

## Disclosure of certain donations and returns of expenses

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

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### PURPOSE

Explain form DGE-1038, “Donors list and return of expenses”, and the procedures for completing it.

Any person having submitted a nomination paper is required to file this form to disclose the donations received (referred to as “gifts” in the AERM) and the expenses incurred in the course of his or her campaign —or the absence of such donations and expenses, as the case may be. **All candidates** are required to file this form, regardless of whether they have been elected or not and whether they have withdrawn their nomination or not.

The form will not be accepted unless the candidate has signed either the section titled “Declaration of candidate who received no donation and incurred no expenses” **or** the section titled “Declaration of candidate who incurred expenses”.

### DEFINITIONS

**Donations to declare:** 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 donors. For the purpose of applying Chapter XIV of the *Act*, and although only donations of money may be received, the Chief Electoral Officer treats as donations all goods and services purchased by a candidate to promote his or her election.

**Treasurer:** For the purpose of applying this directive, the word “treasurer” has the meaning assigned under section 364 of the *Act*. A “treasurer” may be the treasurer, the secretary-treasurer or the head of the finance department of a municipality. When applying Chapter XIV, a treasurer acts under the direct authority of the Chief Electoral Officer (s. 376).

**Statutory deadline and required information:** Section 513.1 of the *Act* stipulates that any person wishing to be a candidate for a seat on the council of a municipality with a population of less than 5,000 must, within 90 days after polling day, submit to the treasurer of the municipality a list of natural persons who made a donation of money over \$50, or who contributed two or more sums totalling over \$50, to promote the candidate’s election.

Such a candidate must also 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 “Donors list and return of expenses” and attached to this document, serves this purpose.

## CONTENT OF THE FORM

The form contains multiple sections. Some sections are compulsory, whereas others are optional.

### Section 1 – Identification of candidate

The candidate needs to complete the various fields of this section to identify himself or herself, the seat for which he or she is running, and the election in which he or she is running.

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 candidate who received no donation and incurred no expenses

If the candidate has not received or collected any donation and has not incurred any expenses relating to his or her election campaign, he or she needs to complete this section, as well as sign and date the declaration where indicated. Such a candidate does not need to complete the other pages of the form. He or she is only required to submit the first page of the form to the treasurer of the municipality.

A candidate who has received donations or incurred at least one expense must leave this section blank and complete all subsequent pages of the form titled “Donors list and return of expenses” (DGE-1038).

### Acknowledgement of receipt (section reserved for the treasurer of the municipality)

The treasurer must sign this section, entering the date on which he or she received the form titled “Donors list and return of expenses” (DGE-1038) from the candidate. This is to confirm the form’s filing date.

**Important:** Once the treasurer has signed the acknowledgement of receipt, he or she must remit a copy of the form to the candidate. The candidate must retain this copy of the form, along with all supporting documents related to his or her income and expenses (e.g., copies of cheques received and invoices, bank statements, deposit slips, etc.), for seven years.

### Section 3 – Personal donation of the candidate

For the purpose of applying the *Act respecting elections and referendums in municipalities*, all goods and services purchased by a candidate to promote his or her election are considered donations. In this section, the candidate must therefore enter the total amount of expenses paid for out of his or her own property. This amount must be entered as a personal donation of the candidate (total A). Details of the corresponding expenses also need to be included in section 5 (return of expenses).

**Important:** During an election, a candidate may contribute up to \$1,000 for his or her own benefit out of his or her own property (s. 513.1.1).

## Section 4 – List of donors who made one or more donations totalling over \$50

This section lists donations received from persons other than the candidate. Such donations must be recorded based on the total amount contributed by each individual person; all donations over \$50 are added together (total B), as are all donations of \$50 or less (total C).

- **Donations over \$50**

This section records information on donors who made donations of money totalling over \$50. The candidate must specify the name and address of each contributor, the amount of the donation, the number of payments and the payment method. He or she then needs to add up the total amount of the donations received from the various donors and enter the sum in the “Total donations over \$50 (total B)” field.

**Important information on the “Donation (\$)” column:**

No goods or services may be provided free of charge by any organization. Goods and services need to be invoiced at current market prices. This column should therefore only include donations from natural persons.

**Number of payments**

Indicate the number of donations received from each individual contributor.

**Payment method**

Specify the method of payment used to make the donation. All donations over \$50 need to be made by personal cheque.

