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FAD / **FUNDING AND
DISCLOSURE
REFORM**

Gift Caps Guideline

for donors



AEC

Australian Electoral Commission

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Purpose

Division 3A of Part XX of the *Commonwealth Electoral Act 1918* (Electoral Act) imposes caps on gifts made for a federal purpose in a calendar year to registered political parties, members of the House of Representatives, Senators, candidates, significant third parties, associated entities, nominated entities and third parties, or related entities.

The *Gift Caps guideline for donors* provides information to assist donors to understand their obligations in respect of gift caps under the Electoral Act.

The caps which apply to recipients and donors and restrict the gifts they can receive or give for a federal purpose, are the:

- annual gift cap
- by-election gift cap
- Senate-only election gift cap
- State and Territory gift cap
- overall gift cap.

Important information

Donors are required to monitor gifts made for a federal purpose and ensure they do not exceed relevant caps. The guide will set out:

- what gift caps apply, including how much the caps are
- how the caps may apply together or separately
- what it means to exceed a relevant gift cap
- restrictions on gifts from foreign donors
- penalties that apply where a breach of the Electoral Act occurs.

The guide uses text boxes to highlight important information. Each text box is prefaced with a symbol. For example:



WARNING. A warning symbol indicates information relating to a legal obligation under the Electoral Act.



USEFUL TIP. An information symbol indicates a useful tip.



DUE DATE. A timing symbol indicates a due date.

Legislation



These guidelines are for the funding and disclosure scheme that commences on 1 January 2027. For information on the current scheme see the [Financial Disclosure](#) page.

Legislative provisions referenced in the guideline are from the Electoral Act as amended by the *Electoral Legislation Amendment (Electoral Reform) Act 2025*

Commonwealth Electoral Act 1918

Part XX	
Division 1	Preliminary
<i>Section 287</i>	Definitions
<i>Section 287AA</i>	Meaning of <i>foreign donor</i>
<i>Section 287AAB</i>	Definition of <i>gift</i>
Division 1A	Registration of significant third parties, associated entities and nominated entities, and the Transparency Register
Subdivision B	Requirement to register as a significant third party or associated entity
Subdivision BA	Registration as the nominated entity of a registered political party
Division 3A	Requirements relating to donations
Division 6	Miscellaneous

Disclaimer

The information in this publication is intended to provide general guidance only. It does not constitute legal, financial, or other professional advice. Persons and entities should seek their own professional advice to find out how the Electoral Act applies to their particular circumstances. The AEC has made every reasonable effort to provide current and accurate information, but it does not make any guarantees regarding the accuracy, currency, or completeness of that information. Parties who wish to re-publish or otherwise use the information in this publication must check this information for currency and accuracy prior to publication. Please refer to www.aec.gov.au to access the AEC's current publications.

Additional information

What are gift caps?

Gifts that are made for a federal purpose are subject to a gift cap. A gift cap is a cap on the total amount or value of gifts that a person or entity (the donor) can give, or a person or an entity can receive (the recipient) for a federal purpose in a calendar year. There are separate gift caps for by-elections and Senate-only elections, as well as a State and Territory and overall gift cap.

What is a federal purpose?

Federal purpose is defined in section 287 of the Electoral Act as for the purpose of incurring electoral expenditure, or creating or communicating electoral matter.

The Electoral Act provides immunity from State and Territory electoral laws for donors, gift recipients and persons acting on behalf of gift recipients when they offer, seek, give, receive, keep or use gifts that are expressly for federal purposes.

Example

The Wolfhound Party is a federally registered political party (RPP) that has a South Australian branch. Bill made a gift of \$20,000 to this South Australian branch to support its next federal election campaign. Because Bill's gift of \$20,000 is for a federal purpose, neither the branch nor Bill are subject to any South Australian laws that restrict political donations. Bill and the Wolfhound Party only need to comply with their obligations under the Electoral Act.



Section 302CA provides that a person or entity may offer, seek, give, receive or keep, and use gifts made for a federal purpose despite any State and Territory laws if it is *expressly for a federal purpose*.

What is a gift?

A gift includes a donation under the Electoral Act.

The Electoral Act sets out numerous examples of what is or is not **a gift** for the purposes of Part XX of the Electoral Act.

A gift includes a 'gift-in-kind.' Gifts-in-kind are goods or services given for which no payment (in cash or in kind) or inadequate consideration is made. Inadequate consideration is where the benefits obtained by the recipient are clearly of a lesser value than the payment made. Inadequate consideration includes discounts provided over and above those that would be offered under normal commercial arrangements.

