

EXPOSURE DRAFT

EXPOSURE DRAFT

1
2
3
4
5
6
7

Inserts for
**Treasury Laws Amendment (Measures
for a later sitting) Bill 2020: Requiring
all DGRs to be registered charities**

Commencement information

Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Schedule [X]	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.	

EXPOSURE DRAFT

Schedule @—Deductible gift recipients

Part 1—Amendments

Income Tax Assessment Act 1997

1
2
3
4 **1 Subsection 30-20(1) (table item 1.1.3, column headed**
5 **“Special conditions—fund, authority or institution”,**
6 **paragraph (b))**

7 Repeal the paragraph, substitute:

- 8 (b) the public fund must be, or be operated by, an *Australian government agency or a
9 *registered charity; and

10 **2 Subsection 30-20(1) (table item 1.1.8, column headed**
11 **“Special conditions—fund, authority or institution”,**
12 **paragraph (a))**

13 Repeal the paragraph, substitute:

- 14 (a) the public fund must be, or be operated by, an *Australian government agency or a
15 *registered charity; and

16 **3 Subsection 30-25(1) (cell at table item 2.1.8, column headed**
17 **“Special conditions—fund, authority or institution”)**

18 Repeal the cell, substitute:

the public fund must be:

- (a) an *Australian
government agency; or
(b) a *registered charity; or
(c) operated by an Australian
government agency or a
registered charity

19 **4 Subsection 30-25(1) (cell at table item 2.1.9, column headed**
20 **“Special conditions—fund, authority or institution”)**

21 Repeal the cell, substitute:

EXPOSURE DRAFT

the public fund must be:

- (a) an *Australian government agency; or
- (b) a *registered charity; or
- (c) operated by an Australian government agency or a registered charity

1 **5 Subsection 30-25(1) (cell at table item 2.1.10, column**
2 **headed “Special conditions—fund, authority or**
3 **institution”)**

4 Repeal the cell, substitute:

the public fund must be:

- (a) an *Australian government agency; or
- (b) a *registered charity; or
- (c) operated by an Australian government agency or a registered charity

5 **6 Subsection 30-25(1) (cell at table item 2.1.11, column**
6 **headed “Special conditions—fund, authority or**
7 **institution”)**

8 Repeal the cell, substitute:

the public fund must be:

- (a) an *Australian government agency; or
- (b) a *registered charity; or
- (c) operated by an Australian government agency or a registered charity

9 **7 Subsection 30-40(1) (cell at table item 3.1.1, column headed**
10 **“Special conditions—fund, authority or institution”)**

11 Repeal the cell, substitute:

EXPOSURE DRAFT

the approved research
institute must be:

- (a) an *Australian
government agency; or
- (b) a *registered charity; or
- (c) operated by an Australian
government agency or a
registered charity

1 **8 Subsection 30-45(1) (cell at table item 4.1.3, column headed**
2 **“Special conditions—fund, authority or institution”)**

3 Repeal the cell, substitute:

the public fund must
be:

- (a) an *Australian
government
agency; or
- (b) a *registered
charity; or
- (c) operated by an
Australian
government
agency or a
registered charity

4 **9 Section 30-102 (table item 12A.1.3, column headed “Fund,**
5 **authority or institution”, paragraph (a))**

6 Repeal the paragraph, substitute:

- 7 (a) the fund is established and maintained by a *registered charity or an *Australian
8 government agency;

9 **10 Section 30-260**

10 Repeal the section, substitute:

11 **30-260 Meaning of *environmental organisation***

12 An *environmental organisation* is an entity that meets the
13 following criteria:

- 14 (a) the entity satisfies each requirement in sections 30-265 and
15 30-270;

EXPOSURE DRAFT

1 (b) the entity is a *registered charity or an *Australian
2 government agency.

3 Note: A body corporate or a cooperative society must satisfy a further
4 requirement: see section 30-275.

5 **11 Subsection 30-300(1)**

6 Repeal the subsection, substitute:

7 (1) A *cultural organisation* is a *registered charity, or an *Australian
8 government agency, that satisfies each requirement in this section.

