

# Referendum disclosure – donations

## Who is impacted?

Information about the disclosure of referendum donations relates to **referendum entities** and **referendum donors**.

## What is a referendum entity?

A person or organisation that incurs referendum expenditure over the [disclosure threshold](#) (currently \$15,200) during the referendum expenditure period.

- [Referendum entities](#)

## What is a referendum donor?

A donor is a person or entity that makes one or more donations totalling more than the disclosure threshold to a referendum entity at any time during the referendum expenditure period.

- [Referendum donors](#)

## What is referendum matter?

Referendum matter is matter communicated or intended to be communicated for the dominant purpose of influencing voters in a referendum.

There can only be one dominant purpose for any given communication.

## What is referendum expenditure?

Referendum expenditure is expenditure incurred for the dominant purpose of creating or communicating referendum matter.

- [Factsheet: Referendum matter and expenditure](#)

## What is the referendum expenditure period?

The period:

- commencing on the day that is six months before the writ for a referendum is issued, and
- ending on the voting day for a referendum.

## When are donations disclosed?

A **referendum entity** must report the total of all donations received during the referendum expenditure period and the details of donations received from a single source that total more than the disclosure threshold.

The intention of the donation is important. A referendum entity must either:

- know that the donor intends for the donation to be used for the purposes of incurring referendum expenditure, or for the dominant purpose of creating or communicating referendum matter or
- accept the donation intending to use the donation for the purposes of incurring referendum expenditure, or for the dominant purpose of creating or communicating referendum matter.

A **referendum donor** must report donations made to a referendum entity that total more than the disclosure threshold during the referendum expenditure period.

The intention of the donation is important. A referendum donor must intend for the donation to be used:

- for the dominant purpose of incurring referendum expenditure or
- for the dominant purpose of creating or communicating referendum matter.



A number of examples below focus on **intention**.

## Relationship between financial disclosure obligations and referendum activities

The funding and disclosure scheme administered under the *Commonwealth Electoral Act 1918* requires certain entities, for example political parties, significant third parties or donors, to lodge annual financial disclosure returns with the Australian Electoral Commission (AEC).

Entities that lodge annual returns could also be referendum entities for the purposes of the disclosure requirements of the *Referendum (Machinery Provisions) Act 1984* (Referendum Act).

Expenditure and donations related to a referendum, and reported in a referendum return, may also be required to be reported in an annual return.



A number of examples below focus on the potential for an individual or an organisation to have both **financial disclosure obligations** and **referendum disclosure obligations**.

## Examples

The examples below are intended for general guidance and are not to be considered legal advice. Each specific instance should be assessed against the Referendum Act and legal advice sought as appropriate.



In all the examples below, the following assumptions are made:

- The donation was made for referendum campaigning (unless stated otherwise).
- The donation was made in the referendum expenditure period (unless stated otherwise)
- The donation was made to a referendum entity.

### Example – a single donation over the disclosure threshold

A donation of \$24,000 is made by a donor to a referendum entity:

- **Referendum entity:** disclosure of the details of the donation (name and address of donor, date and amount of donation) as well as inclusion in total value of donations and total number of donors is required
- **Referendum donor:** disclosure of the details including name and address of the referendum entity, date and amount of each donation is required.

### Examples – multiple donations from one referendum donor

Two separate donations are made by one donor to a referendum entity on different days. The first amount is \$9,500 and the second amount is \$35,000:

- **Referendum entity:** discloses the details of the donations (name and address of donor, date and amount of each donation) as well as inclusion in total value of donations and total number of donors
- **Referendum donor:** discloses the details including name and address of the referendum entity, date and amount of each donation.

A person makes several donations totalling \$12,000 to one referendum entity:

- **Referendum entity:** disclosure of the donation is included only in the total value of donations and total number of donors
- **Referendum donor:** no donation disclosure required.

## Example – multiple referendum entities receive donations from one donor

A person makes several donations totalling \$12,000 to one referendum entity (the first referendum entity), and two donations of \$8,000 each on different days to another referendum entity (the second referendum entity):

- **First referendum entity:** disclosure of the donations is included only in the total value of donations and total number of donors
- **Second referendum entity:** discloses the details of the donations (name and address of donor, date and amount of each donation) as well as inclusion in total value of donations and total number of donors.
- **Referendum donor:**
  - Donations made to first referendum entity – no donation disclosure required
  - Donations made to second referendum entity – disclosure of the details of each donation including name and address of the referendum entity, date and amount is required.

## Examples – gifts-in-kind

A person pays an invoice for the printing of campaign material for a referendum entity. The invoice for the printing is valued at \$18,000.

- **Referendum entity:** discloses the details of the gift-in-kind donation (name and address of donor, date and amount of donation) as well as inclusion in total value of donations and total number of donors
- **Referendum donor:** discloses the details of the gift-in-kind donation including name and address of the referendum entity, date and amount of donation.