A gift may also include uncharged interest on a loan to a person or entity, and an amount paid by a person as a contribution, entry fee or other payment to attend or otherwise benefit from a fundraising venture or function that forms part of the net proceeds of the venture or function.

For more information, refer to the **Gifts fact sheet**.



Section 287AAB(1) provides that: A gift is defined as 'any disposition of property made by a person or entity to another person or entity, being a disposition made without consideration in money or money's worth or with inadequate consideration, and includes the provision of service for no consideration or for inadequate consideration.'

Example

Sid owns a commercial investment property that is usually rented for \$3,500 per month. To support their local candidate in an upcoming election, Sid offers this location to the candidate for 4 months at a discounted rent of \$2,000 per month.

The difference between the rent that would have been charged under a normal commercial arrangement – \$14,000 – and the rent Sid charged the candidate – \$8,000 – equates to \$6,000 and would constitute a gift. Sid is a donor and would need to apply \$6,000 towards the relevant gift caps. Sid would also need to be aware of their disclosure obligations once the combined value of the gifts exceeds the disclosure threshold.

Who do gift caps apply to?

Gift caps apply to the following persons and entities:

- registered political parties (RPPs)
- State branches of RPPs
- members of the House of Representatives (MPs) and Senators
- candidates
- significant third parties (STPs)
- associated entities (AEs)
- nominated entities (NEs)
- third parties (TPs)
- donors.



Donors are responsible for monitoring and ensuring they do not exceed any of the gift caps that apply to their circumstances. See the table below for who the responsible person is for each recipient.

Entity type	Responsible person
RPP	The registered officer
State branch of an RPP	If also an RPP, the registered officer of the State branch If not an RPP, the agent of the State branch
MP or Senator	If a member of an RPP – the registered officer of the RPP If otherwise – the MP or Senator
Candidate	If endorsed by an RPP – the registered officer of the RPP If otherwise – the agent of the candidate or the candidate themselves
STP	The financial controller of the STP
AE	The financial controller of the AE
NE	The financial controller of the NE
TP	The TP



Section 302CC states who is the responsible person for a recipient of an annual gift, a by-election gift, or a Senate-only election gift.

What gift caps apply to donors?

There are five types of gift caps that apply to donors:

- the annual gift cap – the total amount or value a donor can give to a single recipient in a calendar year
- the State and Territory gift cap – gifts made to recipients connected to a particular State or Territory are subject to the State and Territory gift cap. The cap is the aggregate value of all gifts a donor may make in a calendar year in relation to a particular State or Territory, and is calculated by reference to the annual gift cap.
- the overall gift cap – is the total amount or value of all gifts a donor may make in a calendar year that is calculated by reference to the annual gift cap
- the by-election gift cap – the total amount or value of all gifts a donor can give a recipient for a by-election during the by-election period
- the Senate-only election gift cap – the total amount or value of all gifts a donor can give a recipient for a Senate-only election during the Senate-only election period.

Donors should be aware that recipients are subject to the following gift caps: the annual gift cap, by-election gift cap and Senate-only gift cap. For more information, please refer to the **Gift Caps Guideline for recipients**.

All of the gift caps are outlined below:

Gift cap	Cap amount (as of 1 January 2027)	Applies to
Annual gift cap	\$50,000 (indexed annually)	Donors and recipients
State and Territory gift cap	Five (5) times the annual gift cap – \$250,000	Donors only
Overall gift cap	32 times the annual gift cap – \$1,600,000	Donors only
By-election gift cap	\$50,000 (indexed annually)	Donors and recipients
Senate-only election gift cap	\$50,000 (indexed annually)	Donors and recipients

Gift cap amounts are subject to indexation.

The indexed gift cap amounts will be published on the AEC website before 1 January each year.

When do gift caps apply?

Except for the by-election and Senate-only election gift caps, gift caps apply over a calendar year from 1 January to 31 December. The by-election and Senate-only election gift caps apply only during the election period for that type of election.

How do gift caps interact for donors?

Some gifts made by a donor will apply to more than one gift cap.

Gift cap	When the cap applies	Also contributes to	Consists of
Annual gift cap	The entire calendar year	State and Territory gift cap Overall gift cap	Single and aggregated gifts for a federal purpose
State and Territory gift cap	The entire calendar year	Overall gift cap	Annual gift cap gifts
Overall gift cap	The entire calendar year	Nil	Annual gift cap gifts State and Territory gift cap gifts
By-election gift cap	Only during a by-election period	Nil	Single and aggregated gifts for a by-election purpose
Senate-only election gift cap	Only during a Senate-only election period	Nil	Single and aggregated gifts for a Senate-only election purpose

What happens to gift caps in an election year?

