

## ALL ELECTION PARTICIPANTS

## Definition of gifts and loans

Unless otherwise stated, all references to legislation are to the *Local Government Electoral Act 2011* (LGEA). The information in this fact sheet does not replace legislation. If you are concerned about your obligations, you should seek independent legal advice.

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

Generally, any gifts or loans made to or by these election participants must be disclosed.

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

## What is a gift?

A **gift** is a transfer of money, property or a service given without receiving something of equal or adequate value in return.

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
- services provided at no or below cost
- electoral expenditure gifted to an election participant
- uncharged interest, or an amount forgiven, on a loan (refer below for further information)
- the part of a fundraising contribution that exceeds \$200.

A gift does **not** include:

- property transferred under a will
- a fundraising contribution of \$200 or less, or the first \$200 of a larger fundraising contribution
- membership fees paid to a registered political party
- a compulsory levy imposed on councillors under their registered political party's constitution
- an amount transferred from an individual's own funds (e.g., from a personal bank account) to the individual's own dedicated campaign bank account
- an amount contributed from an account an individual holds jointly with their spouse (this does **not** include amounts given to the spouse by a prohibited donor) to the individual's own dedicated campaign bank account
- volunteer labour, or incidental or ancillary use of a volunteer's vehicle or equipment
- gifts made in a private capacity for an individual's personal use unless the gift is used for an electoral purpose.

## What is gifted electoral expenditure?

See [Fact sheet 12](#) for the definition of gifted electoral expenditure.

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## More information

If you need more information relating to Funding, Disclosure and Compliance, please contact ECQ on 1300 881 665 or by emailing [fad@ecq.qld.gov.au](mailto:fad@ecq.qld.gov.au).



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## What is a fundraising contribution?

A fundraising contribution is the amount paid as an entry fee or other payment entitling someone to participate in or benefit from a fundraising venture or function.

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

Fundraising contributions that are \$200 or less are not considered gifts. For fundraising contributions over \$200, only the amount that exceeds \$200 is a gift and must be disclosed. The \$200 threshold applies on a per-person, per-event basis.

### EXAMPLE

A donor pays \$1,500 for 3 tickets to attend a fundraising dinner held by a registered political party. As this amount is a fundraising contribution, the first \$200 is not a gift and does not require disclosure. The remaining \$1,300 is a gift and must be disclosed by both the donor and the party.

## Volunteer labour

Volunteer labour is generally not considered a gift. However, if a person provides a service that they normally provide 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 would be considered a gift.

## Gifts given in a private capacity

Gifts made in a private capacity for an individual'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.

## Self-funding and funds from a joint account

A candidate may pay an amount from their personal funds into their own dedicated campaign bank account. This is considered **self-funding** (i.e., not a gift) and does not require disclosure.

Amounts transferred from a **joint bank account** held by an individual and their spouse (which includes a de facto or civil partner) into the individual's dedicated campaign bank account are not considered to be gifts and do not require disclosure.

Candidates who are part of a group of candidates may also transfer amounts from their personal bank accounts (or bank accounts held jointly with their spouse) into the group's dedicated campaign bank account, without needing to disclose the amounts.

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Note that an amount received from a spouse *other than* from a joint bank account will be considered a gift and is subject to usual disclosure laws.

Self-funding and joint funds cannot be used to conceal gifts that are otherwise not permitted (e.g. gifts from property developers).

Significant penalties apply for circumventing electoral laws.

### 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:

- 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
- another transaction that is in effect a loan of money.

If a loan's terms do not include an interest rate of at least the Reserve Bank of Australia's cash rate plus 3%, the difference would be considered a gift-in-kind and may require disclosure.

A loan does not include an amount transferred by an individual into their own dedicated campaign bank account. This would be considered self-funding (see above).

### Anonymous gifts

It is unlawful for a candidate or group of candidates to receive anonymous gifts or loans totalling \$500 or more. This includes gifts or loans where the name, address or other relevant details of the donor are not known to the candidate or group.

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

### Prohibited donors

Property developers and industry organisations representing property developers are prohibited from making a gift or loan to a candidate, group of candidates or third party in relation to a local government election. Political parties may only accept gifts and loans from prohibited donors if they are accompanied by a restricted donation statement.

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

Please see [Fact sheet 42 – Definition of prohibited donors, property developers and close associates](#) and [Fact sheet 43 – Ban on political donations from prohibited donors](#) for details.

### More information

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## Record keeping

All election participants must keep records for 5 years. This is required to demonstrate compliance in relation to all electoral expenditure, disclosure, and dedicated campaign bank account requirements. Refer to [Fact sheet 8](#) for more information about record keeping requirements.

## For further information

This fact sheet mainly refers to part 6 of the LGEA. The Act is available in full at [legislation.qld.gov.au](http://legislation.qld.gov.au). Participants in the electoral process should ensure they understand their obligations under the LGEA.

### RELATED FACT SHEETS

Fact sheet 8 – Record keeping requirements

Fact sheet 12 – Definition of electoral expenditure

Fact sheet 20 – Real-time disclosure of gifts and loans by candidates

Fact sheet 25 – Real-time disclosure of gifts and loans by agents of groups of candidates

Fact sheet 42 – Definition of prohibited donors, property developers and close associates

Fact sheet 43 – Ban on political donations from prohibited donors

Fact sheets can be found on the [ECQ website](#).

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