An organisation provides a venue and catering at no cost to a referendum entity to hold an event. The commercial rate to hire the venue and provide catering is \$20,000.

- **Referendum entity:** discloses the details of the donation (name and address of donor, date and amount of donation) as well as inclusion in total value of donations and total number of donors
- **Referendum donor:** discloses the details of the gift-in-kind donation including name and address of the referendum entity, date and amount of donation.

## Examples – referendum expenditure period

A referendum entity receives a donation of \$24,000 **before** the referendum expenditure period. Three months later, **within** the referendum expenditure period, they receive a donation of \$82,000 from the same donor:

- **Referendum entity:**
  - The first donation – no donation disclosure required
  - The second donation – disclosure of the details of the donation (name and address of donor, date and amount of donation) as well as inclusion in total value of donations and total number of donors is required.
- **Referendum donor:** discloses only the details of the second donation including name and address of the referendum entity, date and amount of donation.

A referendum entity receives a donation of \$17,000 **before** the referendum expenditure period. Six months later, **within** the referendum expenditure period, they receive a donation of \$13,000 from the same donor. The donor made no further donations:

- **Referendum entity:**
  - The first donation – no donation disclosure required
  - The second donation – disclosure of the donation is included only in the total value of donations and total number of donors.
- **Referendum donor:** no donation disclosure required.

## Examples – intentions relating to referendum campaigning

The intention of the **donor** makes a difference to the disclosure obligations.

A person donates \$50,000 to an association with varied causes and interests – including campaigning for a referendum. The association is a referendum entity but has no annual financial disclosure obligations to the AEC. The donor informed the association that \$20,000 of the donation is for the association's **other causes** and that \$30,000 is for **campaigning** for a referendum:

- **The association:**
  - \$20,000 donation for **other causes** – no donation disclosure required
  - \$30,000 donation for **campaigning** – discloses the details of the donation (name and address of donor, date and amount of donation) as well as inclusion in total value of donations and total number of donors.
- **Referendum donor:**
  - \$20,000 donation for **other causes** – no donation disclosure required
  - \$30,000 donation for **campaigning** – discloses the details including name and address of the referendum entity, date and amount of donation.

The intention of the **referendum entity** at the time of the receipt of the donation can make a difference to disclosure obligations:

A person donated \$25,000 to a political party that is also a referendum entity and **did not indicate** the intention of the donation. **At the time** the political party received the donation, it **intended** to use it for campaigning for a referendum:

- The political party lodges:
  - a **referendum entity return** disclosing the details of the donation (name and address of donor, date and amount of donation) as well as inclusion in total value of donations and total number of donors, and
  - an **annual political party return**, identifying the same person as an annual donor and includes the donation as an amount in 'Total receipts'.
- The **donor** lodges:
  - a referendum donor return if they intended for the donation to be used for campaigning, despite not communicating that and despite the referendum entity's actual use of the donation, and
  - an annual donor return.

A person donated \$20,000 to a significant third party that is also a referendum entity and **did not indicate** the intention of the donation. **At the time** the significant third party received the donation, it had **no intention** to use the donation for referendum campaigning. Later, the amount is used for campaigning for a referendum:

- The significant third party:
  - no donation disclosure required as a **referendum entity**, but
  - lodges an **annual significant third party return**, identifying the same person as an annual donor and includes the donation as an amount in 'Total receipts'.
- The **donor** lodges:
  - a referendum donor return if they intended for the donation to be used for campaigning, despite not communicating that and despite the referendum entity's actual use of the donation, and
  - an annual donor return.

## Example – referendum entity that is also a political party

A person donates \$55,000 to a referendum entity that is a political party indicating that their donation is for campaigning for a referendum:

- The political party lodges:
  - a **referendum entity return** disclosing the details of the donation (name and address of donor, date and amount of donation) as well as inclusion in total value of donations and total number of donors, and
  - an **annual political party return** and identifies the same person as an annual donor and includes the donation as an amount in 'Total receipts'.
- The donor lodges:
  - a **referendum donor return**, and
  - an **annual donor return**.

## Example – referendum entity that is also a significant third party

A person donates \$90,000 to a referendum entity that is a significant third party indicating that their donation is for campaigning for a referendum:

- The significant third party lodges
  - a **referendum entity return**, and identifies the referendum donor, and
  - an **annual significant third party return** and identifies the same person as an annual donor.
- The donor lodges:
  - a **referendum donor return**, and
  - an **annual donor return**.

## Legislation relating to the disclosure of referendum donations

Part VIIIA of the *Referendum (Machinery Provisions) Act 1984* regulates the referendum disclosure scheme.

### Further information

Referendum entities and donors should ensure they understand their obligations under the Referendum Act, in particular the disclosure obligations in Part VIIIA of the Referendum Act.

Refer to the AEC website for further information relating to [referendum disclosure](#).

You can also direct your enquiries to [fad@aec.gov.au](mailto:fad@aec.gov.au) or alternatively call the Disclosure help desk on 02 6271 4552.