

Financial Disclosure Guide for Significant Third Parties

2020-21 financial year

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Introduction

The Commonwealth funding and disclosure scheme (the disclosure scheme) established under Part XX of the *Commonwealth Electoral Act 1918* (Electoral Act), deals with the public funding of federal election campaigns and the disclosure of detailed financial information.

The disclosure scheme was introduced to increase overall transparency and inform the public about the financial dealings of political parties, candidates and others involved in the electoral process.




The disclosure scheme requires federally registered political parties, their state branches and local branches/sub-party units (referred to collectively as political parties in this guide), their associated entities, significant third parties, members of the House of Representatives (MPs), Senators, donors and other participants in the electoral process, to lodge an annual or election period financial disclosure return with the Australian Electoral Commission (AEC). The disclosure returns are then published on the [Transparency Register](#).

The Guide

This version of the Financial Disclosure Guide for Significant Third Parties (the guide) applies to returns for the 2020-21 financial year by registered significant third parties who have not submitted a 2020-21 return to the AEC as a political campaigner. While the guide is intended to assist significant third parties with meeting their disclosure requirements, it does not address the whole of the Electoral Act. Users should familiarise themselves with the relevant part of the Electoral Act and seek independent legal advice where necessary.

The Electoral Act and all guides published by the AEC are available at www.aec.gov.au. The annual and election returns are available for viewing on this site after the public release date. A searchable database is provided which allows data to be exported.

The guide incorporates text boxes to highlight important information. Each text box is prefaced with a symbol. For example:

	A warning symbol indicates information relating to a legal obligation under the Electoral Act.
	An information symbol indicates a useful tip.
	A timing symbol indicates a due date.

Registration as a significant third party

Registration as a significant third party is required when:

- electoral expenditure exceeds \$250,000 during that financial year, or any one of the previous three financial years; or
- electoral expenditure is at least equal to the disclosure threshold during that financial year and electoral expenditure during the previous financial year was at least one-third of the revenue of the person or entity for that year: or
- during that financial year the person or entity operates for the dominant purpose of fundraising amounts:
 - (i) the aggregate of which is at least equal to the disclosure threshold; and
 - (ii) that are for the purpose of incurring electoral expenditure or that are to be gifted to another person or entity for the purpose of incurring electoral expenditure.

If a significant third party has branches, the branches are treated as a single significant third party.

If you are currently registered as a political campaigner on the Transparency Register, you will **not** be required to re-register as a significant third party. You will be automatically categorised as a significant third party on the Transparency Register.

Registration

A person or entity that meets the definition of a significant third party must register with the AEC before the **end of 90 days** after becoming required to be registered.

- [Application for Registration as a Significant Third Party](#).

A person or entity that is required to be registered in a financial year must **not** incur any, or any further electoral expenditure or fundraise any, or any further amounts for the purpose of incurring electoral expenditure in that financial year until they are registered.

Details of registered significant third parties are recorded on the [Transparency Register](#).

If a registered significant third party no longer meets the requirements to be a significant third party, it may apply to be deregistered at any time by completing and submitting an [Application to Deregister](#) form to the AEC.



Section [287N](#) of the Electoral Act provides for the establishment and maintenance of a Transparency Register.

Section [287F](#) of the Electoral Act provides for when a person or entity must register as a significant third party.

Section [287M](#) of the Electoral Act enables a significant third party to apply to the Electoral Commissioner to be deregistered.

Electoral matter and electoral expenditure

Electoral expenditure is expenditure incurred for the dominant purpose of creating or communicating electoral matter. Electoral matter is matter communicated or intended to be communicated for the dominant purpose of influencing the way electors vote in an election (see also discussion at [Part 7](#)). A factsheet on [Electoral Matter and Electoral Expenditure](#) is available on the AEC website.



Section [287AB](#) of the Electoral Act provides the meaning of electoral expenditure, and section [4AA](#) of the Electoral Act provides the meaning of electoral matter.

Annual disclosure

Responsibility for lodging the return

The **financial controller** of the significant third party must lodge the significant third party disclosure return (the return). If the significant third party is an individual, they may nominate themselves as the financial controller. If the significant third party is a corporation (or other entity), then an individual acting on behalf of the significant third party must nominate the financial controller.



Section [287\(1\)](#) of the Electoral Act provides the meaning of a financial controller.
Section [292F](#) of the Electoral Act provides the conditions that must be met to be nominated as a financial controller.

Financial controller details must be provided to the AEC when submitting an [Application for Registration as a Significant Third Party](#).

Changes to financial controller details must be provided to the AEC within 90 days of the information ceasing to be correct or complete using a [Change to Transparency Register](#) form available on the AEC website.


Reporting period

The return covers the financial year 1 July 2020 to 30 June 2021. For a significant third party that is registered or is deregistered during the financial year, the return must be provided in relation to the whole financial year.



A return must be lodged regardless of whether a significant third party has any transactions to report.

Disclosure threshold

	<p>The disclosure threshold for the 2020-21 financial year is for amounts of more than \$14,300. This figure is indexed annually.</p>
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Lodging your return

A [2020-21 Significant Third Party Return form](#) is available on the AEC website. The form can be lodged by:

- Email: fad@aec.gov.au
- Mail: Funding and Disclosure
Australian Electoral Commission
Locked Bag 4007
Canberra ACT 2601

Due date for lodging returns

Upon registration as a significant third party, a 2020-21 Significant Third Party Return must be lodged within 30 days of becoming registered.


Returns are published on the [Transparency Register](#) from the first working day of February. Returns for the 2020-21 financial year will be published on **1 February 2022**.

