

FAQs on Electoral Trusts

1. What are Electoral Trusts and why are they required?

An Electoral Trust is a Trust set up by companies with the sole objective to distribute the contributions received by it from other Companies and individuals to the political parties.

On 31st January, 2013, through '[The Electoral Trusts Scheme, 2013](#)', the Central government specified the **eligibility and procedure for registration** of Electoral Trusts. It is to be noted that only such companies are eligible to make an application for approval as an Electoral Trust which are registered under section 25 of the Companies Act, 1956.

2. What are the Laws/Rules governing the creation and functioning of Electoral Trusts?

The Central Government **amended** the **Income Tax Rules, 1962** on the 31st January, 2013 to **insert Rule 17CA** which **lists the functions of Electoral Trusts** approved by the Central Bureau of Direct Taxes (CBDT). The Central Government, also launched '[The Electoral Trusts Scheme, 2013](#) which specified the **eligibility and procedure for registration** as an Electoral Trust apart from **laying down the format** for their registration.

The Election Commission of India (ECI), strongly felt that before the launch of the Electoral Trusts scheme, there was no transparency requirement, either regarding source of funding or disbursal of funds to political parties, routed through Electoral Trusts. Thus, on 6th June, 2014, the Commission [circulated guidelines](#) for submission of contribution reports of Electoral Trusts.

3. What are the basic do's and don'ts related to contributions to Electoral Trusts?

Below is the table containing the basic do's and don'ts related to contributions to Electoral Trusts:

May receive contributions from	Shall not accept contributions from
An individual who is a citizen of India	An individual who is not a citizen of India
A company registered in India	A foreign entity whether incorporated or not
A firm (resident in India)	Other Electoral Trusts (approved under the Electoral Trusts Scheme)
HUF(Indian residents)	Contributors without PAN
An association of persons (Indian residents)	NRIs without a passport number

4. What is the mechanism of collection of funds by Electoral Trusts?

On receipt of funds from those contributors who comply with the above conditions, the Electoral Trusts are required to issue a receipt to the contributor recording the following information apart from maintaining a counter-foil with the same information for its records:

- (i) Name and address of the contributor.
- (ii) PAN of donor/ passport number in case of NRI.
- (iii) Amount and mode of contributions (with name and branch of Bank, date of receipt of donation).
- (iv) Name of Electoral Trust.
- (v) PAN of Electoral Trust.
- (vi) Date and number of approval by CBDT.
- (vii) Name and designation of person issuing the receipt.

The funds collected shall not be utilized for direct/indirect benefit of the Trusts' members or their relatives (including the Founder of the Trust) or any person who has made contribution to the Trust.

5. **What is the mechanism of distribution of funds by Electoral Trusts?**

For administrative expenses, the Electoral Trusts are permitted to set aside a maximum of 5% of the total funds collected during a financial year along with any surplus carried forward from the previous financial year. The remaining 95% of total income of the Trusts including any surplus from previous financial year is required to be distributed to eligible political parties. Such contributions to political parties should always be followed by a receipt obtained from the benefiting party, along with the political party's PAN, registration number and name and designation of the person signing the receipt.

6. **Are Electoral Trusts required to maintain accounts of all the funds collected and distributed?**

Yes, electoral trust are required to keep and maintain books of account and other documents in respect to their receipts, distributions and expenditure to enable the computation of its total income in accordance with the provisions of the Act.

The book of accounts should comprise the list of people from whom contributions have been received and to whom the same have been distributed, donors' name, address and permanent account number along with the details of the amount and mode of payment received including the name and branch of the bank.

7. **Are these accounts/statements regularly audited and are they available for the public to access?**

Every electoral trust is required to get its accounts audited by an accountant and furnish the audit report in the format specified (Form No. 10BC) along with particulars forming part of its Annexure, to the Commissioner of Income-tax or the Director of Income-tax, having jurisdiction over the electoral trust, on or before the due date specified for furnishing the return of income by a company under Section 139.

8. **What laws/rules govern the functioning of those Electoral Trusts established before 2013?**

There were 6 Electoral Trusts – **General Electoral Trust, Electoral Trust, Harmony Electoral Trust, Corporate Electoral Trust, Bharti Electoral Trust and Satya Electoral Trust** – which donated to political parties before the launch of Electoral Trusts Scheme in 2013.

As the rules are **not retrospective**, these 6 Electoral Trusts are **not required to** follow the rules set down in the Electoral Trusts Scheme, 2013. Thus, details of donors to these 6 Electoral Trusts remain unknown.

9. **How can the public gain access to the audit reports of those Electoral Trusts established before the launch of the 'Electoral Trusts Scheme'?**

There is a legal vacuum in respect to disclosure of contribution reports by the electoral Trusts created before the Electoral Trusts Scheme, 2013.

10. **Has ADR filed any petitions/complaints with the CIC/High Court/Supreme Court to obtain financial information of Electoral Trusts formed before 2013?**

Yes, ADR has filed an appeal with the CIC requesting for the **audit report, donation and contribution reports of all Electoral Trusts formed between FY 2002-03 and FY 2012-13 to be made public.**

Since electoral trusts fund political parties, it is in greater public interest to bring financial information regarding Electoral Trusts in the public domain. Currently the appeal is pending with the CIC.

11. **What are recommendations of ADR regarding improving transparency in the functioning of Electoral Trusts?**

ADR has the following recommendations regarding improving transparency in the functioning of Electoral Trusts

1. **6 Electoral Trusts** - General Electoral Trust, Electoral Trust, Harmony Electoral Trust, Corporate Electoral Trust, Bharti Electoral Trust and Satya Electoral Trust, which were formed **before the transparency rules were formulated** by the Central Government and had donated a total amount of **Rs 105 crores** to the National Parties between FY 2004-05 and 2011-12, **details of donors** of these Electoral trusts should also be disclosed. Also, the same rules which apply to Trusts formed after January 31, 2013 should also apply to the above mentioned Trusts so as to improve transparency.
2. The **names of Electoral Trusts**, currently, **do not indicate the name of the Company/group of companies which set up the Trusts**. In order to have greater transparency regarding details of corporates which fund political parties, it would be ideal to include the name of the parent company in the name of the Electoral Trust.
3. Those Electoral Trusts which have not responded to and complied with the guidelines circulated by the ECI should be **heavily penalized** as indicated in the notification issued by the ECI to the Trusts.