



# Financial Disclosure Guide for Associated Entities

*2017–18 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 candidates, 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, 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 AEC website.

## The Guide

This version of the Financial Disclosure Guide for Associated Entities (Guide for associated entities) applies to returns for the 2017–18 financial year.

The AEC releases a series of publications designed to assist political parties, candidates, donors and other persons that may have financial disclosure obligations under the Electoral Act. These publications are:

- Financial Disclosure Guide for Political Parties
- Financial Disclosure Guide for Donors to Political Parties
- Financial Disclosure Guide for Third Parties
- Financial Disclosure Guide for Election Donors
- Funding and Disclosure Guide for Candidates and Senate Groups

The Guide for associated entities is designed to assist associated entities to understand their financial disclosure obligations under Part XX of the Electoral Act.

The Guide for associated entities provides information derived from the Electoral Act as well as from the experiences of the AEC in the administration of the disclosure scheme. While it is a user-friendly guide to Commonwealth funding and disclosure requirements, it does not address the whole of the Electoral Act. The Guide for associated entities should not be used as a substitute for specific legal advice on detailed disclosure or compliance issues.




In addition to lodging an Associated Entity Disclosure Return, some associated entities may also have an obligation to lodge a Third Party Return of Political Expenditure. Accordingly, it is recommended associated entities also familiarise themselves with the disclosure obligations of third parties.

Users are urged to read and familiarise themselves with the relevant parts of the Electoral Act and to seek their own independent advice where necessary.

Additional information and advice on the disclosure scheme is available from the AEC. The AEC's contact details are listed at the front of this guide.

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

The Guide for associated entities 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.

## Annual disclosure

### Responsibility for lodging returns

Responsibility for lodging returns lies with the financial controller of the associated entity.

The financial controller is defined by the Electoral Act as:

- the company secretary if the entity is a company or
- the trustee if the entity is a trust or
- in other cases, the person responsible for maintaining the financial records.

### Financial disclosure obligations under the Electoral Act

Section 314AEA of the Electoral Act governs the lodgement of annual disclosures by associated entities.

The financial controller of an associated entity must within 16 weeks after the end of each financial year furnish to the AEC a return which can be lodged electronically through the [eReturns portal](#) available on the AEC website.

The Associated Entity Disclosure Return (the return) requires disclosure of the following information covering the financial year from 1 July to 30 June:

- total receipts
- details of amounts received that are more than the disclosure threshold
- total payments
- total debts as at 30 June
- details of debts, outstanding as at 30 June that total more than the disclosure threshold
- details of capital contributions (deposits) from which payments to a political party were generated.



The disclosure threshold for the 2017–18 financial year is for amounts of more than \$13,500. This figure is indexed annually.



A 'nil' return must be lodged or a 'nil' entry disclosed where an associated entity has no transactions or no transactions applicable to a particular part of the return.

An associated entity that incurs political expenditure (as defined in section 314AEB of the Electoral Act) in excess of \$13,500 must also lodge a Third Party Return of Political Expenditure.

Political parties, donors to political parties and third parties which incur political expenditure also have annual disclosure obligations. Election returns are required from all House of Representative and Senate candidates, jointly endorsed and unendorsed Senate groups and people or organisations that make donations to candidates.



Political parties and their associated entities may be subject to a compliance review by the AEC to assess the completeness and accuracy of lodged disclosure returns.



Please note that a number of state and territory jurisdictions have their own disclosure schemes, which are separate to the Commonwealth disclosure scheme. Links to the websites of State electoral offices are available via the [AEC website](#).

### **eReturns: portal to complete and lodge your return**

Associated Entities can prepare and lodge their returns online via the eReturns portal. The eReturns portal can be accessed from <https://ereturns.aec.gov.au>. The easiest way to lodge your return accurately and on time is to use the eReturns portal; it is quick, secure and allows importing/exporting of files which eliminates transcription errors. To assist with completing a return online, the eReturns Associated Entity Quick Reference Guide, a step-by-step guide is available on the [AEC website](#). See Appendix 4 for more information.




