

# Annual Political Expenditure Return Guide – 2016-17

## 1. Obligation to lodge

1.1 Section 130ZR of the *Electoral Act 1985* ('the Act') requires a person to lodge an Annual Political Expenditure Return with the Electoral Commissioner if:

- a) the person incurred **political expenditure** during the financial year, by or with his or her own authority, and
- b) the amount of the expenditure was:
  - in the case of a **third party** – more than \$10,000 (indexed), or
  - in any other case – more than \$5,000 (indexed).

1.2 The disclosure thresholds for the financial year 2016-17 are as follows:

- a) **Third party: \$10,181**
- b) Any other person: **\$5,091**

1.3 The Annual Political Expenditure Return must be lodged within 12 weeks after the end of the financial year (ie by **22 September**).

1.4 If a person has not incurred **political expenditure** over the threshold during the financial year, then they are not required to lodge a return (ie lodgement of a 'nil' return is not required).

### Exclusions

1.5 The following persons are not required to lodge an Annual Political Expenditure Return:

- a) The Crown (including a public sector agency within the meaning of the *Public Sector Act 2009*).
- b) Members of the South Australian Parliament.

### Definitions

1.6 A 'person' also includes an unincorporated association (section 130A of the Act).

1.7 Please refer to our Political Expenditure Guide for information on the meaning of **political expenditure**. The South Australian disclosure scheme only relates to State matters. Therefore, expenditure on Federal issues (such as the gay marriage plebiscite) is not considered **political expenditure** under the scheme.

- 1.8 A **third party** is defined in section 130A of the Act as a person who incurs or intends to incur more than \$10,000 in **political expenditure** during the **designated period** of an election, but excludes:
- a) A Member of the House of Assembly or Legislative Council.
  - b) The Crown (including a public sector agency within the meaning of the Public Sector Act 2009).
  - c) A registered political party, group or candidate.
  - d) A person engaged in a broadcasting service (within the meaning of the Broadcasting Services Act 1992 (Cth) or a datacasting service.
  - e) The publisher of a journal (including a journal published in electronic form on the internet).

The **designated period** for a general election is the period commencing on 1 January in the year of the election and ends 30 days after polling day (section 130A of the Act). The **designated period** for the 2018 State election will commence on **1 January 2018** and will end on **16 April 2018**.

## 2. Completing and lodging the return

- 2.1 Instructions for completing the return are provided on the first page of the return form.
- 2.2 Part 1 of the return must be completed.
- 2.3 Part 2 of the return is required to be completed by a person (other than a registered political party, associated entity, **third party**, or candidate) who received a gift of more than \$5,091 for **political expenditure**.
- 2.4 Part 3 of the return is only required to be completed by a **third party**.
- 2.5 There are two alternative Declarations on the return: one is for a complete return and the other is for an incomplete return (ie there is information missing from the return because you are unable to obtain that information). If you have an incomplete return, you must also lodge a Notice of Inability to Complete a Return.
- 2.6 The person who incurred the expenditure must sign and date the form by hand and initial every other page of the return in the bottom right corner. Any additional documents attached to the return must also be initialled.
- 2.7 If the person who incurred the expenditure is not a natural person then the following person should sign the return:
- a) For a registered political party – the party agent.
  - b) For any other entity – the financial controller. The financial controller of an entity is:
    - the secretary of the company (if the entity is a company)

- the trustee (if the entity is a trust)
- in all other cases, the person responsible for maintaining the financial records of the company.

2.8 The return can be lodged via:

- a) Email to: [ecsa.fad@sa.gov.au](mailto:ecsa.fad@sa.gov.au)
- b) Fax to: 08 7424 7444
- c) Mail to: PO Box 646, Adelaide, 5001

2.9 Lodged returns will be available for public inspection 3 business days after 22 September 2017.

### 3. Audit certificates

3.1 All returns must be accompanied by an audit certificate, if lodged by or on behalf of:

- a) A registered political party
- b) An associated entity
- c) A **third party**
- d) A candidate or group

3.2 The audit certificate must be signed by a *registered company auditor* (as defined by the *Corporations Act 2001*). You can check the register of company auditors on the Australian Securities and Investments Commission website.

3.3 You may request the Electoral Commissioner to waive compliance with the requirement to provide an audit certificate if the costs of complying with the requirement would be unreasonable.

### 4. Amending a return

4.1 A person who has lodged a return may request the permission of the Electoral Commissioner to make a specified amendment of the return for the purpose of correcting an error or omission (section 130ZZD of the Act).

### 5. Record keeping

5.1 If you have a document that contains information relating to a matter that has been or should be set out in a return lodged with the Electoral Commissioner, you are required to retain those records for at least four years. The four year period starts on the day of the election to which the return relates. The Annual Political Expenditure Return 2016-17 relates to the election cycle for the 2018 State election.

## 6. Offences

- 6.1 Failing to lodge a return within the legislated timeframe is an offence. The maximum penalty for a registered political party agent is \$10,000. For any other person, the maximum penalty is \$5,000 (section 130ZZE(1) of the Act).
- 6.2 Lodging a return that is incomplete (other than a return accompanied by a Notice of Inability to Complete Return) is an offence for which the maximum penalty is \$1,500 (section 130ZZE(2) of the Act).
- 6.3 Lodging a return which a person knows is false or misleading in a material particular is an offence for which the maximum penalty is \$10,000 (section 130ZZE(3) of the Act).

## 7. Relevant forms and guides

- 7.1 The Electoral Commission SA has other publications designed to assist stakeholders understand their obligations under Part 13A of the Act.
- 7.2 The following documents can be downloaded from our website: [www.ecsa.sa.gov.au](http://www.ecsa.sa.gov.au)
- a) Annual Political Expenditure Return (FD19)
  - b) Political Expenditure Guide (FDG02)
  - c) Notice of Inability to Complete Return (FD37)
  - d) Audit Certificate (FD21)
  - e) Application for Waiver of Audit Certificate (FD23)
  - f) Request to Amend Return (FD41)
- 7.3 For further information or assistance, contact the Funding, Disclosure & Registration Branch.

**Disclaimer:** this information is intended as a general guide only and should not be substituted for the legislation. You are advised to refer to the legislation and seek your own independent advice if necessary.

### Enquiries to:

Funding, Disclosure & Registration Branch  
Electoral Commission SA  
GPO Box 646  
Adelaide SA 5001

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Fax 08 7424 7444  
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