In the years that a federal election is held, the annual, State and Territory, and overall gift caps will reset 30 days after the return of writs for that election. However, the gift cap reset does not apply if the writ is returned in a new calendar year. If this date falls in a new calendar year, the gift cap will reset on 1 January of the new calendar year.

Example

The annual gift cap for 2030 was \$50,000. The State and Territory gift cap was \$250,000, and the overall gift cap was \$1,600,000.

A federal election was held on 3 May 2030. The writs for this election were returned on 14 July 2030.

The date 30 days after 14 July 2030 is 13 August 2030.

For the period 1 January 2030 – 13 August 2030, a donor can make gifts up to \$50,000 to each recipient. These gifts can total up to \$250,000 across all their recipients connected to a State or Territory. The maximum a donor can give in this period is \$1,600,000.

From 14 August 2030 – 31 December 2030 the caps reset, and a donor could make additional gifts up to each cap.



Sections 302CG and 302CK of the Electoral Act establish when the annual gift cap, State and Territory gift cap, and overall gift cap will reset if a federal election is held in a calendar year.

How do gift caps apply to gifts made to Senate groups?

When making a gift or gifts to a Senate group, a donor should be aware of the amount of the gift attributed to each recipient in the group. This is important for donors to ensure they are appropriately monitoring the combined value of all their gifts across all recipients to ensure that they comply with the Electoral Act.

Where a gift is made by or on behalf of a donor to either a group, or an agent acting on behalf of a group, the Electoral Act sets out who is taken to have received the gift and how much each recipient has received.

- If a group is a single-party endorsed group, the party that endorsed the candidates is taken to have received the gift
- If the group is jointly endorsed, or none of the group's members is a candidate endorsed by an RPP, then each member is taken to have received an equal share of the gift (rounded to the nearest dollar)

In either case, the group is taken not to have received the gift.

Example 1

Members of a group are all endorsed by the same RPP. A donor makes a gift to the group. The donor's gift is taken to be received by the endorsing political party.

Example 2

Ellis, Spencer, and Quinn are members of a group and are all endorsed by the Australian Shepherd Party. Robin is also a member of the group and is endorsed by the Maltese Party, who is in a coalition with the Australian Shepherd Party.

Blake makes a gift of \$6,000 to the group. The donation is taken to be received in even split between each of the four candidates that are members of the group (\$1,500 each).

Endorsed candidates and the endorsing RPP are 'related' for the purpose of establishing whether a gift cap has been exceeded. This would mean \$4,500 is aggregated with any other gifts for a federal purpose made by Blake to the Australian Shepherd Party, and \$1,500 is aggregated with any other gifts for a federal purpose made by Blake to the Maltese Party.

Example 3

A donor makes a gift to a group where no members of the group are endorsed by an RPP ('unendorsed group'). The gift is taken to be split equally among the group.

Requirements relating to gifts

This section outlines what gifts apply to each gift cap and how the gift caps operate.

Annual gift cap

Is the total amount or value of all gifts for a federal purpose a donor can give to a single recipient in a calendar year.

State and Territory gift cap

The State and Territory gift cap applies to gifts made for a federal purpose to recipients connected to a State or Territory.

A person or entity is connected to a State or Territory if they are any of the following:

- a political party that is a State branch in the State or Territory
- a member of the House of Representatives for a Division in the State or Territory
- a Senator for the State or Territory
- a candidate in a federal election for a Division in a State or Territory
- a candidate in a Senate election for a State or Territory
- a nominated entity of a RPP that is a State branch in the State or Territory.

Example

Chris made a gift of \$20,000 to Jo, a member of the House of Representatives, for the federal Division of Corangamite in Victoria. Chris will need to apply this gift as \$20,000 towards both the annual gift cap and State and Territory gift cap.

Overall gift cap

The overall gift cap is 32 times the annual gift cap and applies for the entire calendar year.

Example

Using the example above, Chris also made a later gift of \$10,000 to the federal branch of the Dachshund Party. Chris would need to apply the earlier \$20,000 donation to Jo and the \$10,000 donation to the Dachshund Party towards the respective annual gift caps as well as the total sum of \$30,000 to the overall gift cap.

By-election gift cap

The by-election gift cap only applies to gifts made by the same donor to a single recipient or related entity for the purpose of a by-election during the by election period which:

- starts from the day the writs are issued; and
- ends at close of polling for that by-election.

If multiple by-elections are held concurrently, each by-election attracts its own gift cap.

Gifts made for a by-election purpose do not contribute to the:

- annual gift cap
- overall gift cap, or
- State and Territory gift cap.