## Reporting period

The return covers the financial year 1 July 2017 to 30 June 2018. Where an associated entity was an associated entity for only part of the financial year, it is only required to disclose transactions that it made during the period it was an associated entity.

## Due date for lodging returns

The AEC will advise financial controllers of associated entities of their obligation to lodge a return following the conclusion of the financial year. Financial controllers should ensure their contact details with the AEC are current.

	<p>Completed returns must be lodged by 20 October each year. Where 20 October falls on a Saturday, Sunday or public holiday, the return must be lodged by the next business day.</p>
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The AEC has no legislative discretion to extend this deadline.

Returns are published on the AEC website on the first working day of February. The names of all associated entities that fail to submit a return by the due date will be published at this time.

## Penalties

The Electoral Act imposes penalties for failure to properly complete and lodge a return. The AEC provides support, including this guide, to assist associated entities 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 3 for information relating to offences under the Electoral Act.

## Information to be disclosed in the associated entity disclosure return

### Part 1a: Other business names

An associated entity should list any other names under which it conducts business.

### Part 1b: Related bodies corporate

Section 287(6) of the Electoral Act provides that a body corporate and any other body corporate that is related to the first-mentioned body corporate shall be deemed to be the same person. It further states that whether a body corporate is related to another body corporate shall be determined in the same manner as the question whether a corporation is related to another corporation under 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.

### Part 1c: Are you a union?

Where an associated entity is a union, the associated entity 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 2017 to 30 June 2018



Section 314AEA(1)(a) of the Electoral Act requires that the **total amount received** by, or on behalf of, the associated entity during the financial year must be disclosed.

To complete this part of the return, the associated entity must disclose **all transactions** received from external parties.

**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

- capital contributions.

When determining what transactions need to be included in Part 2a of the return, the following principles should be observed:

- All transactions of the associated entity must be disclosed, including those that are not to the benefit of a registered political party.
- Transactions such as transfers between the associated entity and a political party must be included.
- Transactions by related body corporates of the associated entity (as determined under the *Corporations Act 2001*) must be included.
  - In general, related body corporates are entities at least 50 per cent owned or controlled by another entity, or entities over which that other entity is able to exert control.
- When an associated entity is a trust, trustees have the reporting obligation.
  - Where funds or assets are received from a trustee, it should be disclosed as ‘ABC as trustee for XYZ Trust’, not just one or the other.
  - Trustees should not list transactions involving their own trusts.
  - If an investigation of a trust is undertaken, a copy of the trust deed will be requested as a matter of course in order to allow the AEC to readily determine the relevant features of the trust.
- Where the associated entity is lodging on behalf of related entities, transactions of related entities should be consolidated before determining whether the disclosure threshold has been reached, and one return lodged on behalf of all entities.

**Examples of receipts** that are required to be included in the calculation of ‘total receipts’ at Part 2a of the return could be:

- membership fees
- a gift of \$15,000 cash
- a donation of printing of stationery that if purchased commercially would have been priced at \$350
- interest on term deposit of \$2,755
- loan of \$7,000 cash received from a financial institution
- three separate gifts of \$8,000 each are received from a person on different days
- rent received of \$15,000 relating to commercial premises owned by the associated entity

- a cheque for \$400 relating to the sale of office furniture from the office of the associated entity
- 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 capital contribution of \$10,000.

### **Disclose gross figures, not net figures**

Section 314AEA of the Electoral Act requires the disclosure of amounts received, not of income or profit. The return, therefore, must be completed on a gross basis inclusive of goods and services tax (GST) and merchant fees. Transactions are to be reported separately, not netted off against each other.

Examples could include:

- a fundraiser taking \$14,000 with costs of \$12,750 and a net profit of \$1,250 is disclosed as:
  - a receipt of \$14,000
  - and a payment of \$12,750.
- 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 same associated entity.
- a deposit of \$200 into a third party 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 third party account have been drawn and banked into the associated entity'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.

### **Which transactions are not to be reported in the return?**

Internal transactions **are not** to be reported as they result in double counting of amounts received and so overstate the total receipts of the associated entity.

