

Implications of the proposed changes

- 2.1 This chapter examines issues raised by inquiry participants about discontinuing tax deductibility for political contributions and party membership subscriptions. These are arranged according to their impact on different interests including the government, individual taxpayers, business and community participation in political activities.
- 2.2 The committee's broad conclusion and recommendation regarding tax deductibility can be found at the end of the chapter.

Projected savings generated by the proposed changes

- 2.3 As noted in chapter 1, taxpayers can currently claim a deduction as part of their annual tax returns for certain contributions and gifts to political parties, members and candidates.
- 2.4 Schedule 1 of the Tax Laws Amendment (2008 Measures No. 1) Bill 2008 will remove deductibility for these payments by corporations. In addition, individual taxpayers will no longer be able to claim contributions and gifts to political parties, members and independent candidates unless it is incurred in gaining or producing assessable income.
- 2.5 The explanatory memorandum to the Bill indicates that the proposed amendments will save the government \$31.4 million over the four years to 2011-12, with savings commencing in 2009-10 (table 2.1).

Table 2.1 Financial impact – abolition of tax deductibility for contributions and gifts to political parties, members and independent candidates (\$million)

Financial Year	2009-10	2010-11	2011-12
Savings (\$ million)	\$10.1	\$10.3	\$11.0

Source *Tax Laws Amendment (2008 Measures No. 1) Bill 2008, Explanatory Memorandum, p. 3.*

- 2.6 Most of the expected savings will come from tax deductions claimed for donations or party memberships by individuals, with donations by business accounting for about one third of the projected savings. Treasury estimates that in 2009-10, savings from individual taxpayers would total \$6.5 million with savings from business totalling \$3.6 million. These savings were expected to rise to \$7.2 million and \$3.8 million respectively in 2011-12.¹
- 2.7 At the public hearing held in Canberra, representatives of the Treasury were asked how these savings had been calculated. The Treasury indicated that there were two elements to Treasury's costing methodology: the contributions element, and costing in respect of memberships of political parties.²
- 2.8 Treasury used the records of donations to political parties which are publicly available on the Australian Electoral Commission's website for the contributions element:
- ... in terms of the contributions ... because the \$1,500 threshold had been in place for 2003-04 and 2004-05, we had to make significant adjustments. There were only a few donations declared below that threshold to the data, but we could cost accurately in terms of the implications above it.³
- 2.9 Treasury found that exact numbers for 'membership of parties is something that is ... closely guarded'⁴ so it used 'the most up-to-date study⁵ that we could find that attempted to estimate membership of political parties'. Treasury told the committee that it believes the

1 The Treasury, submission 10, p. 5.

2 Gallagher P, The Treasury, transcript, 29 April 2008, p. 3.

3 Gallagher P, The Treasury, transcript, 29 April 2008, p. 3.

4 Gallagher P, The Treasury, transcript, 29 April 2008, p. 4.

5 Treasury acknowledged the 2004 study by Jaensch D, Brent P and Bowden B entitled *Australian political parties in the spotlight*, Australian National University (exhibit 1).

party membership number it used 'appears to be somewhat conservative'.⁶

- 2.10 Treasury agreed with a suggestion by the committee that 'at best' the number used may be a 'guesstimate':

... because essentially the thesis in the article [used by Treasury] is that parties do not give out numbers, because membership may be declining and they do not want to reveal that.⁷

- 2.11 The committee also suggested that the Treasury's estimate might be an overestimate. Agreeing that it might be, Treasury noted that when it published election costings it included a warning that:

... it should be noted that actual outcomes may vary from these estimates if assumptions or behaviour change from our expectation. In particular, data on political party membership fees received is poor and data on donations below the [Australian Electoral Commission] disclosure threshold is also poor.⁸

- 2.12 Treasury told the committee that in reaching its figures it:

... used the best data available on memberships to get some idea of what the costing is. ... but we have admitted that the idea is imprecise because of the availability of information.⁹

- 2.13 Treasury has not done any costings based on the assumption that tax deductibility was returned to the previous cap of \$100. However, it noted that the average membership subscription to a political party was calculated to be sixty-two dollars per annum and, therefore:

... the average membership fee is below \$100 and, if membership remained deductible, that is the amount of revenue that would become deductible.¹⁰

