

Financial Disclosure Guide for Members of the House of Representatives and Senators

2021-22 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 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 political parties, associated entities, significant third parties, Members of the House of Representatives (MPs), Senators, third parties, candidates, Senate groups and donors to lodge financial disclosure returns with the Australian Electoral Commission (AEC). The disclosure returns are published on the [Transparency Register](#).

The Guide

This version of the Financial Disclosure Guide for Members of the House of Representatives and Senators (the guide) applies to returns for the 2021-22 financial year. While the guide is intended to assist MPs and Senators 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. Financial disclosure returns are available for viewing on the [Transparency Register](#) after the public release date.

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.

Annual disclosure

Responsibility for lodging the return

The **MP or Senator** is responsible for lodging the Member of the House of Representatives or Senator disclosure return (the return). An MP or Senator is taken to have provided a return if the MP or Senator causes another person to provide the return on their behalf.



Where an MP or Senator did not receive any gifts during the financial year that were made for federal purposes, a return **does not** need to be provided.



[Section 314AED](#) of the Electoral Act provides for the lodgement of an annual return.

[Section 314AED\(6\)](#) of the Electoral Act provides for the lodgement on behalf of an MP or Senator .

Reporting period

The return covers the **financial year 1 July 2021 to 30 June 2022**. If a person becomes or ceases to be an MP or Senator during the financial year, the annual return must be provided in relation to the whole financial year.

Disclosure threshold



The disclosure threshold for the 2021-22 financial year is for amounts of more than **\$14,500**. This figure is indexed annually.

Due date for lodging returns

MPs and Senators that are required to lodge a return must do so by **17 November 2022**.



Completed returns must reach the AEC no later than 20 weeks after the end of the financial year.

For the 2021-22 financial year, the due date is **17 November 2022**.

The AEC has no legislative discretion to extend this deadline.

Lodging your return

MPs and Senators 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 Members of the House of Representatives and Senators Quick Reference Guide](#), a step-by-step guide is available on the AEC website. See [Appendix 2](#) for more information.

Publication of returns

Returns are published on the [Transparency Register](#) from the first working day of February. Returns for the 2021-22 financial year will be published on **1 February 2023**.

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 MPs and Senators 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.

To review a list of civil and criminal penalties that may apply to MPs and Senators under the Electoral Act see [Penalties relating to funding and disclosure regulations](#) on the AEC website.

For further information on compliance and enforcement see [Compliance and Enforcement](#) on the AEC website.

Important information

Definition of federal purpose

A federal purpose means the purpose of incurring electoral expenditure, or creating or communicating electoral matter.



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

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 a federal election. Further information can be found in the [Factsheet on Electoral Matter and Electoral Expenditure](#) 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.

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 1](#) for examples).



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

Foreign donations

MPs and Senators 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 an MP and Senator 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 a significant business presence in Australia.

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



Section [287AA](#) of the Electoral Act provides the meaning of a foreign donor.

Sections [302D](#) and [302F](#) of the Electoral Act restrict MPs and Senators from receiving gifts from foreign donors.

Anti-avoidance provisions

The Electoral Act prohibits schemes to avoid foreign donations restrictions. The anti-avoidance provisions prohibit schemes for channelling foreign donations via a relevant person or entity to:

- members of the House of Representatives
- Senators
- political entities
- significant third parties
- associated entities; or
- third parties.

It is an offence under section 302H of the Electoral Act to establish arrangements to avoid 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; and
- the scheme involved donation splitting, conduit corporations or any other unspecified avoidance scheme; and
- the scheme avoids the application of a foreign donation restriction.

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



Section [302H](#) of the Electoral Act prohibits schemes to avoid foreign donations restrictions.

The return

An MP or Senator must disclose the following information in the return:

- total donations received for a federal purpose — see [Part 1](#)
- total number of donors — see [Part 2](#)
- details of donations above the disclosure threshold used for federal purposes — see [Part 3](#)



Section [314AED](#) of the Electoral Act governs the lodgement of annual returns by MPs and Senators.

Nil donations received

Where an MP or Senator did not receive any gifts during the financial year that were made for federal purposes, **a return does not need to be lodged.**



Section [314AED \(Note 2\)](#) of the Electoral Act provides that a nil return does not need to be lodged.

Donations made in a private capacity

Where a donation is made in a private capacity to an MP or Senator for his or her **personal use**, and the donation is not used for the purpose of incurring electoral expenditure, or creating or communicating electoral matter, the donation is **not required** to be disclosed in the return.

Donations made as a candidate or a political party

Where a donation is made and is included in a candidate return or an annual return by a registered political party or significant third party, the donations are **not required** to be disclosed in the return.



