should be set out separately. There is no need to submit invoice and receipt for the estimated value of the old materials. However, if the cost for their refurbishment is of \$100 or more, the invoice and the receipt issued by the recipient should be submitted.

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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 Registration and Electoral Office 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 form or platforms. No matter how minimal the value of the expense is, candidate should declare all the election expenses that has 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 at the election return for checking by the Registration and Electoral Office. (For the declaration of election advertisements published through the internet, please see [Q6](#).)

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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 a candidate publishes 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 at the “Information Sheet in Relation to Election Advertisements” or 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, under the premise that a candidate must declare all election expenses, the Registration and Electoral Office can 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 F of the election return respectively;

(2) the design and production fees of an election website can be declared at Item 8 of Section D of the election return as an expense item;

(3) if an election advertisement involves stand-alone expense (for example video production fee), the expense can be declared at Item 8 of Section D of the election return as an expense item, and a remark that the election advertisement is published through the internet and the publication date should be stated;

(4) the expenses of all election advertisements published through the internet can be declared at Item 8 of Section D 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 corresponding section(s), and specify the reference number to the corresponding part(s) of the election return to facilitate the checking by the Registration and Electoral Office. If there are still other election expenses of election advertisements published through the internet, they should be declared in this part.

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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 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, he/she can write down the estimated value of the claims or “?” at Section G. Candidate must confirm the amount of election expense and submit to the Chief Electoral Officer the invoice and receipt for each item of election expense which is of \$100 or more within 30 days from the payment date in support of the settlement of the outstanding claims.

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Q8: If a candidate has produced one lot of election advertisement 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 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 a candidate, or prejudicing the election of another candidate or other candidates. Election expenses cover activities or matters relating to the conduct and management of the election. That is to say, the candidate must declare the related election expense in full in the election return.

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Election Donations

Q9: If several election donations are from the same donor, and the amount of each donation does not exceed \$1,000, does a candidate still need to issue the receipt for election donations to the donor?

A9: If the total value of donations received from the same donor is more than \$1,000, candidate must issue receipt to the donor, the copy of receipt must be submitted together with the election return. Attention is drawn to the fact that, the receipt must set out clearly the name and address of the donor, and particulars of the donation in order to use the donation as election expense. Candidate can make reference and use the “[Standard Receipt for Election](#)”

[Donations](#)” provided by the Registration and Electoral Office.

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Q10: What should an agent pay attention to when accepting election donation?

A10: In accordance with paragraph 16.22 of the Guidelines on Election-related Activities in respect of the Legislative Council Election, any person or organisation (including a political party) acting as an agent to solicit, receive or collect election donations for a candidate or some candidates should also 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(s) 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 R of the Guidelines on Election-related Activities in respect of the Legislative Council Election](#).

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Completion and Submission of Election Return

Q11: 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?

A11: 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 has publicly declared an intention to stand as a candidate at the election before the close of nominations for an 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).

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Q12: Under what circumstances should a candidate submit invoice and receipt for an election expense? How are the requirements of invoice and receipt to be fulfilled?

A12: Under section 37 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), for each election expense of \$100 or more, candidate should 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, including:

- (a) date;
- (b) details of the expense item (i.e., information and amount of the goods or services);
- (c) information of the organisation or person (other than the candidate himself/herself) providing the goods or services; and
- (d) information supporting that the organisation 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 organisation or signature of its authorised person).

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Q13: If an election expense is apportioned between two candidates, how should they submit the invoice and receipt?

A13: Since the original invoice and receipt have been submitted by one of the candidates, the other candidate should provide the certified true copies of the relevant invoice and receipt, and state the name of the candidate who has submitted the original documents so as to facilitate checking. Sample of certifying the copies of invoice and receipt can be found in the [Guide to Return and Declaration of Election Expenses and Election Donations](#).

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Q14: If a candidate has produced election advertisements by himself/herself (e.g. handbills), and the estimated value is of \$100 or more, how should he/she declare the election expense and submit the invoice and receipt?

A14: 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 Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554). If the candidate has produced election advertisements by himself/herself and the estimated value is of \$100 or more, he/she should declare the fair estimated value of the election advertisements' production cost in the election return. Candidate should provide the related invoice and receipt, e.g. the invoice and receipt of the rental of photocopier, purchase of paper, purchase of other materials or services, as the basis of the estimated value.

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Q15: When should a candidate submit the election return?

A15: Candidate must submit the completed election return to the Chief Electoral Officer (Address: Registration and Electoral Office, Unit 2301-03, 23/F, Millennium City 6, 392 Kwun Tong Road, Kwun Tong, Kowloon) before the statutory deadline as required under section 37 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554). The Registration and Electoral Office will issue letters to inform candidates of the deadline for lodging election returns after the election is settled.

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Q16: What are the consequences if a candidate submits the election return after the deadline or fails to lodge election return?

A16: Under section 38 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), candidate who fails to lodge an election return as required without a reasonable cause, 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.

Under section 40 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), 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 with reasonable cause, 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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Amendment of Errors in the Election Return

Q17: If a candidate identifies errors or omissions in the submitted election return before the deadline for submission of election return, can he/she make amendments?

A17: If a candidate wants to amend any information in the submitted election return before the submission deadline, he/she should submit an additional declaration stating all the amended information to the Chief Electoral Officer before the submission deadline. When submitting the additional declaration, candidate must also make a statutory declaration in the same way as completing 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, Justice of the Peace or a solicitor with a practising certificate.

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Q18: If a candidate has identified error(s) and/or false statement(s) in his/her election return on his/her own after the submission deadline of the election return, what should he/she do?

A18: Under section 37A of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), if there is/are any error(s) and/or false statement(s) in the election return (e.g. a failure to set out in the election return any election expense, or any election donation received by or on behalf of the candidate in connection with the election, or incorrectness in the amount of any election expense or any election donation), and the aggregate value of the error(s) and/or false statement(s) does not exceed the limit prescribed (\$3,000 for Geographical Constituency and \$500 for Engineering, Architectural, Surveying, Planning and Landscape Functional Constituency of the 2018 Legislative Council By-election), 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 error(s) and/or false statement(s), the candidate may seek to have the error(s) and/or false statement(s) rectified in accordance with a simplified relief arrangement for minor errors and/or false statements.

Candidate should inform the Chief Electoral Officer (CEO) in writing providing all the necessary details for CEO's consideration of the request. If the CEO is satisfied that it is appropriate to allow the candidate to lodge a revised election return under the simplified relief arrangement, the CEO would issue a notice to the candidate. Upon receipt of the notice, the

candidate may, within the specified period, lodge with the CEO a revised election return which will be a copy of the original election return earlier submitted to the CEO marked with the necessary revision to have the error(s) or false statement(s) in question corrected. A copy of the revised election return made under the simplified relief arrangement cannot be withdrawn or further amended after it has been lodged with the CEO.

For error(s) and/or false statement(s) of the election return that is outside 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 error(s) and/or false statement(s) of the election return.

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