

EXPOSURE DRAFT

EXPOSURE DRAFT (19/01/2023)

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Inserts for
**Treasury Laws Amendment (Measures
for Consultation) Bill 2023: Deductible
Gift Recipient Registers Reform**

Commencement information

Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Schedule 1	The first 1 January, 1 April, 1 July or 1 October to occur after the end of the period of 6 months beginning on the day this Act receives the Royal Assent.	

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Schedule 1—DGR registers reform

Part 1—Environmental organisations

Income Tax Assessment Act 1997

1 Subsection 30-55(1) (table)

Repeal the table, substitute:

The environment—General

Item	Fund, authority or institution	Special conditions—fund, authority or institution	Special conditions—gift
6.1.1	an institution or *Australian government agency whose principal purpose is: (a) the protection and enhancement of the natural environment or of a significant aspect of the natural environment; or (b) the provision of information or education, or the carrying on of research, about the natural environment or a significant aspect of the natural environment	the institution or Australian government agency must: (a) if it is not an Australian government agency—be a *registered charity; and (b) meet the requirements of section 30-130; (c) have a policy of not acting as a mere conduit for the donation of money or property to other organisations, bodies or persons	the gift must be received by the gift fund (mentioned in section 30-130) of the institution or Australian government agency

2 Section 30-60

Omit “gift:”, substitute “gift, the institution has a policy of not acting as a mere conduit for the donation of money or property to other entities.”.

3 Paragraphs 30-60(a) and (b)

Repeal the paragraphs.

4 Subdivision 30-E

Repeal the Subdivision.

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5 Subsection 30-315(2) (table item 48)

Repeal the item.

6 Section 995-1 (definition of *environmental organisation*)

Repeal the definition.

7 Transitional

Environmental organisations with DGR endorsement

(1) Subitem (2) applies if, immediately before the commencement of this Part:

- (a) an entity and the public fund it maintains are on the register of environmental organisations mentioned in section 30-255 of the *Income Tax Assessment Act 1997*; and
- (b) the entity is endorsed as a deductible gift recipient for the operation of a fund, authority or institution under paragraph 30-120(b) of that Act in respect of the operation of the public fund; and
- (c) the entity has rules (the *winding up provisions*) providing that, if the public fund is wound up, any surplus assets of the public fund are to be transferred to another fund that is on the register, as required by subsection 30-270(3) of that Act.

(2) On and after the commencement of this Part:

- (a) treat the entity as being endorsed as a deductible gift recipient under paragraph 30-120(a) of the *Income Tax Assessment Act 1997* based on item 6.1.1 of the table in subsection 30-55(1) of that Act; and
- (b) treat the public fund as being the entity's gift fund mentioned in section 30-130 of that Act, unless or until the entity establishes a replacement gift fund; and
- (c) treat the winding up provisions as providing that, if the public fund is wound up, any surplus assets of the public fund are to be transferred to a fund, authority or institution gifts to which can be deducted under Division 30 of that Act, unless or until the entity amends the winding up provisions.

Environmental organisations seeking DGR endorsement

(3) Subitem (4) applies if, immediately before the commencement of this Part:

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- 1 (a) an entity and the public fund it maintains are on the register
2 of environmental organisations mentioned in section 30-255
3 of the *Income Tax Assessment Act 1997*; and
4 (b) the entity has applied under subsection 426-15(1) in
5 Schedule 1 to the *Taxation Administration Act 1953* for
6 endorsement as a deductible gift recipient for the operation of
7 a fund, authority or institution under paragraph 30-120(b) of
8 the *Income Tax Assessment Act 1997* in respect of the
9 operation of the public fund; and
10 (c) the Commissioner has not given the applicant written notice
11 that the Commissioner endorses or refuses to endorse the
12 applicant.

- 13 (4) On and after the commencement of this Part:
14 (a) treat the application as an application for endorsement as a
15 deductible gift recipient under paragraph 30-120(a) of the
16 *Income Tax Assessment Act 1997* based on item 6.1.1 of the
17 table in subsection 30-55(1) of that Act; and
18 (b) treat the public fund as being the entity's gift fund mentioned
19 in section 30-130 of that Act, unless or until the entity
20 establishes a replacement gift fund.

21 *Entities seeking entry on the register of environmental*
22 *organisations*

- 23 (5) Subitem (6) applies if, immediately before the commencement of this
24 Part:
25 (a) an entity has submitted a request (however described) to the
26 department administered by the Environment Minister
27 seeking to be entered on the register of environmental
28 organisations mentioned in section 30-255 of the *Income Tax*
29 *Assessment Act 1997*; and
30 (b) the entity has not been notified by the department of the
31 outcome of the request.

- 32 (6) On and after the commencement of this Part:
33 (a) treat the request as an application under subsection 426-15(1)
34 in Schedule 1 to the *Taxation Administration Act 1953* by the
35 entity for endorsement as a deductible gift recipient under
36 paragraph 30-120(a) of the *Income Tax Assessment Act 1997*
37 based on item 6.1.1 of the table in subsection 30-55(1) of that
38 Act; and
39 (b) treat the application:

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- (i) as having been made on the commencement of this Part;
and
 - (ii) as meeting the requirements set out in
subsection 426-15(2) in Schedule 1 to the *Taxation
Administration Act 1953*.