Penalties

The Electoral Act imposes civil penalties and in some cases criminal penalties if a person or entity contravenes the requirements of the Electoral Act. The AEC provides support, including this guide, to assist significant third parties to comply with their disclosure obligations.

The AEC deals with non-compliance as appropriate to the circumstances, including possible referral to the Commonwealth Director of Public Prosecutions. Refer to [Appendix 2](#) of this guide for a list of civil and criminal penalties that may apply to significant third parties under the Electoral Act.

For more information on compliance and enforcement, see the [Financial Disclosure Compliance and Enforcement Policy](#).

	<p>Political parties, significant third parties, associated entities, third parties, candidates, senate groups, MPs Senators and donors may be subject to a compliance review by the AEC to assess the completeness and accuracy of lodged disclosure returns</p>
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Please note that a number of state and territory jurisdictions have their own disclosure schemes, which are separate to the Commonwealth disclosure scheme. Entities should check with state and territory electoral commissions to determine any potential obligations under state and territory electoral laws.

Important information

Definition of a donation

A donation has the same meaning as a gift under the Electoral Act. A gift is defined as any disposition of property made by a person to another person, being a disposition made without consideration in money or money's worth or with inadequate consideration, and includes the provision of a service (other than volunteer labour) for no consideration or for inadequate consideration, but does not include:

- (a) a payment under Division 3; or
- (b) an annual subscription paid to a political party, to a State branch of a political party or to a division of a State branch of a political party by a person in respect of the person's membership of the party, branch or division; or
- (c) any visit, experience or activity provided for the purposes of a political exchange program.

A gift also includes a **'gift-in-kind'** such as the provision of a service (other than volunteer labour) for no consideration (see [Part 2b](#) for examples).



Section [287\(1\)](#) of the Electoral Act provides the meaning of a gift.

Foreign donations

Significant third parties are restricted:


- from receiving gifts of \$100 or more where:
 - the recipient knows the donor is a foreign donor; and
 - the recipient knows that the foreign donor intends the gift to be used to incur electoral expenditure, or for the dominant purpose of creating or communicating [electoral matter](#) and
- from receiving gifts of \$1,000 to the disclosure threshold without obtaining a written affirmation that the donor is not a foreign donor; and
- from receiving gifts equal to or above the disclosure threshold without obtaining written affirmation and appropriate information to establish that the donor is not a foreign donor.

If a significant third party receives a donation from a foreign donor in contravention of the restrictions in the Electoral Act, the Electoral Act provides six weeks from the gift being

made for it, or an equivalent amount, to be returned to the donor or transferred to the Commonwealth.

A foreign donor is a person or entity who does not have a connection with Australia, such as a person who is not an Australian citizen or an entity that does not have significant business presence in Australia.

The [Factsheet on Foreign Donations](#) available on the AEC website contains further information.

	<p>Section 287AA of the Electoral Act provides the meaning of a foreign donor.</p> <p>Sections 302D and 302F of the Electoral Act restrict significant third parties from receiving gifts from foreign donors.</p>
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Anti-avoidance provisions

The Electoral Act prohibits schemes that knowingly avoid foreign donation restrictions. The anti-avoidance provisions prohibit schemes for channelling foreign donations to political entities, significant third parties or third parties via a relevant person or entity (including associated entities).

It is an offence under section 302H of the Electoral Act to establish arrangements to avoid the foreign donations restrictions. The Electoral Commissioner can issue a written notice if:

- A relevant person or entity (alone or with others) enters into, begins to carry out or carries out a scheme
- There are reasonable grounds to conclude the relevant person did so for the sole or dominant purpose of avoiding foreign donation restrictions
- The scheme avoids the application of a foreign donation restriction, and
- The scheme involves donation splitting, conduit corporations or any other unspecified avoidance scheme.

A person or entity who commits an offence may be subject to both civil or criminal penalties.

	<p>Section 302H of the Electoral Act prohibits schemes or arrangements for receiving foreign donations.</p>
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Federal accounts

The *Electoral Legislation Amendment (Miscellaneous Measures) Act 2020* amended the Electoral Act to provide certain immunities for gifts received for federal purposes. From 1 December 2020, immunities from state and territory electoral laws have been established for donors, gift recipients and the agents of gift recipients in relation to the offering, seeking, giving, receipt, retention and use of gifts expressly for federal purposes. A federal purpose means the purpose of incurring electoral expenditure, or creating or communicating electoral matter.

Immunities from state and territory electoral disclosure laws have also been established for donors, gift recipients and the agents of gift recipients in relation to the amounts and expenditure.


It is the responsibility of regulated entities to establish and maintain federal accounts for the purpose of dealing with gifts of money that are expressly for federal purposes.

A federal account means an account where:

- (a) The only amounts deposited into the account are amounts to be used only for a federal purpose; and
- (b) The only amounts withdrawn or transferred from the account are amounts:
 - (i) withdrawn or transferred for a federal purpose; or
 - (ii) transferred to another federal account.

Gifts from donors which are expressly given for state or territory electoral purposes, or unconditional gifts that the recipient intends to allocate to state or territory electoral purposes, must not be placed into a federal account.

Refer to the [AEC website](#) for further information.

	Sections 302CA and 314B of the Electoral Act provide immunities for gifts received for federal purposes.
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Receipts and debts from a representative or a person acting on behalf of a principal

Care must be exercised to ensure that disclosure is made of the correct person or organisation. A gift made by a person from their personal account **must** be disclosed as having been received from that person. This is regardless of whether that person nominated that the donation was made on behalf of their company and irrespective of whether the person was subsequently reimbursed by the company.