Example

On 28 July 2018, five separate by-elections were held to fill vacancies in the House of Representatives seats for the Division of Fremantle, Division of Perth, Division of Mayo, Division of Braddon and Division of Longman.

If the 'by-election gift cap' had applied at this time, each by-election would have had its own gift cap of \$50,000. The by-election gift cap applies to gifts made for the purpose of that by-election, in the by-election period – being the period from the issue of writ until the end of polling day for the by-election.

Senate-only election gift cap

The Senate-only election gift cap only applies to gifts made by the same donor to a single recipient or related entity for the purpose of a Senate-only election during the Senate-only election period which:

- starts from the day the writs are issued; and
- ends at close of polling for the Senate-only election.

Gifts made for a Senate-only election purpose do not contribute to the:

- annual gift cap
- overall gift cap, or
- State and Territory gift cap.

Example

If a Senate-only election was held on 2 August 2027, a separate Senate-only election gift cap would apply from the issue of writ to the close of polling. Donors that make gifts for the purpose of the Senate-only election would count those gifts towards the Senate-only election gift cap, and not towards the annual gift cap, State and Territory gift cap, or overall gift cap.

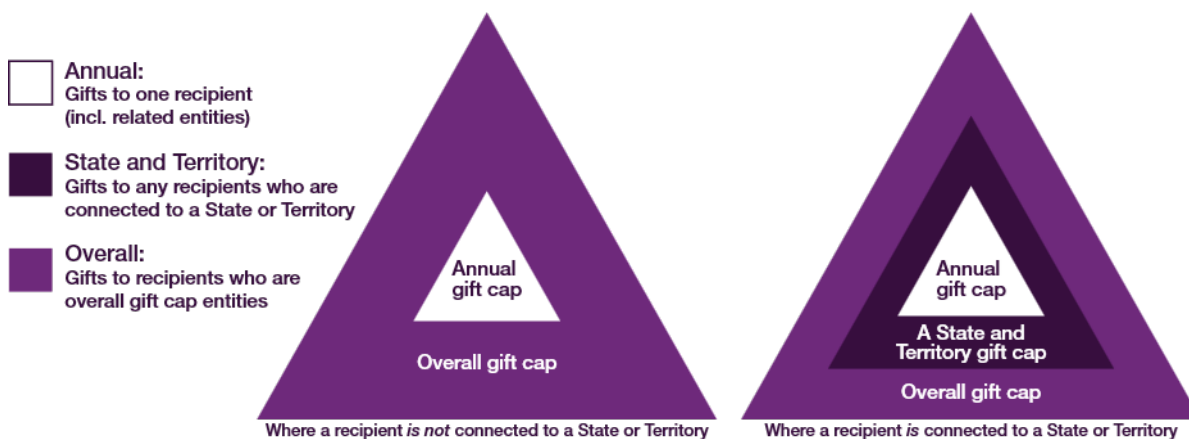
Where a gift may contribute to more than one gift cap

Donors need to monitor which gift cap their gifts contribute to, including where a gift may contribute to more than one cap. Not all gifts made by a donor that contribute to the annual gift cap will also contribute to the State and Territory gift cap, as the State and Territory gift cap only applies to gifts made for a federal purpose to recipients connected to a State or Territory. However, all gifts made by a donor will contribute to the overall gift cap, except where gifts are made for a by-election or Senate-only election purpose during the relevant by-election or Senate-only election period.

The figure below shows that gifts made by a donor might contribute to:

- the annual, State and Territory, and overall gift caps, or
- the annual and overall gift caps, or
- during a by-election or Senate-only election, the gift cap for that election.

How a donor's gifts apply to multiple gift caps



Do gifts require receipts?

A donor may pay an amount as a contribution, entry fee or other payment to attend, or otherwise obtain gained a benefit from a fundraising venture or function. Under the Electoral Act, the portion of this contribution that forms part of the net proceeds of the venture or function is a gift. The responsible person for the recipient is required to provide the donor with a receipt for the gift as soon as practicable after receiving the gift. The donor can rely on the receipt for their disclosure obligations.

If the responsible person for the recipient reasonably believes the amount that forms part of the net proceeds changes, the responsible person must give the donor an updated receipt.

Example

The Mastiff Party held a fundraising gala dinner to raise funds for their upcoming election campaign. All arrangements for the event were paid for at the market rate and cost \$45,000. The event had a capacity of 150 seats and tickets were sold for \$1,500 per seat.

All 150 seats were sold for the event, resulting in \$225,000 revenue. The net proceeds from this event were \$180,000 (revenue minus the cost to host the event).