- 2.14 Treasury was questioned about the apparent discrepancy between its costings on savings if tax deductibility ceases to exist, and costings by the Australian Labor Party (ALP) which showed savings of \$8.4 million in 2009-10 and \$8.7 million in 2010-11. In response, Treasury noted that the ALP had not included membership fees —

6 Gallagher P, *The Treasury*, transcript, 29 April 2008, p. 5.

7 Gallagher P, *The Treasury*, transcript, 29 April 2008, p. 5.

8 Gallagher P, *The Treasury*, transcript, 29 April 2008, p. 6.

9 Gallagher P, *The Treasury*, transcript, 29 April 2008, p. 7.

10 Gallagher P, *The Treasury*, transcript, 29 April 2008, p. 5.

the savings costed related only to savings made by removing tax deductibility from political donations and Treasury referred the committee to page 3 of its official costing:

The original ALP costing request did not mention the loss in tax deductibility for membership subscription fees.

Confirmation by the ALP led to this being included. The ALP had assumed that the loss of tax deductibility for donations under \$100 could represent a revenue gain of \$3 million per annum from 2009-10.¹¹

- 2.15 In arriving at their estimates, Treasury did not use the ALP figures regarding membership. Instead, Treasury used its own estimate of the number of members of political parties assuming an average donation of \$62; and a 90 per cent claim rate which makes some allowance for those people who do not claim membership as a tax deduction and those who are not able to claim it as tax deductible. An average tax rate of 35 per cent for those claiming deductibility was used. In this way Treasury arrived at a figure of \$4.3 million per annum for membership subscription costs.¹²

Conclusion

- 2.16 The committee is satisfied that the savings figures presented by Treasury represent the best available estimate of the projected savings that would be generated by the proposed changes. However, it is mindful that the figures used may be overestimated due to the difficulty encountered in accessing exact party membership numbers. In this regard the committee noted Professor Orr's observation that :

... on a seat-of-the-pants assumption, if you are talking about \$10 million per year you are talking about \$30 million of donations at, say, a marginal rate of 30 per cent, which is roughly the corporate rate. Thirty million dollars is a lot of \$1,500 contributions or party memberships.¹³

11 Gallagher P, *The Treasury*, transcript, 29 April 2008, p. 10.

12 Gallagher P, *The Treasury*, transcript, 29 April 2008, p. 11.

13 Orr G, *Democratic Audit of Australia*, transcript, 29 April 2008, p. 33.

Impact of changes on individual taxpayers

- 2.17 Individual taxpayers can currently claim a tax deduction for political contributions and gifts when they complete their tax returns at the end of a financial year.
- 2.18 The committee heard that ‘a key purpose of limited tax deductibility is to encourage smaller scale donations and hence political participation’. Soliciting smaller donations is a way for parties to interact with the wider public.¹⁴
- 2.19 However, the committee found no clear evidence to prove that tax deductibility actually does encourage people to become members of political parties or to make donations to parties. In the 2005 ‘*Giving Australia*’ study, it was noted that:
- Greater taxation incentives are regularly advocated as the required catalyst to increased giving, but givers regularly report that they are not motivated by tax incentives and awareness of their very availability appears to be low.¹⁵
- 2.20 The committee heard differing opinions about the equity of tax deductibility as a policy. A recent academic paper on political finance in Australia suggested that tax deductibility can have regressive effects and hence, undermine political equality:
- The present system of tax relief ... favours the wealthy because, having more disposable income, they are more able to take advantage of the subsidy. Further, for the same amount of political donation, the wealthy, being subjected to higher income tax rates, receive a greater amount of public subsidy.¹⁶
- 2.21 The committee noted that more than 2.1 million individual taxpayers in 2005-06 had a taxable income less than the tax free threshold of \$6000 (table 2.2). These taxpayers receive no benefit from tax deductibility for political contributions and gifts. Currently, taxpayers below the threshold are unfairly treated compared to the 910,000 taxpayers earning more than \$80,000 – who are able to claim

14 Democratic Audit of Australia, submission 6, p. 1.

15 Lyons M, McGregor-Lowndes M and O’Donoghue P (2006), ‘Researching Giving and Volunteering in Australia’ in *Australian Journal of Social Issues*, Vol.41 No.4, Summer 2006, pp. 385-397.

16 Young S and Tham J (2006), *Political Finance in Australia: A Skewed System*, Democratic Audit of Australia, ANU, Canberra.

a tax deduction of at least 40 cents for every dollar contributed to political parties up to the \$1500 threshold.