The only exception to this rule is where one person, organisation or other entity is acting as the legal representative of another person or organisation (the principal). The identity of the principal itself, rather than the identity of the agent is to be disclosed, where the amount received from the principal is more than the disclosure threshold.

For example, in the case of a payment from a solicitor's trust account, disclosure should be made in relation to the person on whose behalf the payment is made, for example, {name of trust account} on behalf of {name of principal}.

The concept of principal and agent is different to situations where someone makes donations to a significant third party from donations that they have themselves collected, or for which they are later reimbursed. In these situations the person handing over the donation would be disclosed.

Winding-up of a donor company

A company liquidator may take action to recover a gift from a significant third party that exceeds the disclosure threshold (\$14,300 in 2020-21), which was made by a company that is wound up within one year of the gift being made.



Section [306B](#) of the Electoral Act allows a company liquidator to recover a gift over the disclosure threshold.

The return

A significant third party must disclose the following information in the return:

- other business names—see [Part 1a](#)
- related bodies corporate—see [Part 1b](#)
- unions—see [Part 1c](#)
- total receipts—see [Part 2a](#)
- value of gifts-in-kind—see [Part 2b](#)
- details of receipts greater than the disclosure threshold—see [Part 3](#)
- total payments—see [Part 4](#)
- total debts—see [Part 5](#)
- details of debts greater than the disclosure threshold—see [Part 6](#)
- total electoral expenditure—see [Part 7](#)
- details of discretionary benefits—see [Part 8](#)



Sections [314AB](#), [314AC](#) and [314AE](#) of the Electoral Act govern the lodgement of annual returns by significant third party

Note: a person or organisation that makes donations that total to more than the disclosure threshold to a significant third party during a financial year is required to lodge an annual donor return. The [Financial Disclosure Guide for Donors to Political Parties and Political Campaigners](#) is available on the AEC website.

Part 1a: Other business names

A significant third party should list any other names under which it conducts business.

Part 1b: Related bodies corporate

The Electoral Act deems related bodies corporate to be the same entity. Related bodies corporate has the same meaning under the Electoral Act as defined in [section 50 of the Corporations Act 2001](#).

The parent company of the group, therefore, should lodge under its name a return consolidated across the entire group and list in this part of the return the names of all related bodies corporate.



Section [287\(6\)](#) of the Electoral Act deems related bodies corporate to be the same entity.

Part 1c: Are you a union?

Where a significant third party is a union, the significant third party should list the name and address of any subsidiaries or branches on behalf of whom the return is being lodged.

Part 2a: Total receipts for financial year 1 July 2020 to 30 June 2021

Part 2a of the return requires disclosure of the total of all amounts (cash and gifts-in-kind) received from external entities by or on behalf of the significant third party.

Note: Total receipts should be reported on a **cash basis**.

Amounts received include, but are not limited to, the following:

- gifts of money
- gifts-in-kind of services or goods
- membership subscriptions
- loan monies received
- returns on investments
- proceeds from the sale of assets
- public funding provided by the Commonwealth or a State or Territory
- discretionary benefits provided by the Commonwealth or a State or Territory



Section [314AB\(2\)\(a\)\(i\)](#) of the Electoral Act provides for the disclosure of the **total amount received** by, or on behalf of, the significant third party during the financial year.

Examples of receipts that are required to be included in Part 2a of the return could be:

- a gift of \$15,000 cash from a donor
- interest on a term deposit of \$2,755
- loan of \$7,000 cash received
- three separate gifts of \$8,000 each are received from a person on different days
- a cheque for \$400 relating to the sale of office furniture
- two separate donations are received from the same person on different days. One amount is \$9,500 and the other is \$35,000 both of which are included
- a discretionary grant of \$10,000 received from a State, Territory or the Commonwealth.

Disclosure of gross amounts

Total receipts must be disclosed on a **gross** basis inclusive of goods and services tax (GST) and merchant fees. Further, in calculating the total amount received, individual amounts received must **not** be netted against amounts paid in relation to the same transaction—each transaction must be reported separately.

For example:

- a fundraiser taking \$15,000 with costs of \$13,750 and a net profit of \$1,250 is disclosed as:
 - a receipt of \$15,000
 - and a payment of \$13,750.
- a transaction through American Express for \$17,600 of which \$16,864 was deposited in the bank account following the merchant deducting their fee should be disclosed as the full amount of \$17,600. The amount of \$736 should be recorded as a payment. Also note that in this particular example, funds that are transferred from a bank account to repay a credit card should be eliminated as an internal transfer between accounts held by the significant third party (see below).
- a deposit of \$200 into another entity's merchant account (e.g. Eway or Paypal) of which \$2.50 was deducted for merchant fees. The full \$200 should be recorded as a receipt, and \$2.50 as a payment. Also note that where the funds from the other entity's account have been drawn and banked into the significant third party's bank account, an elimination would also need to be recorded for receipts internally transferred between accounts to avoid overstating total receipts.
- a receipt of \$20,000 subsequently refunded must be disclosed as:
 - a receipt of \$20,000
 - and a payment of \$20,000.

Transactions not to be reported

Internal transactions must not be reported as they result in double counting of amounts received and so overstate the total receipts of the significant third party. Examples of internal transactions include:

- transactions between a significant third party and its branches
- transactions between branches within a state or territory
- transfers between a significant third party's bank accounts, for example:
 - a transfer from the significant third party's bank account to a branch's bank account
 - a transfer between bank accounts both held by the significant third party
 - a transfer from a transaction account to an investment account, such as a term deposit account.