Examples of **internal transactions**:

- transfers between an associated entity's bank accounts, for example:
  - a transfer between bank accounts both held by the associated entity
  - 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 or services provided in a private capacity by individuals who are party members
- interviews and news items published in a newspaper or broadcast in the electronic media.

Material presented on an 'advertorial' basis (that is a combination of paid advertising and interviews) should be disclosed consistent with the promotional intention of the activity.

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

This is the amount calculated to be the **value of gifts-in-kind** which should have been included in the 'total receipts' amount disclosed at 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
- excessive payments received for goods, services or other benefits provided (including excessive membership fees)
- wages or salaries (including on-costs) incurred by an employer whose employee works for the associated entity during normal working hours while continuing to

receive salary or wages from the employer unless the employee takes paid leave to work for the associated entity

- 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
- 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 party.

### Part 3: Amounts of more than \$13,500 received in financial year 1 July 2017 to 30 June 2018



Section 314AEA(5) and Section 314AC(1) of the Electoral Act requires that if the **sum of all amounts** received by, or on behalf of, the associated entity **from a person or organisation** during a financial year is more than the **disclosure threshold** details of that sum must be disclosed.



Section 314AEA(5) and Section 314AC(2) of the Electoral Act provides that when calculating the sum, individual amounts received from the same source, that are **less** than the disclosure threshold, need **not** be counted.



As a matter of best practice the AEC recommends that multiple receipts of less than the disclosure threshold received on the same day from the same source should be considered to be a single receipt. Where the sum of those multiple receipts is more than the disclosure threshold, details of that sum should be disclosed.

The details to be disclosed are:

- 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
- whether the receipt is a 'gift/donation' or 'other receipt'.

The following requirements must be observed when disclosing the details of sums received:

- In the case of an amount received from an unincorporated association (other than a registered industrial organisation), the name of the association, along with the name and address of **all** members of the executive committee of the association must be disclosed.

- In the case of an amount received from a trust or foundation, the name and description of the trust or foundation, along with **all** names and addresses of the trustees must be disclosed.

Section 314AC(3)(ba) of the Electoral Act requires that where the sum received was the result of a loan the following disclosure must be made:

- For loans from non-financial institutions the requirements of section 306A(3) apply. For details regarding section 306A(3) refer to the 'Record of loan terms and conditions' section in this guide.
- For loans received from a financial institution, the sum of **all** amounts and the name of the financial institution.
- For loans received from a person, the sum of **all** amounts and the name and address of the person.
- In any other case, the name and address of the person or organisation from whom the money or gift-in-kind was received must be disclosed.

It is important to note that when consolidating amounts received from a single source, section 287(6) of the Electoral Act deems related bodies corporate to be the same entity.

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

- 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 associated entity rent free for a year. 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 on different days. 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. However, both amounts should be disclosed in Part 2a 'total receipts'.

An associated entity should provide additional clarifying information in situations where disclosure does not provide a clear picture of the underlying transactions. For example,



associated entities should separately identify receipts such as membership fees, subscriptions or loan funds or where the receipt of a gift was subsequently returned.

## Part 4: Total payments for financial year 1 July 2017 to 30 June 2018



Section 314AEA(1)(b) of the Electoral Act requires that the **total amount paid** by, or on behalf of, the associated entity during the financial year must be disclosed.

To complete this part of the return, the associated entity must disclose **all transactions** that result in amounts, **both above and below the disclosure threshold**, being paid to external entities.

**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.

**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
- repayment of capital totalling \$10,000
- merchant service fees totalling \$3,400.

## Part 5: Total debts as at 30 June 2018



Section 314AEA(1)(c) of the Electoral Act requires that the **total outstanding amount**, as at the end of the financial year, of **all debts** incurred by, or on behalf of, the associated entity must be disclosed.

To complete this part of the return, the associated entity must disclose **all debts** that have been incurred and are outstanding as at 30 June 2018.

**Debts** include, but are not limited to, the following:

- loans
- overdrafts
- unpaid accounts.

