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TAX LAW FOR BUSINESS

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Revisiting the taxability of election contributions

With the kickoff of the campaign period for the national elections in May, it's high time to revisit the taxability of campaign contributions to candidates, political parties and party-list groups.

As circularized in Revenue Memorandum Circular (RMC) 38-2018 and reiterated recently in RMC 31-2019 dated March 7, 2019, campaign contributions are not included in the taxable income of the candidate to whom they were given, the reason being that such contributions were given not for the personal expenditure or enrichment of the concerned candidate, but for the purpose of utilizing such contributions for the campaign. In order to be considered as exempt from income tax, the contributions must have been utilized to cover a candidate's expenditures for his/her electoral campaign.

Unutilized/excess campaign funds, that is, campaign contributions net of the candidate's campaign expenditures, shall be considered as subject to income tax, and as such, must be included in the candidate's taxable income in the income tax return filed for the subject taxable year.

As a condition for the deductibility of the campaign expenditures, any candidate or political party or party-list group must file with the Comelec the Statement of Contributions and Expenditures required under the Omnibus Election Code. Any candidate or political party or party-list group, whether winner or loser, who fails to comply with this requirement shall be automatically precluded from claiming such expenditures as deductions from the campaign contributions, making the entire amount directly subject to income tax.

Every candidate and treasurer of the political parties or party-list groups shall submit the Statement of Contributions and Expenditures to Comelec and Revenue District Officer where the candidates or political parties or party-list groups are registered within 30 days after the election. Income payments made by political candidates and political parties or party-list groups on their purchases of goods and services as campaign expenditures shall be subject to the 5 percent creditable withholding tax (CWT). Income payments made by individuals or juridical persons for their purchases of goods and services intended to be given as campaign contribution to political parties and candidates shall, likewise, be subject to 5-percent creditable withholding tax.

Expenses that were not subjected to the 5 percent CWT are not considered utilized campaign funds, and the candidates, political parties or party-list groups are precluded from claiming such expenditures as deductions from their campaign contributions. As such, the full amount corresponding to said expense shall be reported as unutilized campaign funds subject to income tax.

Under the Omnibus Election Code, contributions in cash or in kind to any candidates, political parties, or party-list groups are exempt from the imposition of Donor's Tax. Only those donations or contributions that have been utilized/spent during the campaign period as set by the Comelec are exempt from donor's tax. Donations utilized before or after the campaign period are subject to donor's tax and not deductible as political contribution on the part of the donor.

It must be noted though that donations made by corporations for the purposes of partisan political activity are subject to donor's tax and may not be deducted as political contribution on the part of the donor.

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