Table 2.2 No. of taxpayers by taxable income and age, 2005-06

Age	Below tax-free threshold (\$6000)	\$6001 to \$30,000	\$30,001 to \$80,000	\$80,001 to \$150,000	\$150,001+
65+	447,400	186,625	282,915	49,385	23,865
45-64	542,555	1,007,075	1,885,345	313,745	97,615
30-44	531,150	930,670	1,846,645	307,075	67,420
18-29	421,460	1,207,150	1,025,080	45,685	3,050
Under 18	201,030	78,050	2,115	185	60
Total taxpayers	2,143,595	3,409,570	5,042,100	716,075	192,010

Source Australian Taxation Office, *Tax Stats, Personal tax table 11*, viewed on 5 May 2008 at http://www.ato.gov.au/content/downloads/00117625_2006PER11.pdf.

2.22 With taxpayers facing marginal tax rates of between \$0 for taxable incomes of less than \$6,000 and \$0.45 for taxable incomes greater than \$150,000 there can be a significant difference in the out-of-pocket contributions for individual taxpayers (table 2.3).

Table 2.3 Income tax rebates to individual taxpayers based on \$1500 donation, by income (2007-08 tax scales)

Taxable income	Marginal tax rate (2007-08)	Tax rebate	Out of pocket cost to donor
\$150,000	45%	\$675	\$825
\$100,000	40%	\$600	\$900
\$50,000	30%	\$450	\$1050
\$25,000	15%	\$225	\$1275
\$0	0%	\$0	\$1500

Source Committee estimates based on a donation of \$1500 and the relevant tax rates applying for the financial year 2007-08 from the Australian Taxation Office website at (<http://www.ato.gov.au/individuals/content.asp?doc=/content/12333.htm&pc=001/002/046/002/002&mnu=1045&mfp=001/002&st=&cy=1>).

2.23 However, others disagreed that it is regressive to offer a tax deduction because some people cannot take advantage of it:

We think it unwise to close off avenues encouraging small-scale grassroots donating. With due respect, it is doctrinaire to say that tax deductibility is regressive because it is not open to, say, pensioners who might pay no tax. If that were

true, it would be unfair to give charities tax-deductible status at all.¹⁷

2.24 Several submissions noted that the current high levels of tax deductibility have been found to favour wealthy people both because wealthy people have more disposable income, so they are more able to take advantage of the subsidy; and because for the same amount of political donation, being subjected to higher income tax rates, wealthy people receive a larger deduction.¹⁸

2.25 This was borne out by evidence from a recent study conducted about the use of tax deductibility for political contributions in Canada:

The almost half of all Canadian tax filers whose income fall into the lowest bracket comprise only 10 per cent of all [the scheme's] claimants, while the 3 percent of tax filers in the highest bracket make 18 percent of all claims. The pattern is even more skewed when one compares the value of the tax credit for low and high income earners, as the latter are prone to make large contributions. Despite its other merits, then, the [scheme] reinforces an inequitable pattern of giving to parties and candidates.¹⁹

2.26 Mr Sempill and Dr Tham also observed the inequity of a tax relief scheme in Quebec:

The data for 1997 indicated that while taxpayers earning C\$20,000 or less per annum constituted 54% of all taxpayers, they only constituted 15% of those who claimed a credit under the Quebec system. Those earning C\$50,000 or more, on the other hand, represented 43% of those who claimed the credit while only constituting 10% of all taxpayers.²⁰

2.27 However, The Nationals' submission put forward an opposing point of view, noting that 'it cannot be reasonably argued, nor has it been demonstrated, that the threshold engenders any level of political influence on political parties or skews any political influence to the wealthy in society.'²¹

17 Orr G, Democratic Audit of Australia, transcript, 29 April 2008, p. 23.

18 Orr G, Democratic Audit of Australia, transcript, 29 April 2008, p. 23; Honoré-Morris D, submission 5, p. 3; Sempill S and Tham J, submission 9, p. 3.

19 Young L (2005), 'Regulating Campaign finance in Canada: Strengths and weaknesses', cited in Sempill S and Tham J, submission no. 9, p. 4.