Other transactions that **are not** to be reported in the return include:

- commercial discounts received in the normal course of business
- volunteer labour, such as persons handing out how-to-vote cards



Section [287\(8\)](#) of the Electoral Act provides that a significant third party that has branches is treated as a single significant third party.

Part 2b: Amount calculated to be the value of gifts-in-kind

Part 2b of the return requires disclosure of the amount calculated to be the value of gifts-in-kind, which were included in the total receipts amount disclosed in [Part 2a](#).

Gifts-in-kind may be goods or services received for which no payment (in cash or in kind) or inadequate consideration is made. Inadequate consideration is where the benefits obtained are clearly of a lesser value than the payment made. Inadequate consideration includes discounts provided that are over and above those that would be offered under normal commercial arrangements.

These gifts are to be disclosed for an amount that reflects the fair value. That is, the normal commercial or sale value of the item or service as evidenced by arms-length transaction or comparative quotations or expert assessment.

Examples of gifts-in-kind could be:

- free/discounted services such as legal advice, accounting services or web and IT services
- wages or salaries (including on-costs) incurred by an employer whose employee works for the significant third party during normal working hours while continuing to receive salary or wages from the employer (but not if the employee takes paid leave to work for the significant third party)
- free/discounted use of premises or equipment and facilities
- free use of a vehicle, or free fuel or servicing of a vehicle
- free/discounted time or production services by a broadcaster (except time provided by the ABC or SBS specifically for political broadcasting)
- free/discounted advertising by a publisher or advertising production service
- free air travel or the free use of a private aircraft
- loans provided interest free, or at rates that are less than those available in the commercial loan market
- free/discounted printing, typesetting or associated services
- free/discounted goods or services (for example, travel, artwork, sports memorabilia or electrical goods) for use in raffles or other fundraising activities

- where a person pays a bill/account owed by the significant third party.

Part 3: Amounts of more than \$14,300 received in the financial year 1 July 2020 to 30 June 2021

Part 3 of the return requires disclosure of the details of amounts received greater than the disclosure threshold (\$14,300 in 2020-21).

For each person or entity, the following details must be disclosed:

- full name and address details of the person or organisation from whom the money or gift-in-kind was received
- the sum of amounts received from that person or organisation (details of individual amounts received from the same source that are less than the disclosure threshold are **not** required to be disclosed)
- whether the receipt is a 'donation' or 'other receipt'.

Note: An 'other receipt' is a receipt that does not meet the definition of a donation (see 'definition of a donation' above).



Sections [314AC\(1\)](#) and [\(2\)](#) of the Electoral Act provide for the disclosure of details of amounts received greater than the disclosure threshold.

Where the significant third party is a person or organisation registered under the *Australian Charities and Not-for profits Commission Act 2012*, an amount received greater than the disclosure threshold **does not** need to be disclosed if no part of it was used during the financial year to:

- incur electoral expenditure; or
- create or communicate electoral matter; or
- reimburse the significant third party for incurring electoral expenditure or creating or communicating electoral matter.

Examples of amounts received that are required to be disclosed at Part 3 of the return could be:

- funds relating to a loan of \$50,000 received from a financial institution
- funds relating to a loan of \$20,000 received from a non-financial institution
- a distribution of \$14,500 from a trust which was paid into the bank account
- a non-monetary gift valued at \$15,000 relating to commercial premises provided to the significant third party rent free. The market rent for the commercial premises is valued at \$15,000.
- GST refund of \$20,000
- two separate donations are received from the same person. One amount is \$9,500 and the other is \$35,000.
 - The \$35,000 is disclosed in Part 3 as it is more than the disclosure threshold.
 - The \$9,500 is not required to be disclosed in Part 3 as it is less than the disclosure threshold.

A significant third party should provide additional clarifying information and supporting documentation in situations where disclosure does not provide a clear picture of the underlying transactions. For example, significant third parties should separately identify bulk receipts such as membership fees that are not required to be disclosed as a receipt above the threshold when the deposit is made up of several fees under the threshold or where the receipt of a gift was subsequently returned.

Amounts received from unincorporated associations, trusts or foundations

Where an amount has been received from an unincorporated association (other than a registered industrial organisation), the name of the association and the names and addresses of all members of the executive committee of the association must be disclosed.

Where an amount has been received from a trust fund or foundation fund, the name and description of the trust or foundation and the names and addresses of all trustees must be disclosed.

Amounts received as a result of a loan

There are specific record keeping requirements for amounts received as a result of a loan. For loans received from a financial institution (see note below) greater than the disclosure threshold (\$14,300 in 2020-21), the name of the financial institution and the sum of all amounts received from the loan must be disclosed.

Note: A financial institution is a bank, credit union, building society or a special service provider registered with the Australian Prudential Regulation Authority (APRA). An up to date list is available from the [APRA website](#).



Section [314AC\(3\)\(ba\)](#) of the Electoral Act requires information about amounts received as a result of a loan to be kept.

Section [306A](#) of the Electoral Act makes it unlawful for loans to be received from a person or entity other than a financial institution unless certain records are kept.

Loans received from a person or entity other than a financial institution

For loans received from a person or entity other than a financial institution greater than the disclosure threshold (\$14,300 in 2020-21), the terms and conditions of the loan must be kept and the following particulars (as the case requires):

- for a loan from a registered industrial organisation (other than a financial institution), the:
 - name of the organisation
 - names and addresses of the members of the executive committee (however described) of the organisation
- for a loan from an unincorporated association, the:
 - name of the association

- names and addresses of the executive committee (however described) of the association
- for a loan paid out of a trust fund or out of the funds of a foundation:
 - the names and addresses of the trustees of the fund or foundation
 - title, name or other description of the trust fund or foundation
- for any other loan, the name and address of the person or organisation that made the loan.

