





# **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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## **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*.

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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

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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)**

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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.

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