



## To: All Registered Third Party Advertisers

Bill 81, *Election Statutes Amendment Act, 2021 (No. 2)*, has been proclaimed and **will take effect on March 31, 2022**. This email is to provide a general overview of forthcoming changes to the *Election Finances and Contributions Disclosure Act* (EFCDA) that relate to and impact political third party advertisers (PTPAs) and election third party advertisers (ETPAs). Once finalized, the revised Guidelines should be followed over this general summary.

### Registration

- There is no change to the eligibility of who can register as an ETPA
- Only individuals who are Canadian citizens or permanent residents AND are ordinarily resident in Canada are eligible to register as a PTPA
- In order to be eligible, corporations, unincorporated associations and organizations that are incorporated, formed or otherwise organized outside of Canada, must carry on business within Canada to be eligible to register as a PTPA
- Further, an entity formed outside of Canada must carry on some sort of business in Canada in addition to the business of influencing electors to vote or refrain from voting for a registered candidate or registered political party, **in order to be** eligible to register as a PTPA. More specifically, in order to be eligible to register as a PTPA, attempting to influence electors cannot be an entity's only line of business
- Corporations, unincorporated associations and organizations that are incorporated, formed or otherwise organized within Canada continue to be eligible to register as a PTPA

### Political Advertising Definition

- The definition of political advertising in section 44.1(g) of the EFCDA will no longer include "an advertising message that takes a position on an issue" with which a registered party, leader, MLA, candidate, leadership contestant or nomination contestant is associated

### Contributions

- Section 44.2(2) now imposes restrictions on who can make political advertising contributions to a PTPA:
  - With respect to individual people, only individuals who are Canadian citizens or permanent residents AND who are ordinarily resident in Canada can make political advertising contributions
  - A corporation, unincorporated association or organization that is incorporated, formed or otherwise organized outside of Canada that does not carry on business within Canada, can no longer make political advertising contributions
  - Further, an entity formed outside of Canada, who's only business in Canada is to influence electors to vote or refrain from voting for a registered candidate or registered political party, cannot make political advertising contributions. More specifically, in order to be eligible to make a contribution, attempting to influence electors cannot be an entity's only line of business
  - The following are also prohibited from making political advertising contributions starting March 31, 2022:
    - prohibited corporations,
    - trade unions that do not hold bargaining rights for employees in Canada,
    - employee organizations that do not hold bargaining rights for employees in Canada,
    - registered charities, and
    - a group that contains any of the aforementioned entities.

- As a result of amendments to section 44.2(1) of the EFCDA, only an individual ordinarily resident in Alberta can make election advertising contributions
  - For further clarity, corporations, trade unions, employee organizations, registered charities, or any group that contains any of the aforementioned entities, are **not** eligible to make election advertising contributions
  - Any registered ETPA that is an Alberta corporation, Alberta trade union, Alberta employee organization, or a group containing any of these entities, can no longer self-fund contributions; all contributions must be attributed to and reported by individual person and amount

#### **Contribution Limits**

- Section 44.201 establishes limits on contributions to ETPAs and PTPAs
- The annual maximum contribution to an ETPA is \$30,000 and the annual maximum contribution to a PTPA is \$30,000
- However, the total annual aggregate of ETPA contributions and PTPA contributions for an individual cannot exceed \$30,000

#### **Financial Reporting**

- The period during which a TPA can engage in election advertising has changed from December 1 in the year immediately preceding the year in which a general election is held, to **January 1** in the year in which a general election is held
- For general elections, the election advertising spending limit of \$159,103 rounds up to **\$159,200** for each of these periods: January 1 to the day before the Writ is issued, and from the day the Writ is issued to election day
- For by-elections, the election advertising spending limit of \$3,182 per electoral division rounds up to **\$3,200**

#### **Prohibition on TPA Affiliation**

- Under section 9.1(5.1) of the EFCDA, if the Chief Electoral Officer determines that a TPA is affiliated with a registered party, the TPA is not eligible to be registered and as a result cannot accept political or election advertising contributions and cannot undertake election or political advertising
- Factors that the Chief Electoral Officer may consider in order to determine whether a TPA is affiliated with a party are as follows:
  - the organization of the TPA and whether there are cross appointments of one or more of the CFO, signing officers, or principals,
  - any agreements or interactions between the TPA and a registered party that would suggest the registered party controls the TPA, and
  - the extent to which the TPA participates in the registered party's decision making

I look forward to working with you as we implement these legislative amendments. Should you have any questions, please feel free to contact any member of our Finance team at 780-427-7191 (toll-free 310-0000 then 780-427-7191) or by email at [finance@elections.ab.ca](mailto:finance@elections.ab.ca).

Sincerely,

Glen Resler  
Chief Electoral Officer and Election Commissioner