20 Sempill S and Tham J, submission no. 9, p. 4.

21 The Nationals, submission 3, p. 4.

- 2.28 The Liberal Party of Australia noted its belief that ‘... the tax deductibility provisions for political donations are operating as intended by the legislation and, without evidence to the contrary, changes would disadvantage donors’.²²
- 2.29 Several submissions to the inquiry suggested that the best outcome for individuals would be a reversion to the previous threshold of \$100 tax deduction thereby continuing to encourage small-scale grassroots donating. In Dr Thompson’s opinion ‘totally removing any tax relief for political contributions from individuals is a short-sighted saving in Australia’s upcoming budgets’.²³
- 2.30 On the other hand, some submissions and witnesses favoured removing tax deductibility completely. For example, the Australian Labor Party noted:
- While there are some arguable benefits in increased civic participation in the political process which are foregone in abolishing deductibility, there exist many more avenues for that participation to occur, without facing the risk of distortion in the Australian electoral system.²⁴
- 2.31 The committee was told that inequity is the most likely result of any provisions granting tax deductibility for party membership and donations and inequity is exacerbated with the current high threshold of \$1500. This high threshold provides, according to one submission, ‘tax relief for political donations that is out of reach of ordinary Australians’.²⁵
- 2.32 Only taxpayers who are in a position to pay membership fees or make donations are advantaged by tax deductibility so by removing tax deductibility for membership fees and donations it would remove the advantage that only some taxpayers receive.²⁶ Among those who are not advantaged by tax deductibility are ‘job seekers, retirees without income, full-time parents and students not engaged in paid work’.²⁷

22 The Liberal Party of Australia, submission 2, p. 1.

23 Thompson N, submission 8, p. 2.

24 Australian Labor Party, submission 1, p. 2.

25 Sempill S and Tham J, submission 9, p. 5.

26 Honoré-Morris D, submission 5, p. 3.

27 Sempill S and Tham J, submission 9, p. 3.

Taxpayers who must join parties and/or donate to earn their living

- 2.33 For some individual taxpayers, membership of a political party and/or the payment of a party 'levy' is an accepted and/or expected part of their employment.²⁸ It is also likely, for tax purposes, that these payments are directly related to earning assessable income.²⁹
- 2.34 The committee heard from Treasury that members of parliament, staff of members of parliament and party employees would all still be able to claim membership fees or compulsory levies as deductions under the proposed amendments.³⁰
- 2.35 When drafting the Bill, the provisions allowing office holders and employees to retain their tax deductibility for expenses incurred in the course of gaining and producing their assessable income were retained because it is 'the general tenet of section 8.1 of the Income Tax Assessment Act 1997'.³¹ Treasury noted that there are many professions where expenses are incurred in gaining and producing the assessable income that a person derives and 'the general tenet of taxation policy is that those deductions should be allowable'.³²
- 2.36 Some discussion ensued at the public hearing about the tax deduction available for membership in trade unions. The Australian Taxation Office confirmed that only membership in those unions which directly relate to a person's employment are allowed as a tax deduction.³³ Where members of trade unions, or other similar organisations, can be said to receive some advancement of their employment prospects from their involvement with that association, membership fees are tax deductible when related to gaining or producing assessable income.
- 2.37 One submission argued that the exemption in relation to 'employees' and 'office-holders' can not be justified. Mr Sempill and Dr Tham stated:

28 Tham J and Young S (2006), *Political finance in Australia: A skewed and secret system*, Democratic Audit of Australia, ANU, Canberra, pp. 44–45.

29 Australian Taxation Office, Draft taxation ruling TR 1999/D6, Income tax and fringe benefits tax: Members of parliament – allowances, reimbursements, donations and gifts, benefits, deductions and recoupments, para 251.

30 Coles T, The Treasury, transcript, 29 April 2008, p. 15.

31 Gallagher P, The Treasury, transcript, 29 April 2008, p. 12.

32 Gallagher P, The Treasury, transcript, 29 April 2008, p. 12.

33 Hardy M, Australian Taxation Office, transcript, 29 April 2008, p. 16.

Tax relief given to these workers in relation to political contributions, even if incurred in earning income, shares the same vices as tax relief for the political contributions of non-workers: it is still inefficient and inequitable.³⁴

Conclusion

- 2.38 While the retention of tax deductibility for contributions and gifts to political parties, members and independent candidates is only likely to apply to a relatively small number of individual taxpayers, the committee considers that it is important to uphold the principle that individual taxpayers can deduct expenses related to earning their income. Therefore, the committee supports the retention of tax deductibility for individual taxpayers as proposed by the Bill.
- 2.39 The committee heard a range of arguments for and against tax deductibility for party membership fees and donations. Most opinions heard by the committee agreed that a high threshold such as currently exists favours the wealthy and should be reduced. However, opinions were divided as to whether it would be better to keep a low threshold for tax deductibility or to abolish tax deductibility altogether.
- 2.40 The committee considers that the underlying inequality of tax deductibility for political contributions and gifts is the most important issue for individual taxpayers. This inequality will be 'front and centre' to the committee's overall assessment of the Bill.

