



Technical Accounting Alert

TA 2018-04

New financial disclosure rules for third parties incurring political expenditure

Introduction

The purpose of this Alert is to inform individuals and entities engaging in public policy advocacy regarding reporting requirements under the [Commonwealth Electoral Act 1918 \(Cth\)](#) (hereafter, the *Electoral Act*). Non-political entities engaging in political expenditure of more than \$13,500 in a financial year must lodge a *Third Party Return for Third Parties Incurring Political Expenditure* (Third Party Return) to the Australian Electoral Commission (AEC).

Third Party Returns are available for public viewing on the AEC website from February every year.

Overview

Recent [amendments to the Electoral Act](#) mandate that Third Parties incurring political expenditure on **public expression of views on an issue that is, or is likely to be, before electors in a federal election (whether or not a writ has been issued for the election)** by any means, must report their expenditure to the AEC if it is above the indexed annual reporting threshold (\$13,500 in FY2017/2018). Previously, this obligation only applied to public expression of views during an election campaign.

What are Third Parties?

Third parties refers to individuals or entities that engage in political expenditure but are **not** registered political parties, Commonwealth Government Departments or Agencies, members of the Commonwealth Parliament, or candidates for election to the Commonwealth Parliament.

Examples of Third Parties based on [previous years' Third Party Returns](#) include:

- Charities
- Employer/employee associations
- Political advocacy groups
- Other non-government organisations

Associated Entities of political parties may also be Third Parties in some instances, with other lodgement obligations in addition to the Third Party Return.

What is political expenditure?

Put simply, any cost incurred in publically expressing views on an issue that may be debated at a future election is *political expenditure*.

Some examples of activity covered by this include:

- Television and internet advertisements
- Social media posts
- Text messages and robocalls
- Printing flyers and distributing fridge magnets
- Holding meetings to publically express views on a topic that may arise at a future election
- Opinion polling or research on topics that may be debated at a future election



Action item – completing a Third Party Return

It would be worthwhile for affected individuals and organisations to become familiar with the AEC's [Financial Disclosure Guide for Third Parties incurring Political Expenditure](#). Accounting for all political expenditure will be useful, as it will help determine whether an individual or entity is required to lodge a Third Party Return. If combined expenditure is above the indexed threshold for that financial year, an entity must lodge a Return with the AEC.

Fines apply for non-compliance, up to \$2,100 for failure to lodge, and up to \$10,500 for including false or misleading information in a Return.

What to include in the Third Party Return

Below is an outline of information to be submitted as part of the annual [Third Party Return to the AEC](#).

Part 1 – expenditure

All expenditure amounts by category must be disclosed in Part 1 of the Third Party Return, if the total amount spent for all reportable categories of political expenditure exceeds the disclosure threshold for the financial year.

Each expenditure item is to be counted only once. The same expenditure should not be counted in more than one category.

Expenditure does not need to be itemised beyond the broad categories in the Return.

Exclusions:

- **Incidental expenditure**, of which only a small part falls within the definition of political expenditure, does not require disclosure
- **Other expenditure** (for example, on administration or travel) is not political expenditure for reporting purposes
- **Expenditure for other purposes** is not political expenditure and is not required to be disclosed

Part 2 – gifts and donations

This part of the Third Party Return relates to gifts/donations received for political expenditure.

Third Parties who are required to complete Part 1 of the Return, must also disclose the sources of these funds, if they meet both of these criteria:

- Received gifts/donations totalling more than the disclosure threshold (both funds and gifts-in-kind, calculated at fair value)
- Used part of that gift/donation to incur political expenditure reported in Part 1, or reimburse such expenditure

The gifts/donations may have been received at any time, and not necessarily in the same financial year.

They must be disclosed individually, and include the

- Value
- Name and address of the donor
- Date the donation was received

If no gifts/donations for political expenditure were received, Part 2 of the return should be marked 'nil'.

Record keeping

Financial recording systems and procedures must be sufficient to enable the Third Party Return to be properly completed. All transactions should be supported by source documents recording the details of individual transactions. Examples of source documents are:

- Receipts and tax invoices
- Loan documents
- Wages records
- Bank deposit books, cheque butts, and account statements

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.

Submission deadline

The submission deadline for the Third Party Return is 17 November each year. If that date falls on a weekend or public holiday, the Return must be lodged by the next business day.



Legal detail – political expenditure categories

Section 314AEB of the *Electoral Act* requires that every person or entity incurring expenditure in any of the five categories below (*political expenditure*) that surpasses a combined indexed threshold in a financial year (\$13,500 in FY2017/2018), must lodge a *Third Party Return of Electoral Expenditure Disclosure Return* with the AEC:

- 1 Public expression of views on a political party, candidate in an election or member of the Commonwealth Parliament by any means.
- 2 Public expression of views on an issue that is, or is likely to be, before electors in an election (whether or not a writ has been issued for the election) by any means.
- 3 Non-broadcast advertising expenditure – Communication of any electoral matter other than points 1 and 2, requiring an authorisation notice. This includes printed material, social media posts, voice calls (including robocalls), and text messaging (e.g. bulk text messaging).
- 4 Television and radio advertisements and other broadcasts of political matter requiring an authorisation notice.
- 5 Opinion polling and other research relating to an election (whether or not a writ has been issued for the election) or the voting intentions of electors. There is an exemption from lodging a Return for engaging solely in opinion polling or research.

‘Public expression of views’ – Categories 2-4 and exclusions

Category 2 expenditure covers the public expression of views on election issues whether or not an election has been called, outside the scope of the other listed categories. This may include costs associated with holding public meetings such as luncheons or Town Hall-style events to discuss topics that may be debated at an election, or television/radio advertising about a topic that may be debated at an election (which does not require an authorisation notice).

On the other hand, advertising that requires an authorisation notice as per standard election advertising rules would fall under Category 3 or 4 expenditure, depending on whether it is published on the internet, printed in hard copy, or broadcast on television or radio.

To determine whether or not a matter is likely to be brought up at an election involves assessing how topical the issue is and the difference, if any, between the policy platforms of each political party.

The AEC advises that the test for a specific public expression being an election issue is a subjective one, depending on the *purpose* behind a particular public expression on an issue.

It is important to note that merely because a person raises an issue in the public domain does not result in that being an issue before electors in an election, neither does the ‘*expression of views*’ include the presentation of merely factual information.

Examples of issues that may be debated at an election

Agriculture and water

Energy

Health and aged care

Measures in the Federal Budget

National Disability Insurance Scheme

Tax reform

This is far from an exhaustive list. Independent legal advice may be necessary to determine whether expenditure on public expression on a specific issue falls within the scope of the *Electoral Act*.

Other applicable laws for Third Parties

This Alert covers obligations for Third Parties for federal election purposes only. There are separate laws and regulations in each State regarding elections held for State Parliaments and Local Government Areas, dealing with the registration and reporting requirements for Third Parties in those jurisdictions.

Further information



If you wish to discuss any of the information included in this Technical Accounting Alert, please get in touch with your Grant Thornton Relationship Partner or a member of the National Assurance Quality Team at national.assurance.quality@au.gt.com.