The Mastiff Party will need to provide a receipt for the amount of \$1,200 (\$180,000 divided by 150 tickets) to each donor who purchased a ticket, to represent the portion of their ticket price that constitutes a gift.

The donor/s can rely on this receipt for the purposes of complying with their disclosure obligations.

The Electoral Act does not prescribe any other circumstances in which a receipt is required to be issued. However, it is strongly recommended that a donor maintains appropriate records to monitor and ensure that they do not exceed the relevant gift caps.



Section 287AAB(2)(a) provides that a gift includes the amount that forms part of the net proceeds from any contribution, entry fee, or other payment to attend or otherwise obtain a benefit from a fundraising function or venture.

Section 302CH provides where receipts are required to be provided for certain gifts.

What does it mean to exceed a gift cap?

A donor will exceed a gift cap if gifts where the amount or value of a single gift or the cumulative sum of multiple gifts made to the same recipient or their related entities exceeds the relevant gift cap amount.

What is a related entity?

The Electoral Act deems related bodies corporate to be the same entity. Related bodies corporate has the same meaning under the Electoral Act as defined in section 50 of the *Corporations Act 2001* (Cth). A donor entity will need to ensure that they do not exceed a gift cap where multiple gifts are made from related bodies corporate.

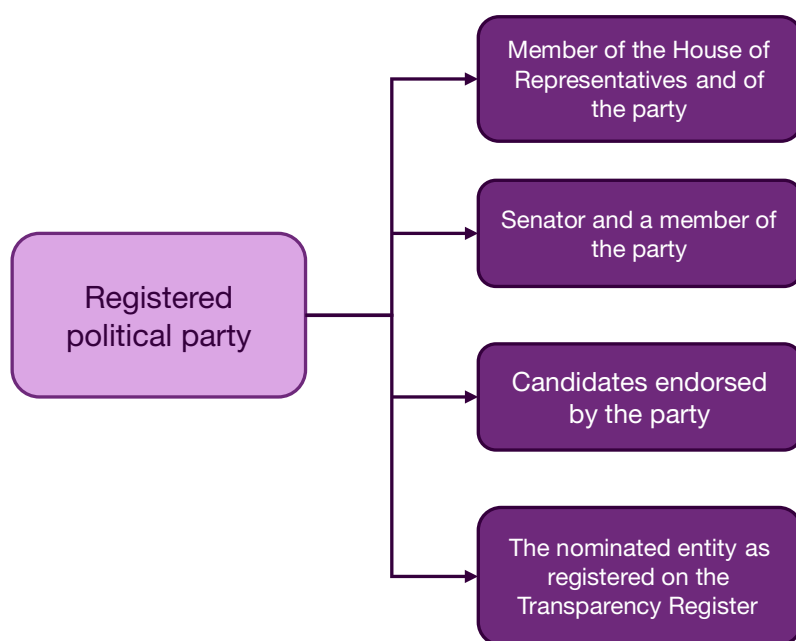
Section 302BA(4) of the Electoral Act sets out when a person or entity is related to an RPP. Donors should ensure that they monitor their gift caps, especially if making gifts to related entities. A person or entity is related to an RPP if they are any of the following:

- an MP who is a member of the RPP
- a Senator who is a member of the RPP
- a candidate endorsed by the RPP, or
- the registered nominated entity of the RPP as set out on the Transparency Register at the time the relevant gift was made.

In the case of a member of the House of Representatives, Senator, or candidate who may be related to more than one RPP, they are related only to whichever of the following most recently applies:

- if they are a candidate, the RPP that endorses that person
- if they are a member of the House of Representatives or Senator and not a candidate, the party that endorsed them in the election that most recently resulted in their election, or
- if they are a Senator but not by an election, the RPP that endorsed their predecessor as a candidate for election to the Senate, or
- if the person has given the AEC a written notice in the approved form specifying another of the RPP, then the RPP specified in the most recent notice.

