

Statement of Practice SP – CAT 1/02

Tax Treatment of Political Donations

1. Introduction

Background

- 1.1 The Electoral (Amendment) Act, 2001, set, with effect from 1 January, 2002, strict monetary limits on personal and corporate donations to politicians, election candidates and political parties. In addition, it defined for the first time what constitutes “political purposes”. The Act, in conjunction with earlier Electoral Acts, now provides a tightly regulated environment for the receipt, recording and use of political donations, whether in the context of elections or otherwise.
- 1.2 From a tax perspective, political donations are, in effect, “gifts” and, in the absence of an exemption, would fall to be taxed as such under the provisions of the Capital Acquisitions Tax Act, 1976 (CATA, 1976).

Purpose

- 1.3 The primary purpose of this Statement of Practice is to set out Revenue practice in relation to the tax treatment of political donations taken on or after 1 January 2002, with the aim of avoiding ambiguity or uncertainty in that regard on the part of political parties, politicians and election candidates.

2. The “Small” Gifts Exemption

- 2.1 Section 53 of the CATA, 1976 provides a *general* exemption from gift tax in respect of “*small*” gifts. Under the provisions of section 53, the first €1,270 (£1,000) of a gift, or aggregate of gifts, taken by *any* person from an individual donor within each calendar year is exempt from gift tax.
- 2.2 It is important to note, therefore, that, in the context of political donations, a political party, an elected politician or an election candidate can take a donation of up to €1,270 (£1,000) from *any number* of individual donors *in each calendar year* with no gift tax implications whatsoever.

3. Treatment of Political Donations made on or after 1 January, 2002.

- 3.1 In addition to the general “*small*” gifts exemption, under section 54 (2) of the CATA, 1976, a gift taken for “*public or charitable purposes*” is also exempt from gift tax to the extent that Revenue are satisfied that it has been or will be applied to such purposes.
- 3.2 While “*public purposes*” is not defined in the CATA, Revenue, with effect from 1 January, 2002, will treat all political donations taken and used for *political purposes*¹ by political parties, politicians and election candidates as

¹ See Electoral (Amendment) Act, 2001 definition of political purposes in Appendix.

satisfying the requirement for exemption from gift tax under the “*public purposes*” provisions of section 54. This is on the basis that such donations are given with a view to promoting the development of particular policies advocated by the party or the individual politician/candidate and to support the democratic process generally. The exemption will be conditional on the various requirements under the Electoral Acts in relation to the receipt, amount, use and recording of political donations being met (see paragraphs 4 & 5 following).

4. Conditions to be Satisfied to Avail of the Section 54 Exemption

- 4.1 Revenue will now apply the gift tax exemption under the “public purposes” provisions of section 54 CATA, 1976, to political donations that meet the various conditions and requirements under the Electoral Acts. These include the requirements that the donation;
- is made to a political party, a member of either House of the Oireachtas, a candidate at a Dail, Seanad, European or Presidential Election,
 - does not exceed the maximum permissible limit of €2,539.48 (£2,000) for individual politicians/candidates and €5,348.69 (£5,000) for political parties in any given year or in the context of any specific Dail, Seanad, European or Presidential Election,
 - is not anonymous (unless less than €126.97(£100)) or prohibited (e.g. from a person residing outside Ireland other than an Irish Citizen).
 - is of a type set out in section 22(2)(a)(i) of the Electoral Act, 1997 e.g. a donation of money, a donation of property or goods, the supply of a service free or for less than full commercial price, etc. and
 - that the donation is expended on political purposes (as defined in section 49(b) of the Electoral Act, 2001 – see Appendix) whether in the context of an election or otherwise.

5. Records and Audit

- 5.1 As Revenue may undertake audits in relation to the receipt and use of political donations, it will be important for political parties, elected politicians and election candidates to retain transparent and unambiguous records to verify the source, amount and use of the donations received, thus ensuring a clear audit trail. Such records should be maintained for a period of 6 years².

