

New tax laws passed affecting non-profit organisations

The Tax Laws Amendment (2004 Measures No.1) Bill 2004 was passed by Federal Parliament on 15 June 2004 and is now awaiting royal assent. The Bill contains amendments of interest to non-profit organisations. They are:

Endorsement of charities

The Bill amends the tax law to require that charities be endorsed by the Commissioner for Taxation in order to access relevant taxation concessions. This will take effect from 1 July 2005, not 1 July 2004 as previously foreshadowed.

Depending upon the nature of the institution, the relevant concessions are the income tax exemption as a charity (ITEC), refundable imputation credits, deductible gift recipient (DGR) status, FBT rebates, the FBT exemption and GST concessions for charities. This legislation changes the current regime under which only charities are required to be endorsed to access income tax concessions.

The Australian Business Register, which is available to the public through the Australian Taxation Office website, will state the tax concessions for which a charity has been endorsed.

Deductions for fund raising events

Currently, a deduction is denied where a donor receives a benefit in connection with a donation to a deductible gift recipient (unless the benefit is insubstantial or immaterial e.g. lapel badges).

Under this new legislation, from 1 July 2004 a deduction will be allowed where a donor receives a benefit in connection with the contribution, provided that certain conditions are met and that the benefit does not exceed a specified limit.

The principal conditions in respect of cash donations require the donation to be greater than \$250 and the market value of the benefit (e.g. a dinner at a fund raising event) to be the lesser of 10% of the donation or \$100.

Extension of Charitable Purposes Bill 2004

The Federal Government has withdrawn the Charities Bill that sought to establish a statutory definition for a "charity". The Government abandoned the proposal following consultation with the charitable sector because of two major concerns:

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- First, several provisions in the Charities Bill 2003 constituted a substantial departure from the current common law; and
- The Charities Bill 2003 fell short of providing the requisite clarity and certainty.

The Government has decided to continue to rely upon the common law meaning of "charity" and to add some entities that had difficulties in the past in satisfying the common law requirements.

The Extension of Charitable Purposes Bill that has now passed Parliament extends the common law definition of charity to include:

- Non-profit organisations providing child care services;
- Self-help bodies with open and non discriminatory membership; and
- Closed or contemplative religious orders that offer prayerful intervention to the public.

Should further information be required please do not hesitate to contact Mr Richard d'Apice, Mr Bill d'Apice or Ms Vera Visevic of our office.