Examples of debts outstanding as at 30 June 2018 that are required to be included in the calculation of 'total debts' at Part 5 of the return could be:

- loan from a financial institution with outstanding balance of \$36,000
- loan from a non-financial institution obtained in a previous financial year with outstanding balance of \$8,000
- invoices received, but not paid, from a supplier totalling \$4,500.
- superannuation payable. Note that employee provisions, for example provision for annual and recreation leave, are not considered a debt for the purposes of disclosure
- GST and PAYG debt to the ATO

## Part 6: Debts of more than \$13,500 as at 30 June 2018



Section 314AEA(5) and Section 314AE(1) of the Electoral Act requires that if the **sum of all outstanding debts** incurred by, or on behalf of, the associated entity **to a person or organisation** during a financial year is more than the **disclosure threshold** details of that sum must be disclosed.

All **outstanding debts** owed to an individual or organisation, including amounts that are **individually less** than the disclosure threshold, must be considered in calculating whether the total debt to that person or organisation exceeds the disclosure threshold.

The details 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.

In the case of a debt to an unincorporated association (other than a registered industrial organisation), the name of the association, along with the name and address of **each** member of the executive committee of the association must be disclosed

In the case of a debt 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.

In any other case, the name and address of the person or organisation that the debt is owed must be disclosed.

Examples of debts outstanding that are required to be disclosed at Part 6 of the return could be:

- a debt of \$14,000 owed to a person, comprising two loans of \$7,000
- a debt of \$15,000 owed to an organisation which was obtained in a previous financial year
- bank overdraft account balance of \$24,300
- amount owing on credit card totalling \$13,450
- 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 \$13,500.

## Part 7: Capital Contributions



Section 314AEA(3) of the Electoral Act requires that if any **amounts paid** by, or on behalf of, the associated entity during the financial year was paid to or for the benefit of one or more political parties and was paid out of funds generated from capital of the associated entity, details of **each person** who **contributed to that capital** must be disclosed.

Section 314AEA(3)(c) and (d) of the Electoral Act requires the name and address of the person and the total amount of the person's contribution to that capital, up to the end of the financial year to be disclosed.

Section 314AEA(4) provides that where contributions have been disclosed in a previous return sections 314AEA(3)(c) and (d) do not apply.

Associated entities may accumulate capital through various means, often through the receipt of deposits of funds.

Where the capital of an associated entity:

- is used to generate earnings (for instance, through investments); and
- any part of those earnings are paid to, or for the benefit of, a political party, including by way of appropriations

the associated entity must disclose deposits of capital received since 16 June 1995, or since the last disclosure of capital in a disclosure return (whichever is later).

## Important Disclosure Information

### 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}.
- In the case of an employer passing employee contributions or levies to a political party or associated entity as the agent for the employee, disclosure of the employee, not the employer, must be made.

These examples are provided as an indicative guide only. The concept of principal and agent is different to situations where someone makes donations to a political 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.

## Record of loan terms and conditions


Section 306A of the Electoral Act provides that it is unlawful for a political party or a person acting on behalf of a political party to receive a loan of more than the disclosure threshold from a person or entity other than a financial institution **unless** a record of the loan is kept.

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 at [www.apra.gov.au](http://www.apra.gov.au).


Section 306A(3) requires that where a political party or a person acting on behalf of a political party receives a loan from a person or entity that is not a financial institution, that is more than \$13,500, the following details **must** be kept:

- Terms and conditions of the loan, for example, amount of the loan, interest payable on the loan, repayment schedule, any special conditions attached to the loan.
- For a loan from a registered industrial organisation other than a financial institution:
  - the name of the organisation
  - the name and address of **each** member of the executive committee of the organisation

- For a loan from an unincorporated association:
  - the name of the association or organisation
  - the name and address of **each** member of the executive committee of the association or organisation
- For a loan from a trust fund or out of funds of a foundation:
  - the name and description of the trust or foundation
  - the names and addresses of **all** trustees
- For a loan from a person or other organisation:
  - the name and address of the person or organisation.

