

## DEFINITION OF ELECTORAL EXPENDITURE

This fact sheet relates to candidates, registered political parties, associated entities and third parties involved in State elections and by-elections. All references to legislation are to the *Electoral Act 1992*, as in force from 1 July 2022. The information in this fact sheet does not replace legislation. If you are concerned about your obligations, you should seek independent legal advice.

The term 'electoral expenditure' has a specific meaning for State elections and by-elections. It affects disclosure obligations, election funding claims, electoral expenditure caps, and (in some circumstances) political donation caps.

It is important to determine what is and what is not electoral expenditure and who has incurred it. Electoral participants must ensure they do not exceed the caps on electoral expenditure. See [Fact Sheets 10 – 12](#) for information about electoral expenditure caps.

### What is electoral expenditure?

Electoral expenditure includes any of the following costs which are incurred for a campaign purpose:<sup>1</sup>

- Expenditure for designing, producing, printing, broadcasting, or publishing any kind of material for an election, including (but not limited to):
  - an advertisement for broadcast on radio or television, cinema, using the internet, email or SMS,
  - material for publication in newspapers or magazines, on billboards, or as brochures, flyers, signs, how-to-vote cards or information sheets, or
  - material for distribution in letters.
- Expenditure for the cost of distributing material for an election, including, for example, the cost of postage, sending SMS messages, or couriers.
- Expenditure for carrying out an opinion poll or research.

- Expenditure for contracted services related to an activity mentioned above (e.g. fees for consultants, or the provision of data).

Expenditure is incurred for a campaign purpose if it is incurred to:<sup>2</sup>

- promote or oppose a political party in relation to an election, or
- promote or oppose the election of a candidate, or
- otherwise influence voting at an election.

More specifically, expenditure is incurred for one of the above purposes if material produced as a result of the expenditure does any of the following in relation to an election:

- Expressly promotes or opposes:
  - political parties or candidates who advocate, or do not advocate, a particular policy or issue, or
  - political parties or candidates who have, or do not have, a particular position on a policy or issue, or
  - candidates who express a particular opinion.
- Expressly or impliedly comments about a political party, elected member or candidate or in relation to an electoral district.
- Expresses a particular position on a policy, issue, or opinion, if the position is publicly associated with a political party or candidate. This can apply whether or not the party or candidate is mentioned.

<sup>1</sup> See section 199

<sup>2</sup> See section 199A

## What is not electoral expenditure?

Electoral expenditure does not include:

- expenditure incurred employing staff for a campaign purpose (excluding consultants, depending on their roles).
- expenditure incurred substantially for, or related to the election of members of a parliament outside Queensland (i.e. another state or federal parliament), or the election of councillors.
- expenditure on factual advertising about a matter that relates mainly to the administration of a registered political party, for an organisational purpose or for selecting a candidate to nominate for election.
- expenditure for which an elected member is entitled to receive an allowance or entitlement.

## Electoral expenditure incurred by third parties

Expenditure incurred by a third party is electoral expenditure if the dominant purpose for which the expenditure is incurred is a campaign purpose.

However, expenditure incurred by a third party is not electoral expenditure if the dominant purpose for the expenditure is another purpose (e.g. to educate or raise awareness about an issue of public policy). This applies even if the expenditure is also incurred for, or achieves, a campaign purpose.

Third parties which incur more than \$6,000 in electoral expenditure for an election (or intend to do so), have additional obligations, including the obligation to register with the ECQ.

See [Fact Sheets 14 and 15](#) for more information about third parties.

## When is electoral expenditure incurred?

Electoral expenditure is incurred at the time the relevant goods or services are supplied or provided. It does not matter when the expenditure is invoiced or paid.<sup>3</sup>

For example:

- Expenditure on advertising is incurred when the advertisement is broadcast or published.
- Expenditure on the production and distribution of election material is incurred when the material is distributed.

However, electoral expenditure is taken to have been incurred when the goods are **first used for a campaign purpose** during a capped expenditure period if:

- electoral expenditure is incurred to obtain goods, and
- the goods are obtained for the dominant purpose of being used for a campaign purpose **in relation to one or more elections**, and
- the goods are supplied **before** the capped expenditure period starts.

In other words, if the goods are:

- used in the capped expenditure periods for two subsequent elections (e.g. the 2020 and 2024 State general elections), they will only count towards the **first** capped expenditure period (assuming this was the dominant purpose for obtaining the goods in the first place),
- used during the capped expenditure period, but paid for after the capped expenditure period, they are taken to be incurred during the capped expenditure period, and
- procured but never used or distributed (e.g. due to withdrawal from the election or goods become obsolete), the expenditure is taken to not have been incurred.

## Incurring electoral expenditure for another participant

If an election participant (the first participant) incurs electoral expenditure that benefits a second election participant (the recipient), the electoral expenditure is taken to have been incurred by the first participant.

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<sup>3</sup> See section 281

However, the recipient is taken to have incurred the electoral expenditure if:

- the expenditure is incurred with the recipient's authority or consent, or the recipient accepts election material that results from the expenditure, and
- the first participant invoices the recipient for payment for the amount of the expenditure.

### **'Gifted' electoral expenditure**

If an item of electoral expenditure originally incurred by a person is 'gifted' to an election participant, the amount is taken to have been actually incurred by the recipient election participant.<sup>4</sup>

Electoral expenditure (as defined above) is 'gifted' to an election participant if:<sup>5</sup>

- the expenditure benefits the election participant, and
- the expenditure is incurred with the authority or consent of the recipient, or the election material produced by the expenditure is accepted by the recipient, and
- the person who originally incurred the expenditure does not receive payment or invoice the participant within seven days of the events outlined above.

If the electoral expenditure outlined above was incurred under an arrangement with two or more election participants, the value of expenditure is divided by the number of participants to determine the gifted amount per participant.

A donation of 'gifted' electoral expenditure is considered to have been 'made' at the end of the seven-day period outlined above, regardless of when the expenditure is incurred.<sup>6</sup>

### **Record keeping**

Detailed records must be kept by election participants who incur electoral expenditure or receive electoral expenditure as a gift.

Records should include dates relating to the ordering, delivery, invoicing, payment, publication, broadcast, distribution or first use of item.

See [Fact Sheet 21](#) for more information about record keeping requirements.

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<sup>4</sup> See section 280A

<sup>5</sup> See section 200B

<sup>6</sup> See section 200B(3)