Section [314AED\(4\)](#) of the Electoral Act does not require the disclosure of the donations included in a return under section 304 or 314AB.

Part 1: Total donations received for financial year 1 July 2021 to 30 June 2022

Part 1 of the return requires disclosure of the total of all amounts (cash and gifts-in-kind) received by an MP or Senator that were made for federal purposes.



Section [314AED\(2\)\(a\)](#) of the Electoral Act provides for the disclosure of **total donations received** by the MP or Senator during the financial year.

Part 2: Total number of donors

Part 2 of the return requires disclosure of the **total number of donors** who made the donations included in **Part 1: Total of donations received**.



Section [314AED\(2\)\(b\)](#) of the Electoral Act provides for the disclosure of the **total number of donors**.

Part 3: Details of donations received

Part 3 of the return requires disclosure of the **details** of donations greater than the disclosure threshold (\$14,500 in 2021-22) received for federal purposes during the 2021-22 financial year.

The relevant details to be disclosed are:

- full name and address details of the person or organisation from whom the donation was received
- the date each donation was received
- the value or amount of each donation.

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.

Incomplete returns

Where an MP or Senator is unable to obtain all the information required to fully complete a return, a Notice of Incomplete Return must be completed and lodged with MP or Senator Disclosure Return.

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

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

Note: lodgement of a Notice of Incomplete Return does not relieve the MP or Senator 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 MP or Senator to avoid their responsibilities under the Electoral Act.

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
- reasons why it is believed this person/s possesses the required information.



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

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 to the return require previously submitted amounts to be provided together with the amended amounts. Amendments are processed through eReturns.



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

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. For 2021-22 annual returns, that date is 1 February 2023.

Returns are available for inspection on the [Transparency Register](#).

Record keeping

MPs and Senators like all other entities and organisations 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.

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.



Section [317](#) of the Electoral Act provides for the retention of records.

Compliance reviews

The AEC conducts an annual compliance program which can review annual returns lodged by MPs and Senators to verify the accuracy and completeness of disclosures.

A written report is issued detailing any findings. This may include advice to amend the return.

For further information on compliance and enforcement see [Compliance and Enforcement](#) on the AEC website.



Section [316\(2A\)](#) of the Electoral Act provides for the conduct of compliance reviews.

Appendix 1 – Glossary of terms

AEC	Australian Electoral Commission
Anti-avoidance scheme	Can include: <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.
Disclosure period	Annual returns cover a financial year, that is, the period from 1 July to 30 June.
Disclosure threshold	Detailed disclosure must be made of receipts totalling more than \$14,500. This threshold is indexed annually.
Donor	A person, organisation or other body other than a political party, an associated entity or a candidate in an electoral event 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	Expenditure incurred for the dominant purpose of creating or communicating electoral matter. The Factsheet on Electoral Matter and Electoral Expenditure on the AEC website contains further information.
Electoral matter	Matter communicated or intended to be communicated for the dominant purpose of influencing the way electors vote in a federal election.
Federal purpose	The purpose of incurring electoral expenditure, or creating or communicating electoral matter.
Foreign donation	A donation or gift to a political entity, significant third party, associated entity, third party, member of the House of Representative or Senator from a foreign donor.

	The Factsheet on Foreign Donations available on the AEC website contains further information.
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>
Gift-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 could include:</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	The disclosure threshold is indexed to the All Groups Consumer Price Index. The disclosure threshold is available on the AEC website.
Penalty Unit	In accordance with subsection 4AA(1A) of the <i>Crimes Act 1914</i> a penalty unit is indexed annually.
Public inspection	Disclosure returns are available for inspection on the Transparency Register . Annual returns are made available from the first working day in February each year.
Registered political party	A political party registered with the AEC (including registered state and territory branches). Registration with a state or territory electoral authority does not confer federal registration.
Transparency Register	A register established and maintained by the AEC that contains information about registered political parties, associated entities, significant third parties, third parties, members of the House of Representatives, Senators, candidates, Senate groups and donors.

Appendix 2 – eReturns

The [eReturns portal](#) allows MPs and Senators 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 Transparency Register.

To use the eReturns portal you need an account with a unique username and password. MPs and Senators will have a username and password sent to them with their obligation letter. Obligation letters are sent during the relevant financial year.

Donors will receive their username and password with their obligation letter. Donors can register online before they receive an obligation letter.

For more information about lodging a return online using eReturns please refer to the [eReturns Members of the House of Representatives and Senators Quick Reference Guide](#), available on the AEC website.