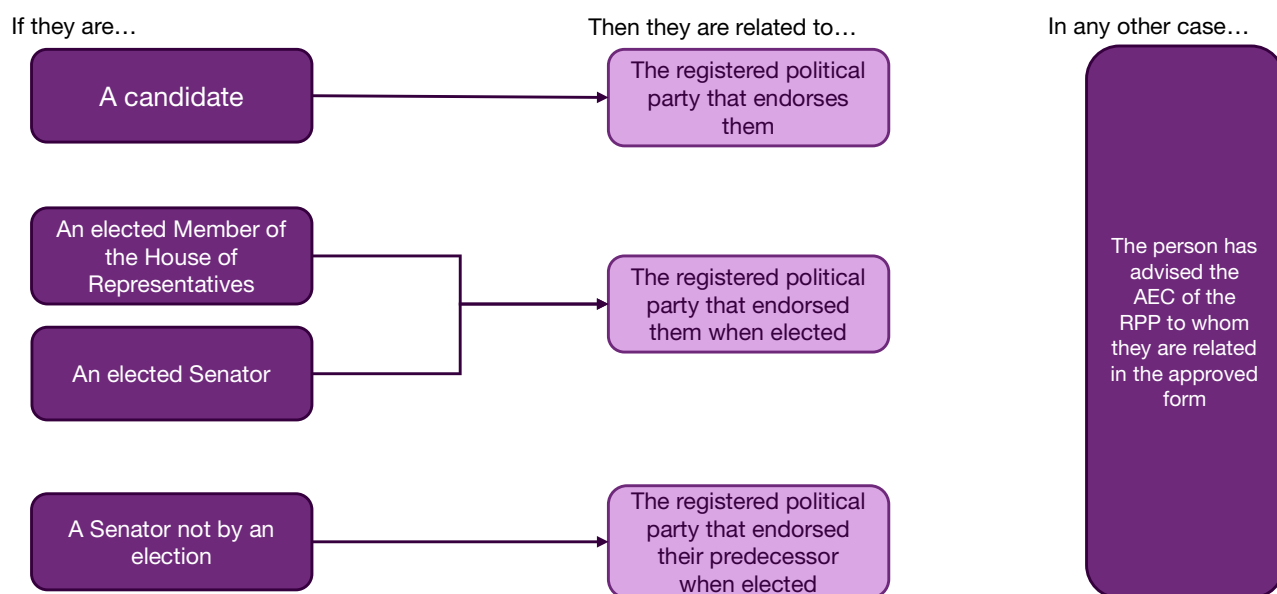
Where the person or entity is only related to one RPP



In the case of a MP, Senator, or candidate who may be related to more than one RPP, the person is taken to be *related* only to:

- if they are a candidate – the RPP that endorses that person; or
- if they are a MP or Senator and not a candidate – the RPP that endorsed them as a candidate in the election that most recently resulted in their election as a MP or Senator; or
- if they are a Senator and became a Senator other than a result of an election – the RPP that endorsed their predecessor as a candidate for election to the Senate; or
- if the person has given the AEC a written notice in the approved form specifying another of the RPPs – then the RPP most recently specified in that notice.

Where a person or entity may be related to more than one RPP



Example 1

Riley is a member of the Beagle Party in the House of Representatives. As Riley is a member of that RPP, they are a related entity, and share an annual gift cap. This means, a gift to Riley counts as a gift to the Beagle Party as well for the purposes of gift caps. If Leigh makes a donation to Riley, but also donates to the Beagle Party, the aggregated value of these gifts must not exceed the relevant gift cap. If Leigh makes a \$15,000 gift to Riley, it is also taken as a \$15,000 gift to the Beagle Party for the purposes of their gift cap.

Example 2

Alex is a Senator for Tasmania, who was endorsed as a candidate by the Poodle Party in the election that resulted in their election to the Senate. After this election, the Poodle Party entered a coalition with the Cavalier Party. Alex is a related entity to the Poodle Party as that was the party that endorsed Alex at the election which resulted in his election to the Senate.



Section 302BA(4) and (5) sets out who is considered a related entity, and where a person may be related to more than one RPP, how to determine which party the person is related to.

Treatment of other entities

The Electoral Act explains how other entities, such as body corporates, associated entities, significant third parties, and third parties, and their branches are to be treated under sections 287(6) and 287(8) to (8D). For more information, refer to the relevant **entity registration guidelines**.

The Electoral Act deems related bodies corporate to be the same entity. Related bodies corporate has the same meaning under the Electoral Act as defined in section 50 of the *Corporations Act 2001* (Cth). The responsible person will need to ensure that a recipient does not exceed a gift cap where multiple gifts are received from related bodies corporate.

What can a donor do if a gift cap is exceeded?

If a donor has made a gift or gifts that exceed any of the gift caps that apply to them during a calendar year, they contravene the Electoral Act and may be subject to a civil penalty. However, the donor does not contravene the Electoral Act if:

- at the time the gift was made, the donor did not know, and could not reasonably have been expected to know, that the gift exceeded the relevant gift cap for the calendar year; and
- the donor took acceptable donor action in relation to the gift within six weeks (the acceptable action period) after becoming aware that the gift exceeded the relevant gift cap for the calendar year.