	<p>Section 306A(6) of the Electoral Act provides that where a person receives a loan and the loan is not documented in accordance with the requirements of section 306A(3), the amount of the loan <b>is payable</b> to the Commonwealth.</p>
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## Unlawful gifts

	<p>Section 306(1) of the Electoral Act provides that certain gifts made to or for the benefit of a political party or a person (such as an associated entity) acting on behalf of a political party are unlawful unless the name and address of the person making the gift are known to the person receiving the gift. Such gifts are sometimes referred to as 'anonymous donations'.</p>
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Examples of where a gift may constitute an unlawful gift under the Electoral Act could be:

- A gift received by electronic transfer without the name and address details of the donor being provided or obtained.
- A gift received from a donor, where the name and address is incomplete, for example, Mr Smith of Sydney. The name and address needs to be sufficient in detail to allow the person to be contacted.
- A gift received from a trust or foundation and the associated entity does not know:
  - the title or description of the trust fund or name of the foundation, and
  - the names and addresses of **all** trustees.

- A gift received from an unincorporated association (except for registered industrial organisations) and the associated entity does not know:
  - the name of the association, and
  - the names and addresses of **all** members of the executive committee of the association.

	<p>Unlawful gifts (anonymous donations) in excess of the disclosure threshold <b>are payable</b> to the Commonwealth.</p>
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### Third Party Return of Political Expenditure

Associated entities **may also** need to complete and lodge a Third Party Return of Political Expenditure where political expenditure in excess of the disclosure threshold has been incurred. The Third Party Return of Political Expenditure is separate to the Associated Entity Disclosure Return and is due on 17 November each year. Refer to the Financial Disclosure Guide for Third Parties for further information.

## Incomplete returns

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

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

- complete the Associated Entity Disclosure Return as fully as possible
- complete the Notice of Incomplete Return
- lodge the Notice of Incomplete Return and the incomplete Associated Entity Disclosure Return with the AEC at the same time.

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; **and**
- the details of all attempts made to obtain the missing information.

Part 3 – requires:

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

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 Electoral Act makes it clear that resorting to the lodgement of a Notice of Incomplete Return under section 318(1) is a last option. Section 318 demands diligence from persons completing disclosure returns. Complete and accurate disclosure is a legislative requirement and meeting that responsibility must be treated as an essential activity and accorded the necessary priority.

It is the responsibility of the person seeking to rely upon a Notice of Incomplete Return, to prove that they have been 'unable' to obtain the required information. The AEC needs to be satisfied that all reasonable attempts have been made to obtain the missing information before it accepts a Notice of Incomplete Return.

The AEC may assess whether the lodgement of a Notice of Incomplete Return was used by an associated entity in preference to discharging their responsibilities under the Electoral Act. In any such case the financial controller will be considered to not be able to claim protection under section 318 against prosecution for the offence of having lodged an incomplete return.



## 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. Amendments are processed through eReturns.

Amendments to total receipts, total payments and/or total debts require that the previously submitted amount 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 when completing a Request for Amendment – Associated Entity Disclosure Return, the record/s being changed should be clearly identified.

## 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 can be viewed:

- at <http://periodicdisclosures.aec.gov.au/>
- through public access terminals in AEC State Offices located in each state and territory capital city
- through public access terminals at the AEC National Office in Canberra.

### Record keeping

Associated 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 could be:

- receipts
- tax invoices
- loan documents
- wages records
- bank deposit books and cheque butts
- bank account statements
- credit card statements.

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
- total payment made or amount received
- amount of GST
- merchant fees.

For the purposes of disclosure as described in Part XX of the Electoral Act, relevant records, whether formal or informal, should be retained for a minimum of three years. Receipt books, bank records, receipt registers, source documents and working papers supporting the completion of the return should be kept for this period.

## Compliance Reviews

The AEC conducts compliance reviews of annual returns lodged by political parties and their associated entities to verify the accuracy and completeness of disclosures.

Compliance reviews are conducted under the legal authority of section 316(2A). The reviews are undertaken 'off-site', however officers of the AEC may still attend the entity's premises to inspect original documentation and to hold an exit interview to discuss the review.

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

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

## Offences

Sections 315 and 316 of the Electoral Act contain penalty provisions for offences against the funding and disclosure provisions. Refer to Appendix 3 for details of penalties.