Part 4: Total payments for financial year 1 July 2020 to 30 June 2021

Part 4 of the return requires disclosure of the gross total cash payments made by or on behalf of the significant third party to external entities. Total payments should be reported on a **cash basis**. This means not using total expense but instead aggregating total cash payments.

Note: the same rules apply for using gross figures and eliminating internal transfers as explained for the completion of ‘Total receipts for financial year’ at [Part 2a](#) of the return.

Amounts paid include, but are not limited to the following:

- salaries
- administrative expenses
- purchase of assets
- electoral expenses
- loan repayments
- bank charges
- merchant service fees on credit/charge cards
- gifts received but subsequently returned or forfeited to the Commonwealth.



Section [314AB\(2\)\(a\)\(ii\)](#) of the Electoral Act provides for the disclosure of the total amount paid by, or on behalf of, the significant third party during the financial year.

Examples of amounts paid that are required to be included in the calculation of ‘total payments’ at Part 4 of the return could be:

- loan repayments paid totalling \$32,000
- bank charges of \$145 incurred
- merchant service fees totalling \$3,400.

Part 5: Total debts as at 30 June 2021

Part 5 of the return requires disclosure of the total outstanding amount of all debts incurred by or on behalf of the significant third party as at the end of the financial year (30 June 2021).

Debts include, but are not limited to the following:

- loans
- overdrafts
- unpaid accounts.



Section [314AB\(2\)\(a\)\(iii\)](#) of the Electoral Act provides for the disclosure of all debts incurred by or on behalf of the significant third party.

Examples of debts outstanding could be:

- a loan from financial institution with outstanding balance of \$36,000
- invoices received, but not paid, from a supplier totalling \$4,500
- superannuation payable
- GST and PAYG debt to the ATO.

Note: Employee provisions (for example, provision for annual leave) are **not considered debts** for the purposes of disclosure.

Part 6: Debts of more than \$14,300 as at 30 June 2021

Part 6 of the return requires disclosure of the details of all outstanding debts greater than the disclosure threshold (\$14,300 in 2020-21) owed to a person or entity as at the last day of the relevant financial year (that is, 30 June 2021 for the 2020-21 financial year).

Note: debts that are individually less than the disclosure threshold, but from the same person or entity, must be considered in determining whether the debts exceed the disclosure threshold.

The details required to be disclosed are:

- full name and address details of the person or organisation that the debt is owed to
- the amount that is owed
- whether the debt is to a financial institution or non-financial institution.



Section [314AE\(1\)](#) of the Electoral Act requires disclosure of the details of debts greater than the disclosure threshold.

Examples of debts outstanding that require disclosure of details in Part 6 of the return could be:

- bank overdraft account balance of \$24,300
- an individual amount owing on a credit card totalling \$14,450
- invoices received from supplier totalling \$17,400
- a loan from a financial institution with an outstanding balance of \$45,000
- two outstanding invoices payable to the same entity with values of \$2,000 and \$20,000, a total of \$22,000 is required to be disclosed
- GST and PAYG debt to the ATO which are above \$14,300.

Debts owed to unincorporated associations

Where a debt is owed to an unincorporated association (other than a registered industrial organisation), the name of the association, along with the names and addresses of each member of the executive committee of the association must be disclosed.

Debts owed to a trust or foundation

Where a debt is owed to a trust or foundation, the name and description of the trust or foundation, along with the names and addresses of all trustees must be disclosed.

Part 7: Total electoral expenditure

Part 7 of the return requires disclosure of the total amount of [electoral expenditure](#) incurred by or with the authority of the significant third party.

Note: Communications that have the dominant purpose of educating their audience, raising awareness of, or encouraging debate on a public policy or issue are **not** considered electoral matter.



Section [314AB\(2\)\(a\)\(iv\)](#) of the Electoral Act provides for the disclosure of the total amount of electoral expenditure incurred by or with the authority of the significant third party.

Below are examples of electoral matter and electoral expenditure:

- A local progress association is formed by a group of local businesses to champion proposals for the urban renewal of the town centre and surrounds. The association decides to campaign in the federal election to call for the handover of former Defence land, to allow for construction of a business park. They hire a campaign manager, open a campaign shop front, coordinate volunteers, rent phone lines and issue a voting guide indicating preferred candidates. Although the election campaign is a short-term activity and the association has wider purposes, the dominant purpose of these campaign-related expenses make these electoral expenditure. The dominant purpose of the association (urban renewal) does not determine the dominant purpose of the expenditure.
- A bilingual education company is campaigning for increased Commonwealth investment in school language programs. Their campaign strategy is to support

candidates who pledge to increase funding for school language programs. The company buys campaign software, public relations training for staff and general creative content for the campaign, such as image libraries.

Subsection [287AB\(2\)](#) of the Electoral Act clarifies that the purchase of the software, training and creative content is electoral expenditure. The purchase is made to create and communicate electoral matter generally, rather than being intended or used exclusively for a specific communication of electoral matter.

- A public health advocacy group designs a pamphlet assessing the policies of different parties, regarding subsidies of expensive medicines. The pamphlet summarises how much money each party has committed to spend on drugs and summarises each party's policies on limits to patent periods to indicate how closely aligned each party is to the priorities of the group. The pamphlet includes a smiley face next to some parties and a frowning face next to other parties. The symbols represent support for some parties and opposition towards others, makes this an implicit comment promoting or opposing political parties. Hence this is more likely to be electoral matter.
- A business peak body releases a video online criticising the economic policies of a major political party contesting an upcoming election through the framework of commonly taught economic theory. Given the dominant purpose of the peak body's other communications, it is reasonable to conclude the peak body's dominant purpose is political, rather than educative. Any costs associated with the production and release of the video would be electoral expenditure.