A donor who wishes to rely on this exception to avoid liability, bears the evidential burden. This means that the donor is responsible for producing the necessary evidence to support the exception that applies to their circumstances.

Information on what penalties can apply if a gift cap is exceeded can be found on the AEC website [publication forthcoming].



A person who wishes to rely on any of the exceptions bears an evidential burden. This means that if a person wants to rely on the exception, they must be able to present evidence that demonstrates a reasonable possibility that the matter exists or does not exist.



Sections 302CD(3), 302CE(3) and 302CF(3) provide the exceptions for contravening the annual, by-election and Senate-only election gift caps.

Sections 302CI(4) and 302CJ(5) set out the exception in relation to the State and Territory gift cap and the overall gift cap.

Taking acceptable donor action

Under the Electoral Act acceptable donor action is taken in relation to a gift that exceeds a gift cap if the donor, in writing, requests that the recipient of the gift return to the donor:

- the gift, or
- an amount equal to the amount or value by which the gift exceeds the applicable gift cap.

In order to avoid liability under the Electoral Act a donor has 6 weeks from the time the donor becomes aware that they had exceeded a gift cap for a calendar year to take acceptable donor action.

It is best practice and promotes transparency to inform the AEC when acceptable action has been taken. The AEC is responsible for publishing any acceptable action on the Transparency Register within 24 hours.

If a donor becomes aware that the annual gift cap has been exceeded by a recipient returning the gift and taking acceptable recipient action, the donor does not need to take any additional action.



Section 302B of the Electoral Act defines acceptable donor action and the acceptable action period.

Example

Jo made a gift of \$30,000 to the Chihuahua Party on 31 July 2026 to support an upcoming federal campaign. On 25 August 2026, Jo made a gift of \$20,000 to Lou, an endorsed candidate of the Chihuahua Party. Jo is aware that Lou is a related entity of the Chihuahua Party.

On 24 December 2026, Jo received a marketing email from Pawly Enterprises announcing they would be kicking off a campaign to support the Chihuahua Party's upcoming federal campaign. Jo made a gift of \$10,000 to Pawly Enterprises. On 30 December 2026, Jo became aware that Pawly Enterprises were the registered nominated entity of the Chihuahua Party, and Jo had breached the annual gift cap.

As soon as Jo became aware, they contacted Pawly Enterprises and requested the \$10,000 be returned. Jo would be able to establish that acceptable donor action had been taken and would not be in breach of the Electoral Act.

Exceeding the annual gift cap

An annual gift made in a calendar year will exceed the annual gift cap if:

- the amount or value of the gift is more than the annual gift cap; or
- the amount or value of the gift, when added to the amount or value of each previous annual gift (if any) from the same donor to the same recipient in the same calendar year is more than the annual gift cap; or
- the amount or value of the gift to an RPP, when added to the amount or value of each previous annual gift (if any) from the same donor to the same RPP, or a person or entity related to the RPP, in the same calendar year is more than the annual gift cap.

When making multiple gifts, donors must monitor the combined amount or value of gifts made in a calendar year to the same recipient or the recipient's related entity. Monitoring is required to ensure a donor does not exceed the annual gift cap.



Section 302BA(1) explains what it means to exceed the annual gift cap.

Example

Tristan makes a \$15,000 annual gift to the Pug Party, who are an RPP. Tristan also makes a \$30,000 annual gift to Sam, who is an endorsed candidate of the Pug Party. In the calendar year in which the gifts were made, the annual gift cap was \$50,000. Tristan is aware that the Pug Party and Sam are related entities, so the value of their gifts must be added together. This results in a total annual gift of \$45,000. This gift contributes towards Tristan's annual gift cap to the Pug Party and its related entities.

If Tristan were to make another annual gift of more than \$5,000 to Sam or the Pug Party, or any of the Pug Party's other related entities, Tristan would exceed the annual gift cap.

Exceeding the State and Territory gift cap

A donor will exceed the State and Territory gift cap if:

- during a calendar year, they make an annual gift to a person or entity that is connected to a State or Territory, and:
- at that time the gift exceeds the State and Territory gift cap in relation to the State or Territory the person or entity is connected to.

A donor will also exceed the State and Territory gift cap if the amount or value of the gift made during a calendar year, when added to the amount or value of each previous annual gift (if any) made in that calendar year, exceeds the State and Territory gift cap.



Section 302CJ explains the meaning of exceeds the State and Territory gift cap and 'connected to a State or Territory'.

