

Gifts and Electoral Expenditure

Financial disclosure guidelines – Legislative Assembly

Disclaimer: This factsheet is a general overview provided by the Northern Territory Electoral Commission (NTEC) and should not substitute legal advice. Unless specified otherwise, all references are to the Electoral Act 2004 (NT), effective from 1 July 2021. Please consult the legislation and seek independent legal advice as necessary.

Purpose

The *Gifts and Electoral Expenditure Guidelines* provide further guidance on what are considered as gifts and electoral expenditure. The guidelines are non-exhaustive and cover common activities; if an activity is not in the guidelines it does not mean it is excluded. Electoral expenditure includes receiving an item or service in the form of a gift. The NTEC are happy to answer any questions and provide further clarification.

All electoral participants are encouraged to seek their own legal advice if they are in doubt about how the law treats their particular circumstances.

For more information, contact Chris Brack, Financial Disclosure and Compliance Manager.

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Areas covered in the guidelines

- advertising
- attending events
- business activities
- consultants and external professionals
- crowdfunding
- food and drink
- fundraisers
- miscellaneous
- offices
- political party activities
- staffing and volunteers
- travel and accommodation

Advertising

The costs of advertising activities are considered as election expenditure and include:

- Australia Post costs (stamps)
- campaign banners/bunting
- campaign car decals (advertising on vehicles)
- campaign photoshoots
- campaign t-shirts
- catering for campaigning events
- cinema ads
- delivery/courier costs for material distribution
- direct mail advertising
- election campaign website
- election-specific business cards
- filming/editing costs
- flyers/brochures
- how-to-vote cards
- magazine advertising
- market stall fees
- party/candidate campaign launch
- printing election material
- printing newspaper ads

- radio ads
- SMS costs
- social media advertising/boosting
- translation services
- TV advertising

Guidance includes:

- If a third party campaigner pays for advertising/materials that have a party logo and/or are consistent with the format of party advertisements, the party needs to declare the expenditure as a gift-in-kind.
- Third party campaigners can endorse and support electoral participants. However, it must be clear to a reasonable person that their campaign material represents the views of the third party campaigner and not a party or candidate. Otherwise, costs are considered as electoral expenditure of the party or candidate.
- If advertising becomes unusable and is not distributed, the production costs are not considered as electoral expenditure. For example, how-to-vote cards that are no longer able to be distributed due to a change of preferences.
- The costs of materials disclosed under a previous election are not discloseable for the next election. For example if the costs of an A-frame sign were disclosed under the previous election, the expenditure does not need to be re-disclosed.
- The costs of labels to display updated authorisation details are discloseable as electoral expenditure.
- For parties, if car decals, party t-shirts, or marquees include election messaging or are only used during the election period, they are considered as election expenditure. If the primary purpose of the items is not for the election and they have generic party branding, they are not considered as election expenditure.
- It is a gift in kind if a person performs labour as part of their profession or trade or would otherwise be paid in the ordinary course of their work. For example a graphic designer designing a candidate's election materials at no cost is a gift in kind.
- The costs of creating and maintaining an election campaign website are considered election expenditure.
- If advertising promotes more than one independent candidate, the expenditure is apportioned equally between the candidates being promoted, regardless of who paid for the advertising.

Discounts from suppliers are generally viewed as gifts. However, if the supplier's standard practice is that all bulk purchases receive a discount, the discount is not considered as a gift.

Examples

<u>Scenario</u>	<u>Gift</u>	<u>Electoral Expenditure</u>
100 spots for election ads are purchased on a local TV station at a total value of \$10,000. Any customer who buys at least 100 ads gets 10% off, so the total cost is \$9,000.	Nil	\$9,000
A candidate orders \$4,000 worth of flyers. The distributor supports the candidate and offers a 50% discount, only charging \$2,000.	\$2,000 gift in kind	\$4,000

A supporter directly pays a bus company \$1,500 for election ads for a candidate.	\$1,500 gift in kind	\$1,500
The local cinema provides free advertising worth \$2,000 (50 showings, commercial price is \$40 per showing) during the campaign period.	\$2,000 gift in kind	\$2,000
A party volunteer, who is a professional graphic designer, completes \$2,000 worth (10 hours at a standard charge-out rate of \$200 per hour) of design work for free on electoral ads and pamphlets.	\$2,000 gift in kind	\$2,000
A political party has generic branded T-shirts with the party logo and colours. During the electoral period, \$1,000 worth of shirts are purchased.	N/A	Nil
A political party purchases and distributes \$1,500 worth of T-shirts for the election, with election-specific wording such as 'Candidate for...'	N/A	\$1,500
Volunteers produce an election ad for no cost. The camera operator does \$1,000 worth of work (10 hours at \$100 per hour), and the producer provides \$3,000 worth of work (15 hours at a charge-out rate of \$200 per hour).	\$4,000 gift in kind	\$4,000
\$3,000 worth of flyers have been produced to promote an endorsed candidate. However, before they are distributed, the candidate withdraws, and the flyers are destroyed.	N/A	Nil
Mass SMS messages are sent to potential voters for \$5,000 (\$0.05 per message).	N/A	\$5,000
A third party campaigner pays \$5,000 for the ads of a registered party.	\$5,000 gift in kind	\$5,000

Attending events and providing gifts

- If an electoral participant pays to attend a community event the entry fee is not considered to be electoral expenditure.
- Site fees for shows/events during the capped period (1 Jan – 23 Sept) are classified as electoral expenditure, even if the electoral participant has a site every year.
- If a gift is given in return for the opportunity to speak at a local event, the value of the gift is considered electoral expenditure.
- If an electoral participant gives a gift to a local event with the intention of promoting the electoral participant's campaign or gaining favour with voters, the value of the gift is considered as electoral expenditure.