Following is an example of what is **not** considered electoral matter and electoral expenditure:

- A novel public policy issue emerges. To assist it in forming a policy position, an industry association commissions a think tank to conduct research and write a report on the issue. As the dominant purpose of the industry association in commissioning the report is not to influence the way electors vote in an election, the research report is not electoral matter and therefore the association's expenditure on commissioning the report is not electoral expenditure.

Further information and examples can be found in the [Factsheet on Electoral Matter and Electoral Expenditure](#) available on the AEC website.

Part 8: Details of discretionary benefits

Part 8 of the return requires disclosure of the details of any discretionary benefits (however described) received by or on behalf of the significant third party from the Commonwealth, a State or a Territory during the financial year.

Discretionary benefits include:

- grants
- contracts
- payments
- other benefits requiring the exercise of discretion by the Commonwealth or State or Territory.

Discretionary benefits are different to statutory entitlements, which are provided automatically if specified criteria are met, such as election funding.



Section [314AB\(2\)\(b\)](#) of the Electoral Act provides for the disclosure of details of discretionary benefits received.

The relevant details to be disclosed are the:

- full name of the person or organisation from whom the discretionary benefit was received
- date the discretionary benefit was received
- value or amount of the discretionary benefit.

Incomplete returns

Where the financial controller is unable to obtain all the information required to fully complete the return, a Notice of Incomplete Return must be completed and lodged with the incomplete return.

Where it is necessary to submit a Notice of Incomplete Return:

- complete the [Significant Third Party Disclosure Return](#) as fully as possible
- complete the Notice of Incomplete Return
- lodge the Notice of Incomplete Return and the incomplete Significant Third Party Disclosure Return with the AEC at the same time.

Note: lodgement of a Notice of Incomplete Return does not relieve the financial controller of the responsibility of making reasonable efforts to obtain the information required to complete the return. The AEC may assess whether the lodgement of a Notice of Incomplete Return was used by a financial controller to avoid their responsibilities under the Electoral Act.



Section [318](#) of the Electoral Act provides for when a person who is required to furnish a return is unable to do so.

The Notice of Incomplete Return contains three parts:

Part 1 – requires the full details of the information believed to be missing from the return.

Part 2 – requires the:

- reason the particulars listed in Part 1 were unable to be obtained
- details of all attempts made to obtain the missing information.

Part 3 – requires:

- full name/s and address details of the person/s believed to possess the missing particulars
- reason why it is believed this person/s possesses the required information.

Amending returns

A request may be made to, or by the AEC seeking amendment of a return that has been lodged and subsequently found to be incomplete or incorrect.



Section [319A](#) of the Electoral Act provides for the amendment of returns.

Amendments to the return require previously submitted amounts to be provided together with the amended amount/s.

Changes to details of receipts or debts should be separated into:

- additional information not previously provided
- amendment of information previously provided.

In order to avoid confusion or ambiguity the record/s being changed should be clearly identified. Amendments are processed through eReturns.

Administration

Date for public inspection of annual returns

Annual returns are made available for public inspection on the first working day of February each year.

Returns are available for inspection on the AEC's website at

<https://transparency.aec.gov.au/>.

Record keeping

Significant third parties like all other persons or entities should keep adequate records.

Financial recording systems and procedures must be sufficient to enable the return, which will be publicly available, to be properly completed.

All transactions should be supported by source documents recording the details of individual transactions. Examples of source documents are:

- receipts
- tax invoices
- loan documents

- wages records
- bank deposit books and cheque butts
- bank account statements
- credit card statements
- contract and grant agreements.

Source documents should contain information required to complete the return, such as the:


- date of the transaction
- name of person and/or organisation from whom a receipt was received
- name of person and/or organisation to whom a payment was made
- name and address of organisation that has provided a loan to the significant third party
- total payment made or amount received
- amount of GST
- merchant fees.

Retention of records

Relevant records, whether formal or informal, must be retained for a minimum of 5 years following the end of the reporting period.

A record must also be kept in accordance with any other requirements as determined by the Electoral Commissioner.

A person or entity who fails to comply with these requirements is subject to civil penalties.

	<p>Section 317 of the Electoral Act provides for the retention of records.</p>
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Compliance Reviews

The AEC conducts compliance reviews of annual returns lodged by significant third parties to verify the accuracy and completeness of disclosures.

Compliance reviews are undertaken 'off-site', however officers of the AEC may still attend a significant third party's premises to inspect original documentation and to hold an exit interview to discuss the review.

A written report will be issued detailing any findings. This may include advice to amend the significant third party's return.

Further information on the conduct of compliance reviews can be found at [Compliance Reviews](#) on the AEC website.