The AEC aims to assist the financial controller of the associated entity to fulfil their obligations under the Electoral Act. Where there has been a breach of the Electoral Act, the AEC may refer matters to the Commonwealth Director of Public Prosecutions.

## Appendix 1

### Glossary of terms

<b>AEC</b>	Australian Electoral Commission
<b>Associated entity</b>	<p>An entity which:</p> <ul style="list-style-type: none"> <li>■ is controlled by one or more registered political parties; or</li> <li>■ operates wholly, or to a significant extent, for the benefit of one or more registered political parties; or</li> <li>■ is a financial member of a registered political party; or</li> <li>■ on whose behalf another person is a financial member of a registered political party; or</li> <li>■ has voting rights in a registered political party; or</li> <li>■ on whose behalf another person has voting rights in a registered political party.</li> </ul> <p>It can include companies holding assets for a political party, investment or trust funds, fundraising organisations, groups and clubs, and trade unions or corporate members of political parties.</p>
<b>Campaign committees</b>	A campaign committee, in relation to a candidate or group, means a body of persons appointed or engaged to form a committee to assist the campaign of the candidate or group in an election.
<b>Debt</b>	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.
<b>Disclosure threshold</b>	Detailed disclosure must be made of receipts totalling more than \$13,500 and debts totalling more than \$13,500 at 30 June 2018. This threshold is indexed annually.
<b>Donor</b>	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.

<b>Gift or donation</b>	Any disposition of property made by a person to another person, otherwise than by will, and without consideration or with inadequate consideration.
<b>Gifts-in-kind</b>	<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"> <li>■ the donation of legal advice by a solicitor</li> <li>■ the donation of the use of premises to conduct campaign activities.</li> </ul>
<b>Indexation</b>	The disclosure threshold is indexed to the All Groups Consumer Price Index. A listing of past <a href="#">disclosure thresholds</a> is available on the AEC website.
<b>Joint Senate group</b>	A Senate group endorsed by more than one political party.
<b>Party unit</b>	A party unit, in relation to a candidate or group, means a body of persons appointed or engaged to form a committee to assist the campaign of the candidate or group in an election. Sometimes known as campaign committees.
<b>Period of disclosure</b>	Annual returns cover a financial year that is the period from 1 July to 30 June.
<b>Public inspection</b>	Disclosure returns are available for inspection by the public at <a href="http://www.aec.gov.au">www.aec.gov.au</a> , through public access terminals in AEC State Offices located in each state and territory capital city and at the AEC National Office in Canberra. Annual returns are made available from the first working day in February each year.
<b>Registered political party</b>	For the purpose of this guide, this term means a political party registered with the AEC, or any state or territory branch of a federally registered political party. Registration with a state or territory electoral authority does not confer federal registration.

<b>Related body corporate</b>	<p>Section 50 of the <i>Corporations Act 2001</i> provides that where a body corporate is:</p> <ul style="list-style-type: none"> <li>■ a holding company of another body corporate</li> <li>■ a subsidiary of another body corporate or</li> <li>■ a subsidiary of a holding company of another body corporate</li> </ul> <p>the first-mentioned body and the other body are 'related' to each other.</p> <p>Transactions of related body corporates should be consolidated when determining whether the disclosure threshold has been reached.</p>
<b>Senate group</b>	<p>Two or more candidates for election to the Senate who made a written request to the AEC with their nominations that their names be grouped on the ballot-paper, or grouped in a specified order.</p>
<b>State branch</b>	<p>A branch or division of a federally registered political party organised on the basis of a state or territory. State branches are treated as separate political parties for funding and disclosure purposes.</p>
<b>The Electoral Act</b>	<p>The <i>Commonwealth Electoral Act 1918</i>.</p>
<b>Third party</b>	<p>A term used to describe a person or organisation who incurs political expenditure, other than political parties, candidates, Senate groups and donors.</p>
<b>Volunteer labour</b>	<p>A service provided free of charge to a party by an office holder of the party or a party member, or 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>Examples of volunteer labour could include:</p> <ul style="list-style-type: none"> <li>■ the donation of legal advice by a solicitor who is a party member of a party with which the entity is associated</li> <li>■ a person handing out how-to-vote cards.</li> </ul>