Business Activities

- Investment income is not disclosable as a gift.
- Australian Tax Office Business Activity Statement payments are not disclosable as a gift or electoral expenditure.

Consultants and External Professionals

The costs of the following consultant activities are considered as electoral expenditure:

- conducting an opinion/push poll
- developing a policy platform for the election
- researching the positions/candidates of another electoral participant
- researching election issues
- activities that influence voters or inform them about how to communicate with voters.

The costs of the following consultant/external professional activities are not considered as electoral expenditure:

- accounting fees
- legal fees
- auditor fees
- costs of drafting a new/updated party constitution.

Examples

Scenario	Gift	Electoral Expenditure
Paying a consultancy \$2,000 to run focus groups on electoral issues	N/A	\$2,000
A consultant develops a policy platform document for the election for free. Value of the work is \$5,000 (25 hours at a charge-out rate of \$200 per hour).	\$5,000	\$5,000
Paying an accountant \$5,000 to manage party finances.	N/A	Nil

Crowdfunding

Crowdfunding is the practice of funding a project or venture by raising monetary contributions from a large number of people, typically via the internet. **The same disclosure rules apply to crowdfunding as with any other electoral gifts.** The technology can present additional risks, such as verifying donors' identity or refusing a gift when it is made anonymously, which may be challenging. When setting up a donation page, candidates must clearly inform potential donors of the disclosure conditions and ensure enough information is collected via the platform to satisfy disclosure requirements.

To receive gifts of the prescribed amount or more, you must know the name and address of the person or entity providing the donation and believe the details you have been provided are true. The address must be the **residential or postal address; an email address is insufficient.** The prescribed amount is:¹

- **parties, associated entities and third party campaigners:** \$1,000
- **candidates:** \$200

¹ See section 197

If multiple small donations from the same source add up to the prescribed amount, identifying details must be provided.

Regardless of the platform used, you must be able to provide the name and address of donors and believe them to be true. When selecting crowdfunding platforms, you must complete your own research. In March 2024, NTEC conducted preliminary research, as outlined below.

- MyCause and Chuffd: name and residential address fields can be set as mandatory and even when donors elect to be anonymous, the data is passed on to the organiser.
- GiveNow: Terms and Conditions state they cannot support the collection of political donations.
- GoFundMe: residential addresses field is not mandatory.
- Patreon: names or residential address fields are not mandatory, only requirement to donate is a username.

Food and Drink

Food and drink costs are not discloseable as electoral expenditure.

Fundraisers

Examples of fundraisers include auctions, fundraising dinners and raffles. Guidance includes:

- The gift amount of a ticket is considered to be the total amount paid minus the cost of holding the event. For example if tickets cost \$100 for a dinner, and the cost of holding the event is \$20 per head, the gift value is \$80 per ticket.
- If a prize/running costs are donated, the donation is reportable as a gift in kind.
- The costs of holding a fundraiser/raffle are not discloseable as election expenditure.
- Each ticket is regarded as a separate transaction. Tickets below the prescribed value can be considered anonymous gifts. However, there is a requirement for gifts to be compared to other gifts for aggregation purposes. The prescribed amount is:²
 - **parties, associated entities and third party campaigners:** \$1,000
 - **candidates:** \$200
- Defined details (name and address) must be disclosed for donors who provide gifts at or above the threshold amount during the relevant period:³
 - **parties, associated entities and third party campaigners:** \$1,500
 - **candidates:** \$200
- To ensure it is practical to comply with requirements, there is not an expectation that donations/fundraising tickets with a gift value of **less than \$100** have the name and address of buyers recorded to cross-reference against donors for aggregation purposes
- The costs associated with receiving donations, such as website fees or card surcharges, are not discloseable as electoral expenditure.

² See section 197

³ See section 192D

- Note: If you are holding a raffle, you must comply with any requirements under the Gaming Control Act 1993. <https://nt.gov.au/industry/gambling/gambling/lotteries-community-gambling/conditions-on-lotteries-raffles-games>

Examples

Scenario	Gift	Electoral Expenditure
For a raffle, 500 tickets are sold at \$10 each, so \$5,000 cash has been received. A \$1,000 prize was donated and there are no other event costs.	\$1,000 prize and \$4,000 for tickets (\$5,000 minus event costs of \$1,000)	Nil
A fundraising dinner is held, and the venue caters for the event for free (\$2,000 value). 100 tickets are purchased for \$100 each - \$10,000 total received.	\$2,000 for catering and \$8,000 for tickets (\$10,000 minus the \$2,000 cost of the event)	Nil
\$100 is paid to a crowdsourcing website to collect donations for the election.	N/A	Nil

Miscellaneous

The following costs are not considered to be electoral expenditure:

- capital expenditure, such as the purchase of cars, trailers or phones
- dry cleaning
- candidate nomination fee
- insurance
- leasing a post office box
- penalties, fines, late fees or administration fees
- software such as database or accountancy software.

