

User Guideline 2a:

Political Contributions



WESTERN AUSTRALIAN
Electoral Commission

A political entity must disclose all political contributions it receives to the Western Australian Electoral Commission (the Commission).

A political entity is a:

- political party – registered or unregistered;
- associated entity;
- Member of Parliament;
- Legislative Council group in an election; or
- third-party campaigner.

What is a political contribution?

A political contribution is a gift, affiliate fee or a compulsory party levy.

What is a gift?

A **gift** is where money, property or a service is transferred, and the giver does not receive something of equal or adequate value in return.

EXAMPLE A

If Mary makes a donation of \$200 via automatic direct debit to the Banana Party every fortnight, this is a gift as Mary has not received anything in return for her donation.

Where a political entity provides something in return for money, property or services, the political entity may still have received a gift. It will depend on what the political entity has provided and whether it is of equal or sufficiently similar value to the donor's contribution.

Where the value of what the political entity has provided is less than the value of the donor's payment (or goods or services provided), then the difference in value constitutes a gift.

EXAMPLE B

Ian attends a fundraising dinner organised by the Broccoli Party. The ticket price for the dinner is \$200. The costs incurred by the Broccoli Party in organising the dinner include venue hire, catering and a paid musical performer. To determine the gift component of the ticket, the Broccoli Party must determine the cost per head of conducting this event and deduct that amount from the individual ticket cost. The difference is a gift from Ian to the Broccoli Party. In this case, the cost per head is \$150 and therefore the value of the gift is \$50 per ticket sold.

Ticket price:	\$200 (face value of ticket)
Cost per head:	\$150 (costs incurred to hold the event)
Gift value (Ian):	\$50 (component of ticket price minus costs to hold event)

EXAMPLE C

Tina attends a fundraising dinner organised by the Silver Party. The ticket price for the dinner is \$220. The costs incurred by the Silver Party in organising the dinner include venue hire, catering and a paid musical performer. The dinner also features a keynote speaker, Adam, who normally charges a fee of \$5,000 for his appearances but has donated his time to this event. To determine the component of the ticket that is a gift, the Silver Party must determine the cost per head of conducting this event, including an amount that the Silver Party would have paid, had Adam charged them for their time. That difference is a gift from Tina to the Silver Party. In this case, the cost per head is \$200 and therefore the value of the gift is \$20 per ticket sold.

Further, Adam's appearance is also a gift to the Party. As Adam would normally have charged \$5,000 for his appearance, this is the value of his gift.

Ticket price:	\$220 (face value of ticket)
Cost per head:	\$200 (costs incurred to hold the event including if the speaker charged)
Gift value (Tina):	\$20 per ticket (component of ticket price minus costs to hold event)
Gift value (Adam):	\$5,000 (normal appearance fee)

To determine the value of both what the donor provided and what the political entity provided in return, the Commission will look at factors such as the cost of providing services and what would normally be expected to be paid for services or goods in a commercial transaction.

What is not a gift?

A transfer of money, property or services is not considered a gift if the giver receives something in return, which is equal to or sufficiently similar in value.

EXAMPLE D

The Zoo Party conducts a fundraising raffle with a range of prizes to win. Tickets cost \$2. To assess whether there has been a transfer of items that are similar in value, the Commission looks at the value of a chance to win a prize, not the value of individual prizes. Because the purchaser of the raffle ticket has received the chance to win one of the prizes in return for paying \$2, this is not a gift.

Transfers of money, property or services that are made in a private capacity for personal use, are also not included within the scope of a gift.

EXAMPLE E

Simon is running as a candidate in an election. Fred, an old school friend of Simon, gives Simon a handmade pen as a sign of appreciation for their long friendship. For the purposes of political contributions, this is not a gift.

Where money, goods or services are provided to a political entity for a purpose related to a Federal election, this is not within the scope of what a political entity must report to the WA Electoral Commission. Political entities should however refer to the Australian Electoral Commission for further advice.

What about when services are provided?

Where services are provided to a political entity on a volunteer (unpaid) basis, they are considered to be a gift if they are services that would normally only be provided in return for payment.

Whether a service is a gift will be determined by the Commission on a case-by-case basis, with reference to whether that service is normally paid for in a commercial transaction. In the case of volunteer work conducted during an election campaign, political entities should consider how campaigns have been organised in Western Australia in the past when deciding whether it is a gift.

EXAMPLE F

Jeff is an election campaign worker for the Beach Party, and he is handing out how-to-vote cards at a polling place. This is normally an unpaid service and therefore is not a gift.

EXAMPLE G

Betty is a graphic designer, who normally charges \$50 per hour for her services. Betty spends five hours designing an election poster for the Bell Party, but does not charge them for her time. Betty's services constitute a gift to the Bell Party, to the value of \$250.

What is an affiliate fee?

An **affiliate fee** is a fee paid by a person to an associated entity or to a political party, in order to be attached to or connect with the entity, or the political party.

EXAMPLE H

The 150 Club is an organisation which operates for the benefit of the Purple Party. The 150 Club is an associated entity. The membership fee for the 150 Club, is an affiliate fee.

What is a compulsory party levy?

A **compulsory party levy** is an amount imposed by a political party on elected members; on a person who is employed by, appointed to or employed to assist an elected member; or on employees of a political party.

EXAMPLE I

The Pink Party requires their employees to provide \$2,000 via direct debit to the party.

What if a political contribution is from a foreign donor?

Political entities cannot accept political contributions from foreign donors.

It is an offence and penalties apply if political entities accept a political contribution from a foreign donor and do not take acceptable action to address it.

What is a foreign donor?

A foreign donor is:

- The government of a foreign city, state, or country.
- A company or other body or association where a government of a foreign country has:
 - more than 50% capital, voting power, or ability to appoint the board of directors; or
 - where the directors, or executive committee, are accustomed to or under an obligation (formal or informal) to follow the instructions of a foreign government, or a foreign government can exercise control over the company or association; or
 - where the company, body or association enjoys special legal rights, legal status, special benefits, or privileges under a law of a foreign country, because of its relationship with the government of the foreign country.
- A company or association (body) that is not incorporated in Australia, does not have its head office in Australia, or where the principal place of activity is not in Australia.
- An individual who is not an elector, an Australian citizen or resident, and is not a New Zealand citizen with a Subclass 444 (Special Category) visa.

The definition of foreign donor used is in substantially the same terms as the definition in the *Commonwealth Electoral Act 1918*.

What to do if a foreign donation is received?

There are three options if a foreign contribution is received:

- The donation must be returned to the donor or person who made the contribution;
- an amount equal to the contribution must be transferred to the donor or person who made the contribution; or
- an amount equal to the contribution must be transferred to the State.

Generally, these actions must be completed within six weeks, as per statutory timeframes.

What to do if it is unclear whether a contribution is a foreign donation?

If it is unclear whether the contribution is a foreign donation, reasonable steps can be taken to clarify, including requesting a copy of the donor's passport or visa. Alternatively, forms which political entities provide to donors in order to make donations could include space for a statement or check box affirming that the donor is not a foreign donor.

Foreign contributions and the State Campaign Account

There are additional prohibitions on receiving a foreign contribution into a State Campaign Account. Please refer to User Guideline 3: State Campaign Account.

Further information

This User Guideline contains general information only. It is not, nor is it intended to be, a substitute or replacement for the legislation. It is your obligation to comply with the legislation. The Commission can provide general guidance on matters, but it is not able to offer legal advice. If you are in doubt as to your obligations, please seek your own independent legal advice.

If you would like further information, please contact the Commission on 9214 0400 or by emailing fad@waec.wa.gov.au

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