## Appendix 2

### Disclosure Legislative Reference Guide

Part XX of the Electoral Act deals with election funding and financial disclosure. It contains seven divisions:

- Division 1 provides definitions relevant to the part. Note that section 4 of the Electoral Act contains definitions relevant to the Electoral Act as a whole.
- Division 2 deals with the appointment and administration of party agents and candidate agents.
- Division 3 deals with election funding.
- Divisions 4 and 5 deal with the disclosure of election donations and electoral expenditure by candidates and Senate groups and disclosures by donors to political parties and candidates.
- Division 5A deals with the annual returns of registered political parties, associated entities and third parties who incur electoral expenditure and receive any gifts/donations for political expenditure.
- Division 6 deals with offences, compliance reviews, incomplete and amended returns, public inspection and indexation.

The following sections underpin the financial returns disclosure scheme:

#### **Candidate (including Senate group member) election period returns**

- election donations—s 304(2)
- electoral expenditure—s 308 and s 309(2)
- nil returns required—s 307(1) and s 313(1)

#### **Senate group election period returns**

- election donations—s 304(3)
- electoral expenditure—s 308 and s 309(3)
- returns not required if group endorsed by a single party—s 304(3A) and s 309(1A)
- nil returns required—s 307(2) and s 313(2)

#### **Donor election period returns**

- donations to candidates—s 305A(1)
- donations received—s 305A(2)

**Donor annual returns**

- donations to political parties—s 305B
- donations received—s 305B(3A)

**Third party annual returns**

- political expenditure—s 314AEB
- gifts received for political expenditure—s 314AEC

**Associated entity annual returns**

- receipts—s 314AEA(1)(a)
- payments—s 314AEA(1)(b)
- debts—s 314AEA(1)(c)
- capital contributions—s 314AEA(3)

**Political party annual returns**

- receipts—s 314AB and s 314AC
- payments—s 314AB
- loans—s 314AB and s 314AE

The following sections are also directly relevant to the Commonwealth funding and disclosure scheme:

- Unlawful gifts—s 306
- Unlawful loans—s 306A
- Offences—s 315
- Compliance investigations—s 316
- Incomplete information—s 318
- Amendment of returns—s 319A
- Public inspection of returns—s 320



## Appendix 3

### Penalties relating to the Commonwealth disclosure scheme

Offence	Section of the Electoral Act	Maximum penalty
Failure to lodge a return by the due date	315(1)	Up to 50 penalty units for agent of political party  Up to 10 penalty units in any other case
Lodging an incomplete return	315(2)(a)	Up to 10 penalty units
Failure to retain records for three years	315(2)(b) and 317	Up to 10 penalty units
Including false and misleading information in a return	315(3) and (4)	Up to 100 penalty units for agent of political party  Up to 50 penalty units any other person
Providing false or misleading information for inclusion in a return	315(7)	10 penalty units
A person convicted of having failed to lodge a return, who continues not to lodge the return	315(8)	Up to 1 penalty unit per day for each day the return is outstanding. The penalty accrues from the day following the day of the initial conviction.
Failure or refusal to comply with a notice relating to a compliance investigation	316(5) and (5A)	10 penalty units
Providing false or misleading information during a compliance investigation	316(6)	10 penalty units or imprisonment for 6 months, or both
Discriminating against a donor	327(2)	50 penalty units or imprisonment for 2 years or both for an individual  200 penalty units for a body corporate

## Appendix 4

### eReturns

The [eReturns portal](#) allows political parties, associated entities, donors and third parties to fulfil their obligations under Part XX of the Electoral Act. By preparing and lodging disclosure returns electronically the need to re-key data is eliminated and it ensures that information is accurately reported on the AEC website when returns are made publically available.

To use the eReturns portal you need an account with a unique username and password. New party agents of political parties and the financial controllers of associated entities will have a username and password sent to them with their obligation letter. Obligation letters to political parties and associated entities are sent after 30 June of that financial year.

For more information about lodging a return online using eReturns please refer to the [eReturns Quick Reference Guides](#), available on the AEC website.