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Tax Laws Amendment (2006 Measures No. 6) Bill 2006

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Law and Bills Digest Section

Contents

Tax Laws Amendment (2006 Measures No. 6) Bill 2006

Date introduced: 2 November 2006

House: House of Representatives

Portfolio: Treasury

Commencement: Most sections commence on Royal Assent. One part, Schedule 2, item 24, commences immediately after the commencement of Part 1 of Schedule 2 to the *Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006*.

Purpose

To amend the *Income Tax Assessment Act 1997* (ITAA 1997) to update the list of deductible gift recipients (DGRs) and extend the period for which deductions are allowed for gifts to certain funds that have time limited DGR status. Also, to make minor technical amendments to other tax law.

Background

Basis of policy commitment

Under Australian taxation law, taxpayers may claim an income tax deduction for gifts of $2 or more, or property, to eligible gift recipients. In the law these recipients are called deductible gift recipients (DGRs). For a taxpayer to claim a tax deduction for a donation, there are several requirements:

- the payment must be truly a gift
- it must be made to a DGR
- it must be a gift of money or property that is covered by a gift type, and
- it must comply with any relevant gift conditions.

Not all payments to DGRs are tax deductible. Gifts have the following characteristics, including that they:

- are made voluntarily
- do not provide a material benefit to the donor, and
- essentially arise from benefaction, and proceed from detached and disinterested generosity.[1]

Gift types

The law specifies the types of gifts that can be donated. To be deductible, a gift must be of money or property that is covered by one of the gift types. These are:

- $2 or more—money
- property less than 12 months—property purchased during the 12 months before the gift was made
- property valued at more than $5,000—a valuation by the Tax Office is required
- trading stock—trading stock disposed of outside the ordinary course of business
- cultural gifts—property under the Cultural Gift Program, and
- National Estate gifts—places listed in the Register of the National Estate.

Gift conditions

For some DGRs, the income tax law adds extra conditions affecting the sorts of deductible gifts they can receive. The gift may only be tax deductible:

- between certain dates, or
- for a specific use.

The income tax law determines which organisations and types of organisations can be DGRs. DGRs are:

- endorsed by the Tax Office, or
- listed by name in the tax law.

The majority of DGRs are endorsed by the Tax Office.[2]

Financial implications

The Explanatory Memorandum states that the DGR listings will have the following revenue implications:

2006-07	***2007-08***	***2008-09***	***2009-10***	***2010-11***	***Total***
-$0.74 m	-$3.06m	-$2.40m	-$2.84m	-$0.55m	-$9.59m

Main provisions

Schedule 1 of the Bill contains the list of seven new DGRs. Table 1.1 of the Explanatory Memorandum, which lists the DGRs and any conditions attached to their listing, is reproduced below:

Name of fund	*Date of effect*	*Special conditions*
Don Chipp Foundation Ltd	27 June 2006	
Lingiari Policy Centre	26 July 2006	
Nonprofit Australia Ltd	29 June 2006	The gift must be made before 29 June 2009.
Playgroup SA Inc	6 August 2006	
Point Nepean Community Trust	27 June 2006	The gift must be made before 11 June 2009.
St Mary's Cathedral Restoration Appeal Incorporated	27 April 2006	The gift must be made before 27 April 2007.
The Ranfurly Library Service Incorporated	3 May 2006	

An overview of the activities of each of the above bodies is provided in the EM.[3]

Schedule 1 also extends the periods for which gifts are deductible for four existing DGRs: the Bowral Vietnam Memorial Walk Trust Inc; Dunn and Lewis Youth Development Foundation Ltd; St Paul's Cathedral Restoration Fund; and Yachad Accelerated Learning Project Limited.[4]

Schedule 2 makes a number of technical corrections and amendments to taxation laws. The most significant change is contained in **items 17-19**, which transfer power from the Prime Minister to the Treasurer to appoint a person to act as the Commissioner for Taxation or the Second Commissioner for Taxation, during a vacancy in, or absence from, either office. According to the EM, in practice the Treasurer usually exercises this power on authorisation of the Prime Minister. The transfer of power will remove the 'unnecessary inconvenience' of the Prime Minister's authorisation.[5]

Endnotes

1. Australian Taxation Office internet site: *Deductible gift recipients listed by name in the tax law*, available at: http://www.ato.gov.au/nonprofit/content.asp?doc=/content/31654.htm, accessed 5 December 2006.
2. ibid.
3. Hon. Peter Costello MP, *Explanatory Memorandum for the Tax Laws Amendment (2006 Measures No. 6) Bill 2006*, p. 8.
4. ibid.
5. ibid.