

DEFINITION OF GIFTS, LOANS, AND POLITICAL DONATIONS

This fact sheet relates to candidates, registered political parties, associated entities, third parties and donors who make or receive gifts or loans. 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.

Gifts and loans that are made to election participants (including registered political parties, candidates, associated entities, and third parties) must be disclosed.

It is important for election participants (including donors) to familiarise themselves with the definitions of gifts, loans and political donations to ensure they comply with disclosure laws and donation caps.

There is a difference between an ordinary gift/loan and a political donation.

What is a gift?

A **gift** is the disposition of property, or provision of a service, by a person to another person, for no consideration or inadequate consideration.¹

A **non-monetary gift** (or gift-in-kind) is a gift of any goods or services other than money.

A gift includes:

- money given to an election participant,
- electoral expenditure gifted to an election participant,
- uncharged interest, or an amount forgiven, on a loan,
- the part of a fundraising contribution that exceeds \$200,
- an amount (other than a loan) given to a registered political party by a federal or interstate branch or division, or a related political party, or

- an amount paid, or service provided, to a registered political party under a sponsorship arrangement.

A gift does **not** include:

- the disposition of property under a will,
- a fundraising contribution of \$200 or less, or the first \$200 of a larger fundraising contribution,
- an amount paid for a person's membership or affiliation with a registered political party,
- a compulsory levy imposed on elected members under their political party's constitution,
- an amount transferred to an individual candidate from funds held jointly with that candidate's spouse (amounts which a spouse received from a prohibited donor remain unlawful),
- volunteer labour, or incidental or ancillary use of a volunteer's vehicle or equipment, or
- gifts made in a private capacity for an individual's personal use, unless the gift is used for an electoral purpose.

What is a fundraising contribution?

A fundraising contribution means an amount paid as a contribution, entry fee or other payment to entitle a person to participate in, or otherwise obtain a benefit from, a fundraising or other venture or function.

An example of a fundraising contribution includes a raffle ticket, or an amount paid for an item at a fundraising auction.

¹ See section 201

More information

For more information relating to funding and disclosure obligations, please visit the ECQ's website at www.ecq.qld.gov.au, call 1300 881 665, or email fad@ecq.qld.gov.au.

What is gifted electoral expenditure?

See [Fact Sheet 8](#) for the definition of gifted electoral expenditure.

What is a loan?

A **loan** is any of the following provided by a person or entity, other than a financial institution or by use of a credit card:²

- an advance of money,
- provision of credit or another form of financial accommodation,
- payment of an amount for, on behalf of, or at the request of, an entity, if there is an express or implied obligation to repay the amount, or
- another transaction that is in effect a loan of money.

What is a political donation?

A political donation is any gift or loan given to a registered political party or State election candidate, that is accompanied by a donor statement.

A donor statement is a written document which must:³

- be completed by the donor of the gift or loan,
- name the election participant (i.e. the registered political party or State election candidate) to whom the gift or loan is made,
- state that the gift or loan is made with the intention that it is used for an electoral purpose,
- state the relevant particulars of the donor of the gift or loan, and
- be **given** to the recipient with the gift or loan, or **within 14 days** after the gift or loan is made.

All gifted electoral expenditure is a political donation, even if there is no donor statement.

Volunteer labour

Volunteer labour is generally not considered a gift. However, if a person provides a service that they normally do on

a commercial basis at a reduced or no cost, that would be considered a gift.

Example: A campaign volunteer, who also operates a printing business, prints 100 flyers and gives them to a candidate at no cost. The flyers are a gift and could also be a political donation.

Gifts given in a private capacity

Gifts made in a private capacity for a candidate's personal use are not gifts for electoral purposes. However, should any part of the gift be used for an electoral purpose, that part will be considered a gift.

Funds from a joint bank account

A candidate may pay an amount from their personal funds into a State campaign account for use in their election campaign. This is considered **self-funding** (i.e. not a gift) and there is no limit on the amount that can be transferred from personal funds.

Amounts transferred from a **joint bank account** held by a candidate and their spouse (which includes a de facto or civil partner) are taken to be amounts contributed from the candidate's own funds. These are not considered to be gifts.

Note: Self-funding and joint funds cannot be used as a way to conceal gifts that are otherwise not permitted (e.g. gifts from property developers, or amounts that would otherwise be subject to caps). Significant penalties apply for circumventing electoral laws.

Anonymous gifts

It is unlawful for a candidate to receive anonymous gifts totalling \$200 or more.⁴ This includes gifts where the name, address or other required details of the donor are not known to the candidate.

It is unlawful for a registered political party to receive anonymous gifts totalling \$1,000 or more.

If an anonymous gift is received, an amount equal to the amount, or value, of the gift/s is payable to the State.

² See section 197

³ See section 251

⁴ See section 271

Gifts of foreign property

It is unlawful for a candidate or registered political party to receive a gift of foreign property.⁵

The location of the property immediately before the gift or transfer took place determines whether it is Australian or foreign property. Gifts of Australian property acquired in exchange for foreign property remain foreign property.

An amount equal to the amount or value of a foreign gift is payable to the State unless the gift is returned within six weeks of receipt.

Prohibited donors

Property developers and industry organisations representing property developers, are prohibited from making a gift, loan, or political donation for the benefit of a political party, candidate, or other entity in an election.⁶

Significant penalties apply for anyone who makes or receives these prohibited donations. Penalties could include fines, prosecution and/or the recovery of those amounts as a debt to the State.

Disclosure of gifts and loans

Election participants may be required to disclose the details of gifts, loans, and political donations they have received.

See [Fact Sheets 5-7](#) for information about disclosure obligations.

⁵ See section 270

⁶ See Part 11, Division 8