Offices and Office stationary

The following costs are considered as electoral expenditure:

- postage and other distribution costs.

The following costs are not considered as electoral expenditure:

- rent, utilities, and mortgage costs of the party headquarters
- the rent, utilities and setup costs of an election office
- office stationery such as printer cartridges, paper, envelopes, and pens
- unbranded kits for staff/volunteers. They are only disclosable if they have election messaging.

Political Party Activities

The following are disclosable as gifts:

- monthly donations in addition to a party membership
- donations from the national branch of a party or the branch of another state
- company sponsorship.

The following are not disclosable gifts:

- parliamentary levy (compulsory levy on sitting members)
- party membership (unless above standard membership costs of \$100-\$200)
- movement of funds between NT branches of a party.

The following are not discloseable as electoral expenditure, any gifts are reportable:

- costs of holding a pre-selection meeting or party meeting during the election period
- costs of holding a party conference or election-specific conference
- candidate nomination fee.

Examples

Scenario	Gift	Electoral Expenditure
When purchasing a party membership, a person commits to donating an extra \$10 a month.	\$10 per month	N/A
The national branch makes a \$10,000 donation to a party	\$10,000	N/A

Staffing and Volunteers

Examples of staffing/volunteer activities include attending polling locations, canvassing, carrying out party administration activities, designing election advertising, and scrutineering. Guidance includes:

- To be considered a volunteer, a person must work outside their usual business hours or while on leave. If a person is paid by their regular employer while helping an electoral participant, their work is a gift-in-kind valued at their salary.
- It is also a gift-in-kind if a person performs labour as part of their profession or trade or would otherwise be paid in the ordinary course of their work.
- The salary of ongoing staff is not considered an electoral expenditure. However, any overtime they are paid for election activities or time-in-lieu accrued is counted as election expenditure.
- The salary of staff hired for the election is considered an electoral expenditure. This includes fixed-term employees and casual staff.
- When determining whether a staff member is considered as ongoing or for the election the duration and purpose of the role are considered.
- Food and drink costs for staff/volunteers are not considered as electoral expenditure.

- Staff and volunteer travel and accommodation costs are not considered as electoral expenditure. However, if over \$1,000 in value is provided from a single source, they are reportable as gifts.
- The purchase and ongoing costs of phones and laptops for staff/volunteers to use during the election are not considered as electoral expenditure.

Examples

Scenario	Gift	Electoral Expenditure
An election campaign manager is hired for a fixed term to work on election activities.	N/A	Salary incurred during the capped expenditure period (1 Jan - 23 Sept)
Ongoing staff position to manage party administration.	N/A	Nil
A supporter directs their staff member to assist an electoral participant in campaigning activities for 2 weeks. The staff member is paid \$2,000 during this period.	\$2,000 gift in kind	\$2,000
A casual staff member is paid \$200 by a candidate to distribute how-to-vote cards on polling day.	N/A	\$200
A third party campaigner pays a casual staff member \$200 to distribute how-to-vote cards on polling day to electoral participants.	\$200 gift in kind from the third party campaigner	\$200
Volunteers (unpaid) distribute how-to-vote cards on polling day.	Nil	Nil
\$300 was spent on food and drink for election volunteers.	N/A	Nil
\$200 is spent on a phone for a volunteer coordinator	N/A	Nil
A party volunteer who is a professional graphic designer completes 10 hours of design work for an electoral participant for free. Their usual charge-out rate is \$200 per hour; this is disclosable as a gift-in-kind of \$2,000.	\$2,000 gift-in-kind	\$2,000

Travel and Accommodation

Examples of travel and accommodation activities include car hire, flights, fuel costs, hotel accommodation, and food and drink. Guidance includes:

- Travel and accommodation costs are not discloseable as electoral expenditure. However, if a single source provides \$1,000 or more of value as gifts during the relevant period then that is discloseable as a gift.
- If an electoral participant or their staff/volunteer are given use of a car (outside their own ownership), then the value of the gift is considered to be the hire rate or daily market rate for a comparable car. It only needs to be recorded as a gift if the value provided from that source is \$1,000 or more over the relevant period.

Examples

Scenario	Gift	Electoral Expenditure
Car rental provider provides free use of a rental car (RRP \$200 per day) for 10 days	\$2,000	Nil
A party pays to fly in a campaign volunteer from interstate at a cost of \$1,500	Nil	Nil
Candidate uses their own car for campaigning	Nil	Nil

Version	Date	Author	Changes made
2.1	24 June 2024	Chris Brack, Financial Disclosure and Compliance Manager	Reclassification of food and drink costs and election office costs