	<p>Section 316(2A) of the Electoral Act provides for the conduct of compliance reviews.</p>
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Appendix 1 – Glossary of terms

AEC	Australian Electoral Commission
Anti-avoidance scheme	<p>Can include:</p> <ul style="list-style-type: none"> ■ Donation splitting: a foreign donor avoiding a disclosure threshold by giving multiple gifts below the disclosure threshold. ■ Conduit corporations: a foreign donor forming or participating in the formation of a body corporate in Australia in order to channel gifts through an allowable donor. ■ Unspecified avoidance scheme: facilitates a foreign donor making a prohibited gift, that is not donation splitting or a conduit corporation.
Debt	Debt is any sum for which a legal obligation to pay exists as at the end of the financial year. It includes loans, mortgages, leases, unpaid invoices and goods and services received but not yet paid for.
Disclosure threshold	Detailed disclosure must be made of receipts totalling more than \$14,300 and debts totalling more than \$14,300 at 30 June 2021. This threshold is indexed annually.
Discretionary benefits	Grants, contracts, payments and other benefits requiring the exercise of discretion by the Commonwealth or State or Territory.
Donation / gift	Any disposition of property made by a person to another person without consideration or with inadequate consideration.
Donor	A person, organisation or other body other than a political party, an associated entity or a candidate in a federal election who is under an obligation to furnish a disclosure return because they made a donation.
Electoral Act	<i>Commonwealth Electoral Act 1918</i>
Electoral expenditure	<p>Expenditure incurred for the dominant purpose of creating or communicating electoral matter.</p> <p>The Factsheet on Electoral Matter and electoral expenditure on the AEC website contains further information.</p>
Electoral matter	Matter communicated or intended to be communicated for the dominant purpose of influencing the way electors vote in a federal election.
Financial controller	<p>A financial controller of a person or entity is:</p> <ul style="list-style-type: none"> ■ the secretary of the company, if the person or entity is a company; ■ the trustee, if the person or entity is the trustee of a trust; ■ in all other cases, the person responsible for maintaining the financial records of the person or entity.

Foreign donation	<p>A donation or gift to a political entity, significant third party or third party from a foreign donor.</p> <p>The Factsheet on Foreign Donations available on the AEC website contains further information.</p>
Foreign donor	<p>A person who does not have a connection with Australia, such as a person who is not an Australian citizen or an entity that does not have significant business presence in Australia.</p> <p>The Factsheet on Foreign Donations available on the AEC website contains further information</p>
Gifts-in-kind	<p>Non-cash donations for example, receipt of an asset or service, discounts other than in the normal course of business and non-commercial or excessive payment for goods or services (including membership). Gifts-in-kind must be disclosed for an amount that reflects the fair value, that is, normally the commercial or sale value of the item or service.</p> <p>Examples of gifts-in-kind:</p> <ul style="list-style-type: none"> ■ the donation of legal advice by a solicitor ■ the donation of the use of premises to conduct campaign activities.
Indexation	<p>The disclosure threshold is indexed to the All Groups Consumer Price Index. A listing of past disclosure thresholds is available on the AEC website.</p>
Internal transactions	<ul style="list-style-type: none"> ■ transactions between a significant third party and its branches ■ transactions between branches of a significant third party ■ transfers between a significant third party's bank accounts, for example: <ul style="list-style-type: none"> – a transfer from the significant third party's bank account to a branch's bank account – a transfer between bank accounts both held by the significant third party – a transfer from a transaction account to a term deposit account.
Penalty Unit	<p>In accordance with subsection 4AA(1A) of the <i>Crimes Act 1914</i> a penalty unit is indexed annually.</p>
Period of disclosure	<p>Annual returns cover a financial year, that is, the period from 1 July to 30 June.</p>

Significant third party	<p>A person or entity that is registered with the AEC as a significant third party.</p> <p>A person or entity is required to register as a significant third party when:</p> <ul style="list-style-type: none"> ▪ electoral expenditure exceeds \$250,000 during that financial year, or any one of the previous three financial years; or ▪ electoral expenditure is at least equal to the disclosure threshold during that financial year and electoral expenditure during the previous financial year was at least one third of the revenue of the person or entity for that year; or ▪ during that financial year the person or entity operates for the dominant purpose of fundraising amounts: <ul style="list-style-type: none"> ○ the aggregate of which is at least equal to the disclosure threshold; and ○ that are for the purpose of incurring electoral expenditure or that are to be gifted to another person or entity for the purpose of incurring electoral expenditure. <p>A significant third party that has branches is treated as a single significant third party.</p>
Public inspection	<p>Disclosure returns are available for inspection by the public at https://transparency.aec.gov.au/. Annual returns are made available from the first working day in February each year.</p>
Related body corporate	<p>Section 50 of the <i>Corporations Act 2001</i> provides that where a body corporate is:</p> <ul style="list-style-type: none"> ▪ a holding company of another body corporate ▪ a subsidiary of another body corporate or ▪ a subsidiary of a holding company of another body corporate ▪ the first-mentioned body and the other body are 'related' to each other. <p>Transactions of related body corporates should be consolidated when determining whether the disclosure threshold has been reached.</p>
Transparency Register	<p>A register established and maintained by the AEC that contains information about registered political parties, associated entities, third parties, significant third parties, candidates and Senate groups.</p>
Volunteer labour	<p>A service provided free of charge to a candidate by any other person where that service is not one for which that person normally receives payment. Volunteer labour provided to a registered political party does not need to be disclosed as a gift by that person or the registered political party.</p> <p>An example of volunteer labour would be a person handing out how-to-vote cards.</p>

Appendix 2 – Penalties relating to the Commonwealth funding and disclosure regulations for significant third parties

In addition to the penalties in the Electoral Act listed below, it is also an offence to provide false or misleading information under section 137.1 of the *Criminal Code Act 1995*. A person contravenes this section if they knowingly give information to the Commonwealth that is false or misleading or omits any matter which would make the information misleading. The penalty is a criminal penalty of imprisonment for 12 months.