Impact of changes for business

- 2.41 Businesses donate to political parties for a range of reasons including altruism, management self promotion, corporate social responsibility, to express political free speech and to maximise profit. However, there is limited evidence available to test the importance of each of these reasons.³⁵

34 Sempill S and Tham J, submission 9, p. 6.

35 Ramsay I, Stapleton G and Vernon J (2002), *Political donations by Australian companies*, University of Melbourne Faculty of Law Public Law and Legal Theory Working Paper No. 25, pp. 4-15.

- 2.42 Self interest is highly likely to be at the forefront of these decisions.³⁶ This is particularly so for public companies where company law requires directors and senior executives to act in good faith in the interests of the company – implying that there needs to be an obvious benefit for political contributions (direct or indirect) for the company’s shareholders.³⁷
- 2.43 Corporations have been able to claim a tax deduction for political donations since 22 June 2006. Businesses may also have claimed some of these payments under the general deductibility provisions of the tax law.³⁸
- 2.44 The Democratic Audit told the committee that there are four reasons why it believes extending tax deductibility of donations to corporations is controversial:
- Firstly, corporations are not holders of political rights, but essentially profit-making concerns which make political contributions for self-interested motivations;
 - Secondly, corporate donations overwhelmingly follow power and therefore only the major parties tend to benefit from them. This creates a form of inequality with minor parties and independents which rely on individual donations;
 - Thirdly, proprietors of businesses could effectively have annual tax deductible donations of \$3,000 if they donate both individually and via their company; and
 - Lastly, corporations can also claim the purchase of political access as a business deduction, for example purchasing tickets to/tables at party fundraisers, or sponsoring session at party conferences.³⁹
- 2.45 The Democratic Audit support the provisions of the Bill designed to close off ‘business expense’ deductibility for political donations in the form of buying access/tables at fundraisers. It told the committee that this would close a loophole on previously uncapped deductions.⁴⁰

36 Democratic Audit of Australia, submission 6, p. 2.

37 Ramsay I, Stapleton G and Vernon J (2002), *Political donations by Australian companies*, University of Melbourne Faculty of Law Public Law and Legal Theory Working Paper No. 25, p. 19.

38 Democratic Audit of Australia, submission 6, p. 2.

39 Democratic Audit of Australia, submission 6, p. 2.

40 Democratic Audit of Australia, submission 6, p. 4.

- 2.46 The committee heard that provisions allowing corporations to claim tax deductions for their political contributions runs contrary to the aim of reducing the influence of ‘big money’ in politics:

Because corporate money tends to go overwhelmingly to the major parties, subsidising corporate contributions threatens to deepen the financial divide between the major and minor parties.⁴¹

Conclusion

- 2.47 The committee did not hear, nor did it receive any opinions strongly in favour of maintaining tax deductibility for business.
- 2.48 While business can, and will continue to, contribute to political parties under existing law, the committee considers that it is not necessary to subsidise business contributions and gifts to political parties through the tax system – especially when it is likely that most businesses are making these contributions to support their own interests. The committee therefore supports the discontinuation of tax deductibility for political donations by business.

Impact of changes on political participation

- 2.49 The committee heard that political involvement ‘through traditional vehicles’ is changing in Australia. Most people no longer ‘go out to political party meetings and public rallies’ as they once did, rather ‘we are moving much more to a culture based upon online and transactional engagement with politics.’⁴²

- 2.50 Ms Foskey, MLA, told the committee that:

Making donations tax deductible simply added to the advantage enjoyed by those people who can afford to make the donation. It has simply encouraged and legitimised an uneven playing field.⁴³

- 2.51 However, Ms Foskey believes that if a tax deduction of about \$100 existed, it would have the effect of ‘inviting tax payers to become active citizens, and invest in the political parties for whom they will
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41 Sempill S and Tham J, submission 9, p. 5.