² Whilst there is no specific statutory requirement placed on individuals under the CATA, 1976 to retain records, the standard period for record retention under the Taxes Consolidation Act, 1997 is 6 years. Accordingly, the maintenance of such records will be an administrative requirement to avail of the exemption.

- 5.2 Specifically, recipients of such donations must ensure;
- that they are lodged, as appropriate, and as required under the Electoral Acts, to a “Political Donation Account” maintained by the recipient in a financial institution which is separate to personal or other accounts, and
 - that the recipient maintains such records and vouchers as are necessary to meet his/her obligations under the Electoral Acts both as regards identifying persons making donations and identifying expenses incurred and payments made.
- 5.3 For the purposes of obtaining the exemption from gift tax, the requirement under the Electoral Acts to retain records for the purposes of vouching for all election expenses in excess of €126.97 (£100) will also apply to expenses incurred for political purposes, other than in the context of an election.

6. Returns

- 6.1 In the normal course, there are statutory obligations on recipients of gifts to make gift tax returns in certain circumstances. While the wording of section 54(2) CATA, 1976 in relation to the exemption for “public purposes” requires Revenue to be satisfied that the gift “has been, or will be, applied” to such purposes, in practice Revenue does not insist on the exemption being formally claimed. This will continue to be the position in relation to political donations. In effect, so long as the donations are genuine and fall within the requirements of the Electoral Acts as to source, amount and use and are adequately supported by records and vouchers, then Revenue will be satisfied that they have been, or will be, applied to public purposes. In those circumstances, there will be no need to make gift tax returns with a view to formally claiming the exemption, unless requested to do so by Revenue.

7. Deposit Interest on Political Funds

- 7.1 The gift tax exemption under section 54, CATA, 1976 applies only to political donations made to a political party, individual politician or election candidate. There is no equivalent exemption from income tax and, therefore, interest income subsequently arising on donations lodged to accounts in financial institutions falls to be taxed under the normal income tax rules. In the case of interest which has been subjected to DIRT, the DIRT charged will satisfy the income tax liability in respect of the interest. The interest should, nonetheless, be included in a return of income from the individual politician/candidate or party, as appropriate.

8. Further Information

8.1 If you require

- further information or clarification in relation to any aspect of this Statement of Practice, or
- supplies of the Statement

you should contact CAT Taxpayer Information Service at

Lo Call 1890 201104

The Statement of Practice is also available on the Revenue website at **www.revenue.ie**.

Appendix***Electoral(Amendment)Act, 2001- Section 49(b) – definition of “Political Purposes”***

‘political purposes’ means any of the following purposes, namely -

- (i) (I) *to promote or oppose, directly or indirectly, the interests of a political party, a political group, a member of either House of the Oireachtas or a representative in the European Parliament, or*
- (II) *to present, directly or indirectly, the policies or a particular policy of a political party, a political group, a member of either House of the Oireachtas, a representative in the European Parliament or a third party, or*
- (III) *to present, directly or indirectly, the comments of a political party, a political group, a member of either House of the Oireachtas, a representative in the European Parliament or a third party with regard to the policy or policies of another political party, political group, a member of either House of the Oireachtas, representative in the European Parliament, third party or candidate at an election or referendum or otherwise, or*
- (IV) *to promote or oppose, directly or indirectly, the interests of a third party in connection with the conduct or management of any campaign conducted with a view to promoting or procuring a particular outcome in relation to a policy or policies or functions of the Government or any public authority;*
- (ii) *to promote or oppose, directly or indirectly, the election of a candidate at a Dáil, Seanad or European election or to solicit votes for or against a candidate or to present the policies or a particular policy of a candidate or the views of a candidate on any matter connected with the election or the comments of a candidate with regard to the policy or policies of a political party or a political group or of another candidate at the election or otherwise;*
- (iii) *otherwise to influence the outcome of the election or a referendum or campaign referred to in paragraph (i)(IV) of this definition;*