

Review of ATO Status

ATO have recently established a simple link to enable entities to review their income tax exempt charity status. This is an online tool which is simple to operate and can be completed within a short time. It enables a printout of the result of the review for your records. It can be found at -

<http://calculators.ato.gov.au/scripts/axos/axos.asp?CONTEXT=&KBS=itec.xr8&go=ok>

An alternative to this internet tool is a separate guide provided by ATO. This provides a more detailed review of your charitable status. This can be found on the ATO website under the Charities heading as NAT 7967. Alternatively we can email or fax a copy of this to your organisation in response to an email or fax request to us. While the ATO document is a useful review tool, we have provided some additional explanatory notes as an addendum to this document.

Gift Fund Review

A similar tool is available for review of your gift fund. This can be found on the ATO website under the Charities heading as NAT 3132. We can also email or fax a copy of this to your organisation in response to an email or fax request to us.

ATO Charity Endorsement Statistics

The Charities Consultative Committee advise that a recent review indicates that of 1,480 applications for Tax Concession Charity (TCC) or Deductible Gift Recipient (DGR) endorsement 490 (1/3) in a three month period were refused. One third of the refusals in each category were because additional information requested by ATO was not provided. Reasons for other refusals include -

- TCC cases – proposed purposes and activities were not charitable.
- Public Benevolent Institutions – lacked benevolent purposes or were not institutions.
- DGR cases – predominant purposes of some school building funds were being ignored.

New ATO Ruling.

MT 2006/1 clarifies the meaning of 'entity carrying on an enterprise' for ABN purposes. It clarifies the meaning of 'entity' and 'enterprise' for not-for-profit organisations.

LotteryWest Grants.

LotteryWest are offering grants to not-for-profit organisations to develop their organisational capacities. Grants of up to \$10,000.00 for individual organisations may be available. Regional bodies get a special mention. For more information visit their website at:

- lotterywest.wa.gov.au
- Grants Information Package
- Extending the capacity of Not-For-Profit Organisations -

Prison Fellowship of WA

Prison Fellowship of WA is seeking Board members from within the Christian community, preferably with experience in business or leadership areas. The Fellowship is a multi-denominational volunteer group ministering to prisoners and their families.

Contact WA Chairman John Phillips on 0417 982 354 for more information.



Locked Bag 5
BAYSWATER WA 6933

Phone: 08 9271 1844
Fax: 08 9271 1944
addministry@hardings.org.au



Newsletter



REVISION OF ASSOCIATIONS INCORPORATIONS ACT 2006

The Department of Consumer and Employment Protection (DOCEP) have recently advised incorporated associations in WA that the Government intends to replace the present Associations Incorporations Act 1987 with a new Act. The draft of the new Act, presented as a Green Bill for public consideration and comment, was tabled in State Parliament recently. The Bill itself and the explanatory memorandum can be located on the website at www.docep.wa.gov.au/agb.

March 2007

DOCEP is interested in receiving advice from all associations affected by the draft bill proposals.

The draft Bill is much larger than the present Act and introduces significant changes particularly in the accountability provisions. The proposal will bring the WA Act more in line with requirements in other States. The emphasis in the Bill is on openness and accountability between members and the Committee of Management and also with the wider public – particularly when the association is handling public funds, as is often the case.

The Bill in its present form proposes audit of the annual financial reports to be compulsory for **all** associations. It introduces three different income levels for the reporting requirements and also for the auditor. Small organisations can seek DOCEP approval for appointment of a non-qualified person to be the auditor to enable honorary auditors to serve. With larger organisations the requirement is for a qualified accountant and in the largest organisations a registered company auditor. These changes in themselves are significant.

Other significant changes in the Green Bill are:

- Compulsory annual return to DOCEP within 30 days of Annual Meeting;
- Appointment of a Public Officer who will be the person DOCEP will communicate with.

The introduction of greater accountability obligations is accompanied by significantly increased penalties for breaches of the Act.

In a related paper, the Consultations Guide, that is available on the DOCEP website they have nominated specific issues on which they are anxious to obtain public comment. The accounting bodies CPA Australia and the Institute of Chartered Accountants will be making detailed representations to DOCEP in respect to the Bill. You may make representations direct to DOCEP, or, as alternative, to CPA Australia through Add-Ministry.

GST Claims on Manse Construction

A manse or rectory represents residential accommodation for GST purposes. As such costs would normally be treated as input taxed and GST credits would not be available. The position in respect to a manse or rectory was considered recently and a Private Ruling has issued. In the specific cir-

cumstances described in the Private Ruling GST credits were available. The manse was not considered to be input taxed in this instance. There will be other similar circumstances.

A brief summary of the facts identified in the Private Ruling are –

- The minister was required by the church to live in the manse.
- The manse was designed with the specific needs of the church in relation to the pastor's ministry in mind.
- It contained a separate office for the minister and a large room with adjacent toilet for home group meetings as well as for family use.
- While the manse was primarily the residence of the minister and his family, the church expectations were that it would be regularly used for church activities also.

The church was endorsed as a Tax Concession Charity and was also registered for GST purposes. In negotiating the remuneration with the minister they had nominated a specific housing allowance or rent for the manse. In calculating the ministers superannuation and long service leave the housing allowance has been included with the stipend and allowances to ensure that superannuation is paid at the higher level. The housing allowance was below 75% of the market value of rents in the neighbourhood. This complies with the GST-Free Charitable Supplies provisions of Section 38-250 of the GST Act.

Some specific comments emerging from the Private Ruling include the following –

- The Ruling placed significant reliance on the terms of engagement of the minister.
- The accommodation is not provided to the minister merely because of his status as a religious practitioner.
- In calculating the 75% below market value, formal advice was obtained from a local real estate agent.
- Local rents and the minister's remuneration are expected to change periodically. Therefore ATO require regular reviews to ensure the 75% below market value continues to be complied with.

GST Free Activities (A Reminder)

Charities and Religious Institutions will normally be subject to GST on their commercial activities. However their non-commercial activities will normally be GST free.

The non-commercial activities of charitable institutions are set out in Section 38-250 and subsequent sections of the GST Act. If the consideration (selling price) is less than 50% of the market value including GST it is GST free. Where the supply is for accommodation the consideration need only be less than 75% of the market value.

An alternative test is where the consideration is less than 75% of the amount the charity is liable to pay for buying the relevant item.

Raffles, bingo and similar activities that comply with current laws are GST free. Similarly the sale of second-hand donated goods will be GST free provided they retain their original character.

The activities of a religious institution which are integral to the practice of the religion will be GST free even where a fee is charged. This means that the sale of devotional booklets, Scriptures or other aids to worship will be GST free. Church camps will most commonly be subject to GST whereas a religious retreat where the primary focus is upon worship and related devotional/pastoral matters will be GST free.

Charitable sub-entity

Charitable and religious institutions can set up a GST sub-entity to separate a division or department from the regular activities of the entity. In such a way a particular social activity can be segregated. This may simplify the recording of GST transactions. The division or unit needs to keep its own accounting records and be separately identified by its activities or its location from the regular activities of the entity. Where the sub-entity has revenue less than \$100,000 per year it can choose whether it registers for GST or not.

Fundraising Activities

Charitable and religious institutions can choose to segregate for GST purposes a specific fund raising activity from its regular activities. Often these fundraising activities would be subject to GST on the services provided. By segregating it as a separate GST fundraising activity (provided the fundraising is below the \$100,000 threshold), it may choose not to register for GST. Often such activities represent the sale of donated goods. This provides an opportunity not to charge GST on the sale of such items.