42 Orr G, Democratic Audit of Australia, transcript, 29 April 2008, p. 26.

43 D Foskey MLA, submission 7, p. 1.

- vote.’ This would in turn encourage a broader political participation and thus more representative political parties.⁴⁴
- 2.52 If tax deductibility was removed from party membership and donations it would not in effect disenfranchise people from participation as people would still be entitled to make small-scale donations, however, for some people the incentive to make those donations may have been removed.⁴⁵
- 2.53 Professor Orr noted that although there is no research to indicate whether or not party membership would decline sharply as a result of loss of tax deductibility, the fact that many political party membership forms make no mention of tax deductibility indicates that most people do not take out membership based on its availability.⁴⁶
- 2.54 It is not clear what proportion of party members actually claim a tax deduction for their party membership fees. A review of political party websites by the committee confirmed that they do not generally include information about tax deductibility on their websites or membership forms (table 2.4).
- 2.55 Overall, the Australian Democrats and the Australian Greens are more likely to provide information to new members on the tax deductibility of party membership fees and donations on their websites.

44 D Foskey MLA, submission 7, p. 2.

45 Orr G, Democratic Audit of Australia, transcript, 29 April 2008, p. 29.

46 Orr G, Democratic Audit of Australia, transcript, 29 April 2008, p. 31.

Table 2.4 Information provided by parties to potential members on tax deductibility for donations and membership fees

	NSW	Vic	Qld	SA	WA	ACT	Tas	NT
Liberal Party of Australia								
Membership	X	X	NA	✓	X	X	X	X
Donations	X	X	✓	X	✓	X	✓	NA
The Nationals								
Membership	X	NA	X	✓	X			
Donations	X	✓	✓	NA	X			
Australian Labor Party								
Membership	X	X	✓	✓	X	X	NA	X
Donations	✓	X	X	NA	X	X	NA	NA
Australian Greens								
Membership	✓	✓	✓	X	X	✓	✓	✓
Donations	✓	✓	✓	✓	✓	X	✓	✓
Australian Democrats								
Membership	✓	✓	✓	✓	✓	✓	✓	✓
Donations	✓	✓	✓	✓	✓	✓	✓	✓
Family First Party Australia								
Membership	X	X	X	X	X	X	X	X
Donations	✓	✓	✓	✓	✓	✓	✓	✓
One Nation Party								
Membership	X	NA	X	X	NA			
Donations	X	NA	X	NA	NA			

✓ = Tax deduction mentioned X = Tax deduction not mentioned NA – Not available

Source Committee review of party websites, 8 April 2008.

Political parties and independent candidates

- 2.56 The committee heard arguments both for and against using tax deductibility of membership fees and donations as a way of funding political parties.
- 2.57 It was argued that offering tax deductibility for political membership and donations as a way to adequately fund parties, is not being achieved because ‘the money provided from the public purse goes to taxpayers rather than the parties’ and thus, the parties are only being funded in a ‘rather indirect and limited fashion’.⁴⁷ Furthermore:

[the existing] system places an incentive to make contributions and to take out membership on the taxpayer

47 Sempill S and Tham J, submission 9, p. 2.

much more so than on the parties themselves to solicit contributions and membership. A system of public subsidy that relies more directly on strengthening incentives faced by the parties may very well be more effective.⁴⁸

2.58 However, Professor Orr argued that tax deductibility is necessary to give new and small parties a boost because the current form of direct public funding after elections shuts out new political parties as well as minor parties who might not achieve a four per cent threshold.⁴⁹

2.59 The ALP considered that 'removing tax deductibility remains the best policy option for promoting integrity in the political system'.⁵⁰ If small contributions and party memberships decline as a result of tax deductibility being withdrawn:

The challenge [will be] to devise a system of public funding that is efficient and equitable.⁵¹

2.60 The Nationals argued that public funding provided to parties and candidates is not nearly sufficient to cover the escalating costs of modern political campaigning. The Nationals told the committee that 'political party membership fees and particularly political donations have played an ongoing and increasing role in financing party administration and election campaigns'⁵² and therefore, suggested that the removal of tax deductibility for political party membership fees will discourage participation in the democratic process. In defence of tax deductibility, the Nationals told the committee:

The current tax deductibility arrangements of party membership apply equally to all parties and candidates, whether independent or party-affiliated, providing no advantage to any party or individual over another.⁵³

