



Tax Laws Amendment (Political Contributions and Gifts) Act 2010

No. 16, 2010

An Act to amend the law relating to taxation, and for related purposes

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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No. 16, 2010

An Act to amend the law relating to taxation, and for related purposes

[Assented to 15 March 2010]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Tax Laws Amendment (Political Contributions and Gifts) Act 2010*.

2 Commencement

This Act commences on the day on which it receives the Royal Assent.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Political contributions and gifts

Income Tax Assessment Act 1997

8 Section 12-5 (table item headed “political parties”)

Repeal the item, substitute:

political contributions and gifts

| | |
|------------------------------------|----------------------|
| denial of certain deductions | 26-22 |
| deductions for individuals..... | Subdivision 30-DA |

9 After section 26-20

Insert:

26-22 Political contributions and gifts

You cannot deduct political contributions or gifts

- (1) You cannot deduct under this Act (other than Subdivision 30-DA):
- (a) a contribution (including a membership fee) or gift to a political party that is registered under Part XI of the *Commonwealth Electoral Act 1918* or under corresponding State or Territory legislation; or
 - (b) a contribution or gift to an individual when the individual is a candidate in an election for members of:
 - (i) an *Australian legislature; or
 - (ii) a *local governing body; or
 - (c) a contribution or gift to an individual who is a member of:
 - (i) an Australian legislature; or
 - (ii) a local governing body.

Exception for employees and office holders

- (2) However, subsection (1) does not apply to a loss or outgoing incurred in gaining or producing assessable income from which an amount is required to be withheld under section 12-35 or 12-45 in Schedule 1 to the *Taxation Administration Act 1953*.

Schedule 1 Political contributions and gifts

Note: These provisions of the *Taxation Administration Act 1953* require amounts to be withheld from income of employees and office holders.

Starting and stopping being a candidate

- (3) For the purposes of this section, an individual:
- (a) starts being a candidate when the individual's intention to be or to attempt to be a candidate for the election is publicly available; and
 - (b) stops being a candidate at the earlier of:
 - (i) the time when the result of the election is declared or otherwise publicly announced by an entity (an *electoral official*) authorised under the relevant electoral legislation; and
 - (ii) the time (if any) when the individual's intention to no longer be a candidate for the election is publicly available.

Starting being a member

- (4) An individual who becomes a member as a result of an election (including an election that is later declared void) is taken to start being a member when the individual's election as a member is declared or otherwise publicly announced by an electoral official.

10 After subsection 30-242(3)

Insert:

- (3A) You can deduct the contribution or gift only if:
- (a) you are an individual; and
 - (b) you do *not* make the gift or contribution in the course of *carrying on a *business.

17 At the end of section 110-38

Add:

- (6) Expenditure does *not* form part of any element of the *cost base* to the extent that section 26-22 prevents it being deducted.

Note: Section 26-22 denies deductions for political contributions and gifts.

18 After subsection 110-55(9E)

Insert:

(9F) Expenditure does *not* form part of the ***reduced cost base*** to the extent that section 26-22 prevents it being deducted.

Note: Section 26-22 denies deductions for political contributions and gifts.

21 Application

The amendments made by this Schedule apply in relation to contributions or gifts made on or after 1 July 2008.

*[Minister's second reading speech made in—
House of Representatives on 27 August 2008
Senate on 14 October 2008]*