A person or entity is connected to a State or Territory if they are any of the following:

- a political party that is a State branch in the State or Territory
- a member of the House of Representatives for a Division in the State or Territory
- a Senator for the State or Territory
- a candidate in a federal election for a Division in the State or Territory
- a candidate in a Senate election for the State or Territory
- a nominated entity of a registered political party that is a State branch in the State or Territory.

A person connected to a State or Territory does not include members of parliament in State or Territory governments, or candidates for election in a State or Territory election.

Example

Jo is a member of the House of Representatives for the federal Division of Corangamite in Victoria, and also a member of the Yorkie Party, which is a federal RPP. This means that Jo is a person or entity connected to the State of Victoria. An annual gift to Jo would count towards the annual gift cap, as well as their State and Territory gift cap for Victoria.

If making multiple donations, donors must monitor the combined value of annual gifts made to a person or entity that is connected to a State or Territory to ensure they do not exceed the State and Territory gift cap.

Exceeding the overall gift cap

A donor (person or entity) exceeds the overall gift cap if at a time in the calendar year they make an annual gift to any of the following (an **overall gift cap entity**):

- an RPP
- a State branch of an RPP
- a member of the House of Representatives
- a Senator
- a candidate
- a nominated entity, and

at that time, the gift exceeds the overall gift cap for the calendar year.



Section 302CI explains the meaning of exceeds the overall gift cap and who is considered an overall gift cap entity.

A donor may also exceed the overall gift cap if they make a gift to an overall gift cap entity, which combined with the amount of any previous annual gifts made in that calendar year, exceeds the overall gift cap. The overall gift cap could be exceeded where a donor makes a gift to a new recipient. The overall gift cap may also be exceeded without a donor having exceeded any other gift cap.

A donor could exceed the overall gift cap when donating to an overall gift cap entity whom they did not previously donate to in the calendar year.

Example

Drew regularly makes gifts to several unrelated entities. In a calendar year when the annual gift cap was \$50,000 and the State or Territory gift cap was \$250,000, Drew made an annual gift of \$40,000 each to three federal RPPs and three independent candidates from Queensland.

Drew did not exceed the annual gift cap as all gifts were below the cap and none were made to related entities. Drew has contributed \$120,000 to their State and Territory gift cap for Queensland and \$240,000 to their overall gift cap for the calendar year,

Drew is considering making a \$40,000 gift to another six candidates in Queensland who are not related entities to each other or to any of the recipients of Drew's previous gifts. The additional gifts Drew is considering are below the annual gift cap. The additional gifts would not cause Drew to exceed the overall gift cap of \$1,600,000 for that calendar year.

However, because Drew has already made gifts of \$120,000 to people connected to Queensland, Drew would exceed the State and Territory gift cap if they made the additional six \$40,000 gifts to persons or entities connected with Queensland.

When making multiple gifts, donors must monitor the combined value of all their annual gifts in a calendar year, to ensure they do not exceed the overall gift cap.

Exceeding the by-election and Senate-only election gift cap

A gift will exceed the by-election or Senate-only election gift cap if it is made by the same donor to the same recipient, including an RPP or related entity, during the election period for the by-election or Senate-only election, and it is:

- more than the by-election gift cap as a single gift
- more than the by-election gift cap, when the amount or value of the gift when added to the amount or value of each previous gift received by the recipient from that donor for the purpose of that by-election in the by-election period.
- more than the Senate-only election gift cap as a single gift
- more than the Senate-only election gift cap, when the amount or value of the gift when added to the amount or value of each previous gift received by the recipient from that donor for the purpose of that Senate-only election in the Senate-only election period.



Section 302BA(2) and (3) explains what it means to exceed the by-election and Senate-only election gift caps.

Donors must monitor the combined value of gifts made in a by-election or Senate-only election period to the same recipient or a related entity, to ensure they do not exceed either gift cap.

Example

Charlie has made a gift of \$25,000 to Casey, a candidate from the Labrador Party (an RPP) in an upcoming by-election, in a year where the by-election gift cap is \$50,000. Charlie is later contacted by the Labrador Party seeking gifts to support this campaign and decides to make another donation. Charlie is aware of their by-election gift cap compliance obligations, and that Casey is a related entity to the Labrador Party.

Charlie knows they cannot make an additional gift of over \$25,000 in these circumstances without exceeding their by-election gift cap.

Foreign donations

The Electoral Act restricts the making and receipt of donations from a foreign donor. Persons or entities under these restrictions must ensure they are aware of these restrictions to maintain compliance. A donor may be asked by the recipient of the gift to provide information on their status in relation to meeting their requirements and obligations under the Electoral Act.

The **Fact Sheet on Foreign Donations** available on the AEC website contains further information.