2.61 The Nationals noted that one of the funding and disclosure scheme's fundamental objectives is that 'a level playing field should operate between political parties and independent candidates'. The Nationals told the committee that in its view, the current arrangements for tax

48 Sempill S and Tham J, submission 9, p. 2.

49 Orr G, *Democratic Audit of Australia*, transcript, 29 April 2008, p. 24.

50 Australian Labor Party, submission 1, p. 2.

51 Sempill S and Tham J, submission 9, p. 6.

52 The Nationals, submission 3, p. 3.

53 The Nationals, submission 3, p. 3.

deductibility serves to achieve that objective, 'as well as encouraging greater participation in the democratic process'.⁵⁴

2.62 The Democratic Audit told the committee that its research has found that:

Australian parties are already considering new approaches to fund-raising, particularly based on internet marketing to online networks.⁵⁵

Conclusion

2.63 Arguments were presented to the committee both for and against tax deductibility as a way of funding political parties. Tax deductibility is seen to be one way to encourage small-scale funding of parties although some argue that it is inequitable and parties still need to fund-raise in other ways.

2.64 It was argued that while the major parties can and do raise funds in a variety of ways, new and small parties rely on tax deductibility to use as an incentive to generate much needed funding, at least until they can achieve the four per cent threshold to receive public funding.

2.65 Discontinuing tax deductibility for political contributions and gifts does not disenfranchise citizens and restrict their capacity to make a contribution to a political party if they wish to do so.

2.66 In the committee's view, there is no strong evidence to support assertions that party membership will be adversely affected by the discontinuation of tax deductibility of party membership fees.

Tax deductibility and its relationship with political party financing

2.67 Inquiry participants held a number of different views on whether the committee's consideration of Schedule 1 of the Tax Laws Amendment (2008 Measures No. 1) Bill 2008 should be combined with future broader inquiries into political financing issues including this committee's inquiry into the 2007 election and the federal government's green paper on political finance and disclosure issues.

54 The Nationals, submission 3, p. 2.

55 Democratic Audit of Australia, submission 6, p. 4.

2.68 These views were also expressed by members of non-government parties during debate on the Bill in the House of Representatives and by opposition members of the committee at the public hearing.⁵⁶

2.69 The Liberal Party of Australia did not support the Parliament considering tax deductibility at this time, commenting that:

... The Government has indicated its intention to bring forward a Green Paper later this year considering a range of issues including the funding of political parties. As tax deductibility of political donations is only one part of the legislative and policy framework in this area, it would not be in the interests of good public policy for this matter to be dealt with in isolation from other matters expected to be canvassed by the Green Paper.

... If tax deductibility is to be reviewed, this should only occur as part of an overall review of the laws governing political donations. [The Joint Standing Committee on Electoral Matters] has the task of doing just that as part of its review of the 2007 election, and any review of tax deductibility should only occur as part of that inquiry.⁵⁷

2.70 Similar sentiments were expressed by The Nationals, who also referred to other parliamentary committee reviews of political party funding in progress in other jurisdictions:

The Nationals oppose in principle the piecemeal progression of individual changes to the current rules for campaign finance ahead of, or independently from, a comprehensive and coordinated examination of campaign finance generally. The concern regarding the lack of such a comprehensive and coordinated examination is compounded by the separate inquiry currently being undertaken by the New South Wales Legislative Council's Select Committee on Electoral and Political Party Funding.

... The Nationals believe the changes proposed regarding tax deductibility of political gifts and contributions should be held over and considered as part of the Electoral Reform

56 Hon Malcolm Turnbull MP, House of Representatives Debates, 21 February 2008, p. 1117; Mr Michael Keenan MP, House of Representatives Debates, 21 February 2008, p. 1121; Mr Scott Morrison MP, House of Representatives Debates, 21 February 2008, p. 1130; Senator the Hon Michael Ronaldson, transcript, 29 April 2008, p. 1; Hon Bruce Scott MP, transcript, 29 April 2008, p. 1.