- **Donations of \$50 or less**

In the “Total donations of \$50 or less” field, enter the total amount of all donations of \$50 or less that were received by the candidate. The candidate must personally retain the names and addresses of contributors having made donations of \$50 or less for seven years. These records may be requested by Élections Québec in the case of an audit.

Once all the totals have been entered, add up the amount of donations from the candidate’s personal funds (total A), the total amount of donations over \$50 (total B) and the total amount of donations of \$50 or less. Enter this sum in the “Total donations from all donors” field.

**Important:** The amount entered in the “Total donations from all donors” field cannot be less than the total expenses entered in section 5 of the form (expense return). This amount represents the maximum expenses that the candidate may incur.

## Section 5 – Return of expenses

In this section, the candidate needs to enter certain information regarding any supplier of goods and services related to expenses incurred to promote his or her election campaign.

The candidate must then add up all expenses incurred and record the total in the “Total expenses incurred” field.

Expenses the candidate paid out his or her own property need to be recorded not only in section 5, but also in section 3 (personal donation of the candidate).

**Important:** The total amount of expenses must not be greater than the total amount of donations received from all donors (including the candidate himself or herself). In other words, total expenses cannot exceed total donations.

Candidates who did not incur any election-related expenses can enter \$0 in the “Total expenses” field. They do not have to do so if they have completed section 2 of the form, “Declaration of candidate who received no donation and incurred no expense”.

## Section 6 – Declaration of candidate who incurred expenses

Candidates who have incurred at least one expense must 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 less than 5,000 that is 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 commits an offence if he or she collects a donation from a legal person, or collects one or more sums totalling over \$200 from a natural person (\$1000 if the contributor is the candidate himself or herself).

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

A person convicted of any of these offences is liable to the following penalties:

- 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;
- b) 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). A person found guilty of an offence that constitutes a corrupt electoral practice loses his or her election rights for a period of five years.

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

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



DGE-1038-VA (21-06)

## Donors list and return of expenses Municipalities with a population of less than 5,000

1. Identification of candidate							
Name of municipality	Election date <table border="1"> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td>YYYY</td> <td>MM</td> <td>DD</td> </tr> </table>				YYYY	MM	DD
YYYY	MM	DD					
Name of candidate	<input type="checkbox"/> Mayor <input type="checkbox"/> Seat number : _____						
Name of recognized ticket (where applicable)							
Candidate's domiciliary address							
_____	_____						
Civic number	Roadway						
_____	Apt.						
_____	_____						
City, town or municipality	Postal code						
Telephone number							
_____	_____						
Home	Cell						
_____	Work						
E-mail address							
_____							

2. Declaration of candidate who received no donation and incurred no expense
I declare that I have received no donation and have contributed no amount to my own election campaign, nor incurred any expense.
_____
Signature of candidate
_____
Name (please print)
_____
Date

Acknowledgement of receipt (reserved for the treasurer of the municipality)
<b>To be completed by treasurer upon receipt of report from candidate</b>
I hereby acknowledge receipt of the form titled <i>Donors list and return of expenses</i> signed by the candidate identified in section 1.
_____
Signature of treasurer
_____
Date
<b>Reminder:</b> The treasurer must remit a copy of this form to the candidate.

**3. Personal donation of the candidate**

Surname and given name of the candidate \_\_\_\_\_

Amount of personal donation (total A): \_\_\_\_\_ \$  
 Equal to the total amount of expenses paid by a candidate out of his or her own property (must not exceed \$1,000)

**4. List of donors who made one or more donations totalling over \$50**

Surname and given name	Domiciliary address (civic number, roadway, apartment)	Municipality	Postal code	Donation (\$)	Number of payments	Method of payments
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
<b>Total donations over \$50 (total B):</b>				<b>\$</b>		
<b>Total donations of \$50 or less (total C):</b>				<b>\$</b>		
<b>Total donations from all donors (A+B+C):</b>				<b>\$</b>		

**Reminder:** A person other than the candidate may not contribute more than \$200. A candidate may contribute a maximum of \$1,000 to promote his or her own election.

<b>5. Return of expenses</b>			
N°	Name and address of the supplier	Description of good or service	Amount paid
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
<b>Total expenses:</b>			\$

<b>6. Declaration of candidate who incurred expenses</b>		
All information entered in this form is true, accurate and complete.		
_____	_____	_____
Signature of candidate	Name (please print)	Date