Registration requirements

Offence	Section of the Electoral Act	Applies to	Maximum civil penalty	Maximum criminal penalty
Incurring electoral expenditure if the person or entity is not registered as a significant third party in that same financial year	287F	<ul style="list-style-type: none"> ■ Significant third party 	Whichever is higher of: <ul style="list-style-type: none"> ■ 200 penalty units, or ■ three times the amount of electoral expenditure incurred (if there is sufficient evidence for the court to determine the amount, or an estimate of the amount, of electoral expenditure) (s287F(3)) 	Not applicable
Failure to notify the Electoral Commissioner within 90 days if information on the Transparency Register fails to be correct or complete	287P	<ul style="list-style-type: none"> ■ Significant third party ■ Associated entity 	60 penalty units (s287P(2))	Not applicable

Foreign donation restrictions

Offence	Section of the Electoral Act	Applies to	Maximum civil penalty	Maximum criminal penalty
Failure of political entity or significant third party to take acceptable action in regards to a foreign donation	302D(1)	<ul style="list-style-type: none"> ■ Political entity or its agent ■ Significant third party or its financial controller 	<p>Whichever is higher of:</p> <ul style="list-style-type: none"> ■ 200 penalty units, or ■ three times the amount of the value of the gift (if there is sufficient evidence for the court to determine the amount, or an estimate of the amount, of the value of the gift) (s302D(3)) 	200 penalty units (s302D(2))
Failure to take acceptable action in regards to a foreign gift	302F(1)	<ul style="list-style-type: none"> ■ Political entity or its agent ■ Significant third party or its financial controller ■ Third party 	<p>For contravention of s302F(1) by a third party:</p> <ul style="list-style-type: none"> ■ 100 penalty units (s302F(5)) <p>For contravention of s302F(1) by a person or entity other than a third party, whichever is higher of:</p> <ul style="list-style-type: none"> ■ 200 penalty units, or ■ three times the amount of the value of the gift (if there is sufficient evidence for the court to determine the amount, or an estimate of the amount, of the value of the gift) (s302F(5)) <p>For contravention of s302F(2) whichever is higher of:</p> <ul style="list-style-type: none"> ■ 200 penalty units, or ■ three times the amount of the value of the gift (if there is sufficient evidence for the court to determine the amount, or an estimate of the amount, of the value of the gift) (s302F(5)) 	<p>For contravention of s302F(1) by a third party:</p> <ul style="list-style-type: none"> ■ 50 penalty units (s302F(3)) <p>For contravention of s302F(1) by a person or entity other than a third party:</p> <ul style="list-style-type: none"> ■ 100 penalty units (s302F(3)) <p>For contravention of s302F(2):</p> <ul style="list-style-type: none"> ■ 100 penalty units (s302F(3))

Offence	Section of the Electoral Act	Applies to	Maximum civil penalty	Maximum criminal penalty
Knowingly providing a false affirmation or information that a donor is not a foreign donor	302G(1)	<ul style="list-style-type: none"> ■ Political entity or its agent ■ Significant third party or its financial controller ■ Third party ■ Donor 	Whichever is higher of: <ul style="list-style-type: none"> ■ 200 penalty units, or ■ three times the amount of the value of the gift (if there is sufficient evidence for the court to determine the amount, or an estimate of the amount, of the value of the gift) (s302G(4)) 	100 penalty units (s302G(2))
Establishing a scheme to avoid sections 302D, 302E or 302F	302H	<ul style="list-style-type: none"> ■ Political entity ■ Significant third party ■ Third party ■ Donor 	Whichever is higher: <ul style="list-style-type: none"> ■ 200 penalty units, or ■ three times the amount of the value of the gift (if there is sufficient evidence for the court to determine the amount, or an estimate of the amount, of the value of the gift) (s302H(5)) 	200 penalty units (s302H(3))

Annual returns

Offence	Section of the Electoral Act	Applies to	Maximum civil penalty	Maximum criminal penalty
Failure of a political party or significant third party to provide an annual return	314AB	<ul style="list-style-type: none"> ■ Registered political party or its agent ■ Significant third party or its financial controller 	Whichever is higher of: <ul style="list-style-type: none"> ■ 120 penalty units, or ■ three times the value of the amount not disclosed (if there is sufficient evidence for the court to determine the amount, or an estimate of the amount, not disclosed) (s314AB(1)) 	Not applicable

AEC investigations

Offence	Section of the Electoral Act	Applies to	Maximum civil penalty	Maximum criminal penalty
Refusal or failure to comply with a notice relating to a compliance review or investigation	316(5)-(5A)	<ul style="list-style-type: none"> ■ Political entity or its agent ■ Significant third party or its financial controller ■ Associated entity or its financial controller ■ Third party ■ Donor ■ Prescribed person under s17(2A) 	Not applicable	<p>For a refusal to comply with a notice under s316(2A), (3) or (3A):</p> <ul style="list-style-type: none"> ■ 10 penalty units (s316(5)) <p>For a failure to comply with a notice under s316(2A), (3) or (3A):</p> <ul style="list-style-type: none"> ■ 10 penalty units (s316(5A))
Providing false or misleading information during a compliance review or investigation	316(6)	<ul style="list-style-type: none"> ■ Political entity or its agent ■ Significant third party or its financial controller ■ Associated entity or its financial controller ■ Third party ■ Donor ■ Prescribed person under s17(2A) 	Not applicable	Imprisonment for 6 months, or 10 penalty units, or both (s316(6))

Keeping records

Offence	Section of the Electoral Act	Applies to	Maximum civil penalty	Maximum criminal penalty
Failure to keep records	317(2)-(4)	<ul style="list-style-type: none"> ■ Political entity or its agent ■ Significant third party or its financial controller ■ Associated entity or its financial controller ■ Third party ■ Donor ■ Prescribed person under s17(2A) 	200 penalty units (s317(1))	Not applicable