

## Tax Changes for Charities and Churches

Now that July has arrived the new endorsement procedures for charitable entities and public benevolent institutions are entrenched. You will be able to check the internet to satisfy yourself that your own organisation's endorsement procedures are correctly recorded with ATO. You can check the Australian Business Register by visiting [www.abr.business.gov.au](http://www.abr.business.gov.au) and check "search the public register".

When you check the register you will note that the concessions or exemptions available in respect to GST and FBT will have a 1 July 2005 date whereas Income Tax Exemption will apply from such earlier date as is applicable. The reason for the 2005 date relates to the fact that what was originally called "Income Tax Exempt Charity" (ITEC) status is now "Tax Concession Charity" (TCC) status. The change is to go beyond income tax exemption to include GST and FBT matters as well. We encourage you to check your endorsement. If it is not correct you should contact ATO promptly. We can provide you with assistance here.

We enclose an information sheet from ATO re the changes.

## ATO Draft Ruling TR 2005/D6

The ATO have released for public comment a Draft Ruling that may place in jeopardy the Tax Concession Charity status of entities established to provide a commercial income stream for a charity. A related Ruling of concern is TR 2005/D7.

If this may affect you we encourage you to download the Draft Ruling to review your position. Go to [www.ato.gov.au/Rulings/PublicRulings/Taxation//Draft/2005](http://www.ato.gov.au/Rulings/PublicRulings/Taxation//Draft/2005)

We are currently seeking to clarify the issues of concern with ATO.

## Accountability to Government

ATO is currently the vehicle the Federal Government is using to guide charitable and religious institutions into an era of greater governmental control. Given the large size of the Not For Profit (NFP) Sector as a whole this is not, in itself, unreasonable. The Industries Commission Inquiry of the early 1990's identified a significant number of entities with limited, or no, public accountability. Changes were inevitable.

It is possible the Government will establish a Charities Commission to better regulate the NFP Sector in the near future. This may well be of benefit as the alternatives seem to be ATO or ASIC applying tighter control. We understand ATO have already increased staff numbers significantly in their NFP area. We are conscious of a much tighter interpretation of the meaning of 'charity'. TR 2005/D6 and D7 are, we think, an introduction to what the future will provide for the Sector.

Given the significant public funds provided through Grants and taxation concessions such changes are in all probability responsible government. However the growing impact on the Sector is substantial.

## Philanthropy Concessions

The Federal Parliament recently introduced additional tax concessions for philanthropy, and they were approved by the Senate on 20 June 2005.

A brief outline of the changes are set out below –

- **Charities receiving bequests of property** have had some Capital Gains Tax (CGT) concerns. The current law exempted the charity from CGT only if the gift was valued at more than \$5,000. The amendments extend the exemption to all relevant gifts.

**Franking credits on dividends.** The present law allowed endorsed charitable institutions, charitable funds and deductible gift recipient entities to claim a refund of franking credits. However non-charitable ancillary funds and prescribed private funds were not able to do so. The changes enable prescribed private funds and non-charitable ancillary funds that provide benefits solely to deductible gift recipients to now claim franking credit refunds.

- **TCC status** will now be made available to non-charitable ancillary funds and prescribed private funds if they provide the money and other benefits solely to deductible gift recipient funds.
- Currently charitable funds were eligible for TCC status if they provided support to charities that are located in Australia and were involved in activities only in Australia, or alternatively solely to charities that were deductible gift recipients – but not to both types of charities. The law has now been amended to enable charitable funds to claim TCC status in either or both cases.

## New Deductible Gift Recipient Categories

The Treasurer has approved new categories of Deductible Gift Recipient (DGR) funds – effective from **1 July 2006**. The categories are –

- A fund to enable reconstruction and critical repair of eligible war memorials – maximum period two years.
- A public fund whose principal purpose is to relieve or prevent distress caused by declared natural or man-made disasters or assist in disaster reconstruction within Australia and in developed countries.

- Charitable funds whose principal purpose is the provision of services for the direct care of maltreated animals.
- Charitable funds that undertake a combination of activities that fall under several existing DGR categories (such as health promotion, harm prevention and public benevolent institutions). This is a significant help but only relates to charitable funds and not to charitable institutions.
- Charitable funds established solely to provide scholarships and similar to promote education where entry is open to persons at a national, regional or state level. It covers scholarships for all levels of education.

### GST - Sale of Going Concern.

An amendment to GST legislation to be effective from 17 March 2005 will cause persons who have acquired property GST free as a going concern great problems.

If real property is acquired GST free as a going concern, the margin scheme can be applied on the subsequent supply of the property.

However, to ensure GST is collected on the value added to the property since 1 July 2000, the legislation **now** indicates that a valuation date of 1 July 2000 must be used. That is, the margin is calculated as the difference between the consideration for the supply and the GST inclusive market value of the property on 1 July 2000.

So, even if the person selling the property under the margin scheme did not actually acquire it on 1 July 2000, but several years later, the seller must use the GST inclusive market value as at 1 July 2000 as the value when calculating GST due under the margin scheme.

### Missionary Taxation Guide

The Australian Not for Profit Network Inc., a network of Christian accountants working predominantly for Christian organisations and Christian workers, has just released a Missionary Taxation Guide. This 30 page document provides helpful information for Missionaries, intending Missionaries, and Mission societies in respect to the complex tax rules which affect them. It includes a summary of the complex issue of residency (whether a Missionary is a resident of Australia or of some other country for tax purposes), what constitutes income (including comments about gifts being income) and a range of other matters including available deductions from taxable income.

Copies of this document are available to purchase either online (\$15) or as hard copy (\$25) GST free from Add-Ministry. If you wish to acquire one please contact Add-Ministry direct.



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