EXPOSURE DRAFT

Part 2—Application and transitional provisions

12 Interpretation

In this Part:

application date means the day that is 3 months after the day on which this Act receives the Royal Assent.

extended application date, for a fund, authority or institution, means the day that is determined under subitem 16(1) or that applies because of subitem 16(5).

transitional application date means the day that is 12 months after the application date.

13 Application—general

The amendments made by this Schedule do not apply in relation to an entity before the application date.

14 Transitional—existing deductible gift recipients

(1) This item applies if:

- (a) immediately before the application date, gifts to a fund, authority or institution were deductible because the gifts satisfied a requirement of Division 30 of the *Income Tax Assessment Act 1997*; and
- (b) at that date, the fund, authority or institution no longer satisfies the requirement because of the amendments made by Part 1 of this Schedule (disregarding this item).

(2) The amendments do not apply in relation to the fund, authority or institution during the period that:

- (a) starts on the application date; and
- (b) ends on the earliest of:
 - (i) the time at which the fund, authority or institution first satisfies the requirement mentioned in subitem (1); and
 - (ii) if the fund, authority or institution does not have an extended application date—the transitional application date; and
 - (iii) if the fund, authority or institution has an extended application date—the extended application date.

EXPOSURE DRAFT

15 Transitional—new applicants

- 1
- 2 (1) This item applies if, immediately before the application date:
- 3 (a) either:
- 4 (i) a fund, authority or institution, had made an application
- 5 under section 426-15 in Schedule 1 to the *Taxation*
- 6 *Administration Act 1953* for endorsement as a
- 7 deductible gift recipient; or
- 8 (ii) another entity made an application under that section for
- 9 endorsement as a deductible gift recipient for the
- 10 operation of the fund, authority or institution; and
- 11 (b) the Commissioner had not decided the application.
- 12 (2) The amendments do not apply in relation to the fund, authority or
- 13 institution during the period that:
- 14 (a) starts on the application date; and
- 15 (b) ends on the earliest of:
- 16 (i) the refusal of the application to which subitem (1)
- 17 refers, if there are no other such applications for the
- 18 fund, authority or institution outstanding; and
- 19 (ii) if the fund, authority or institution does not have an
- 20 extended application date—the transitional application
- 21 date; and
- 22 (iii) if the fund, authority or institution has an extended
- 23 application date—the extended application date.

24 Note: If an application is refused it will be for a reason other than the amendments made by

25 this Schedule. This is because this subitem disappplies the amendments to the

26 Commissioner's determination of eligibility for endorsement.

16 Extended application dates

Determining extended application dates

- 28
- 29 (1) The Commissioner may, by notice in writing, determine that a fund,
- 30 authority or institution has an extended application date that is the day
- 31 that occurs 3 years after the transitional application date.
- 32 (2) A determination under subitem (1) is not a legislative instrument.

EXPOSURE DRAFT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Applications for extended application dates

- (3) The Commissioner may make a determination under subitem (1) only if the fund, authority or institution, or an entity that operates it, applies to the Commissioner to have an extended application date.
- (4) An application is not valid unless it is in the approved form and made before the transitional application date.
- (5) If the transitional application date passes before an application under subitem (3) is determined, the fund, authority or institution has, subject to subitem (1), an extended application date of the day on which the application is determined.

Mandatory considerations for the Commissioner in determining an extended application date

- (6) The Commissioner may make a determination under subitem (1) only if:
 - (a) the Commissioner considers that the prescribed criteria, if any, in relation to the application are satisfied; and
 - (b) the Commissioner has regard to the prescribed matters, if any, in relation to the application.
- (7) The Minister may, by legislative instrument, prescribe for subitem (6) criteria that an application must satisfy and matters to which the Commissioner is to have regard.

Objections

- (8) An applicant may object, in the manner set out in Part IVC of the *Taxation Administration Act 1953*, against a decision of the Commissioner under subitem (1).