57 The Liberal Party of Australia, submission 2, p. 1.

Green Paper process, which it is understood will be initiated with the release of the Green Paper in July 2008.⁵⁸

- 2.71 The Australian Labor Party, while supporting the discontinuation of tax deductibility for political contributions and gifts, recognised that the move would be complemented by recent policy announcements regarding a reduction in the thresholds for disclosing political contributions and gifts:

By removing the deductibility provisions, rather than restoring them to their pre-2006 levels, the federal government is bringing the tax law relating to political parties into line with amendments already foreshadowed by the Special Minister of State on donation disclosure. These tax laws will further improve the integrity of the electoral system and will work in conjunction with the lowering of the disclosure threshold.⁵⁹

- 2.72 The Democratic Audit recommended retention of a \$100 cap on deductibility for individual taxpayers until the government and/or the committee settled proposals for any revamping of the broader system of political finance.⁶⁰ Professor Orr told the committee that:

We may be partly contradicting ourselves, because whilst we are saying we welcome the lowering of deductibility and taking it away from corporations – and I guess the government’s intention is to have this in place for the next financial year – we would not like there to be yet another change further down the track if the government or [the Joint Standing Committee on Electoral Matters] decide that you need to have some kind of tax deductibility measure to encourage small-scale donation. So I think it is premature to abolish it altogether.

... We are working on the assumption that so far the public debate on all sides of politics is to move towards a modest system. Our question would be: where is the money going to come from? We do not want in a liberal democracy to have a purely statist culture of direct public funding.⁶¹

58 The Nationals, submission 3, pp. 1-2.

59 Australian Labor Party, submission 1, p. 2.

60 Democratic Audit of Australia, submission 6, p. 4.

61 Orr G, Democratic Audit of Australia, transcript, 29 April 2008, p. 31.

2.73 Alternative policies to replace tax deductibility, including the use of tax credits and a 'matching' of private contributions to political parties with equivalent public funding, were also raised by other participants. Dr Thompson noted that:

Rather than allow a tax deduction on political donations I believe we should give tax credits for these contributions. This means that those in a higher tax bracket are not rewarded more than those in the lower brackets. Tax credits are more equitable than tax deductions.

A tax credit is generally more valuable than a tax deduction of the same magnitude because a tax credit reduces tax directly, while a deduction only reduces taxable income. A tax credit reduces the tax paid dollar-for-dollar. This amount of tax savings is not dependent on the rate the taxpayer pays.⁶²

2.74 Mr Sempill and Dr Tham raised some possible alternatives involving public funding that could be considered to tax deductibility:

The aims of encouraging small contributions and party membership while assisting the finances of parties remain sound and modest public funding should be devoted to them. The challenge is to devise a system of public funding that is efficient and equitable.

There are two options we wish to flag. First, public funding can be directly provided to parties registered under the [Commonwealth Electoral Act] based on the number of their party members (providing there is integrity of membership rolls). For instance, for each member, a registered party could receive \$5. Second, a system of matching funds could be put in place to encourage small contributions. For example, for each contribution of \$50 or less received per annum by candidates and registered parties, public funds could be provided at the amount of 10% of these contributions.

We emphasise that this system of matching funds not only should be limited to small contributions but also should only involve a modest public subsidy in total. Both are necessary in order to alleviate the risk of such a system being biased towards wealthy citizens and parties.⁶³

62 Thompson N, submission 8, p. 2.

63 Sempill S and Tham J, submission 9, pp. 5-7.

Conclusion

- 2.75 While links between tax deductibility and other aspects of political party financing can be drawn, it is not clear to the committee that assessments about the continuation of tax deductibility need to be made in a broader context.
- 2.76 The committee acknowledges that there are likely to be changes made or considered in a number of areas, including lower disclosure thresholds and greater accountability for public funding. It does not seem necessary to the committee that the mix of funding mechanisms should retain an unbalanced and inequitable system of political contributions through tax deductibility.

Committee recommendation

- 2.77 The committee considers that the underlying inequity of tax deductibility for political contributions and gifts, which confers advantages and disadvantages to taxpayers on the basis of their taxable income, should be discontinued.
- 2.78 The committee believes there is no evidence that discontinuing tax deductibility for political contributions and gifts will necessarily lead to reduced participation in political activities – members of the community will still be able to join a political party and individuals and businesses will still be free to donate to the political parties and candidates. However, the inequitable aspect of the tax deduction mechanism will be removed and provide a more equal framework for political participation.
- 2.79 The committee rejects the view expressed by some inquiry participants that this measure should be delayed and included in forthcoming reviews of political party funding.

Recommendation 1

- 2.80 **The committee supports the removal of tax deductibility for contributions and gifts made to political parties, members and independent candidates and recommends that the proposed Bill be passed by the Senate without amendment.**

**Daryl Melham MP
Chair**

26 May 2008