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1 Part 2—Harm prevention charities

2 *Income Tax Assessment Act 1997*

3 **8 Subsection 30-45(1) (table item 4.1.4)**

4 Repeal the item, substitute:

4.1.4	an institution whose principal activity is the promotion of the prevention or the control of *behaviour that is harmful or abusive to human beings in Australia	the institution must: (a) be a *registered charity; and (b) meet the requirements of section 30-130; and (c) be endorsed as exempt from income tax under Subdivision 50-B; and (d) have a policy of not acting as a mere conduit for the donation of money or property to other organisations, bodies or persons	the gift must be received by the institution's gift fund (mentioned in section 30-130)
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5 **9 Subdivision 30-EA**

6 Repeal the Subdivision.

7 **10 Section 995-1 (definition of *harm prevention charity*)**

8 Repeal the definition.

9 **11 Transitional**

10 *Harm prevention charities with DGR endorsement*

11 (1) Subitem (2) applies if, immediately before the commencement of this
12 Part:

- 13 (a) an entity and the public fund it maintains are on the register
14 of harm prevention charities mentioned in section 30-287 of
15 the *Income Tax Assessment Act 1997*; and
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- 1 (b) the entity is endorsed as a deductible gift recipient for the
2 operation of a fund, authority or institution under
3 paragraph 30-120(b) of that Act in respect of the operation of
4 the public fund; and
5 (c) the entity has rules (the *winding up provisions*) providing
6 that, if the public fund is wound up, any surplus assets of the
7 public fund are to be transferred to another fund that is on the
8 register, as required by subsection 30-289A(2) of that Act.

- 9 (2) On and after the commencement of this Part:
- 10 (a) treat the entity as being endorsed as a deductible gift
11 recipient under paragraph 30-120(a) of the *Income Tax*
12 *Assessment Act 1997* based on item 4.1.4 of the table in
13 subsection 30-45(1) of that Act; and
14 (b) treat the public fund as being the entity's gift fund mentioned
15 in section 30-130 of that Act, unless or until the entity
16 establishes a replacement gift fund; and
17 (c) treat the winding up provisions as providing that, if the
18 public fund is wound up, any surplus assets of the public
19 fund are to be transferred to a fund, authority or institution
20 gifts to which can be deducted under Division 30 of that Act,
21 unless or until the entity amends the winding up provisions.

22 *Harm prevention charities seeking DGR endorsement*

- 23 (3) Subitem (4) applies if, immediately before the commencement of this
24 Part:
- 25 (a) an entity and the public fund it maintains are on the register
26 of harm prevention charities mentioned in section 30-287 of
27 the *Income Tax Assessment Act 1997*; and
28 (b) the entity has applied under subsection 426-15(1) in
29 Schedule 1 to the *Taxation Administration Act 1953* for
30 endorsement as a deductible gift recipient for the operation of
31 a fund, authority or institution under paragraph 30-120(b) of
32 the *Income Tax Assessment Act 1997* in respect of the
33 operation of the public fund; and
34 (c) the Commissioner has not given the applicant written notice
35 that the Commissioner endorses or refuses to endorse the
36 applicant.
- 37 (4) On and after the commencement of this Part:
- 38 (a) treat the application as an application for endorsement as a
39 deductible gift recipient under paragraph 30-120(a) of the
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- 1 *Income Tax Assessment Act 1997* based on item 4.1.4 of the
2 table in subsection 30-45(1) of that Act; and
3 (b) treat the public fund as being the entity's gift fund mentioned
4 in section 30-130 of that Act, unless or until the entity
5 establishes a replacement gift fund.

6 *Entities seeking entry on the register of harm prevention charities*

- 7 (5) Subitem (6) applies if, immediately before the commencement of this
8 Part:
- 9 (a) an entity has submitted a request (however described) to the
10 department administered by the Families Minister seeking to
11 be entered on the register of harm prevention charities
12 mentioned in section 30-287 of the *Income Tax Assessment*
13 *Act 1997*; and
14 (b) the entity has not been notified by the department of the
15 outcome of the request.
- 16 (6) On and after the commencement of this Part:
- 17 (a) treat the request as an application under subsection 426-15(1)
18 in Schedule 1 to the *Taxation Administration Act 1953* by the
19 entity for endorsement as a deductible gift recipient under
20 paragraph 30-120(a) of the *Income Tax Assessment Act 1997*
21 based on item 4.1.4 of the table in subsection 30-45(1) of that
22 Act; and
23 (b) treat the application:
24 (i) as having been made on the commencement of this Part;
25 and
26 (ii) as meeting the requirements set out in
27 subsection 426-15(2) in Schedule 1 to the *Taxation*
28 *Administration Act 1953*.

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1 Part 3—Cultural organisations

2 *Income Tax Assessment Act 1997*

3 **12 Subsection 30-100(1) (table item 12.1.1)**

4 Repeal the item, substitute:

12.1.1	an institution or *Australian government agency whose principal purpose is the promotion of literature, music, a performing art, a visual art, a craft, design, film, video, television, radio, community arts, arts or languages of *Indigenous persons or movable cultural heritage	the institution or Australian government agency must: (a) if it is not an Australian government agency—be a *registered charity; and (b) meet the requirements of section 30-130	the gift must be received by the gift fund (mentioned in section 30-130) of the institution or Australian government agency
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5 **13 Subdivision 30-F**

6 Repeal the Subdivision.

7 **14 Subsection 30-315(2) (table item 43)**

8 Repeal the item.

9 **15 Section 995-1 (definition of *cultural organisation*)**

10 Repeal the definition.

11 **16 Transitional**

12 *Cultural organisations with DGR endorsement*

- 13 (1) Subitem (2) applies if, immediately before the commencement of this
14 Part:
- 15 (a) an entity and the public fund it maintains are on the register
16 of cultural organisations mentioned in section 30-295 of the
17 *Income Tax Assessment Act 1997*; and
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1 (b) the entity is endorsed as a deductible gift recipient for the
2 operation of a fund, authority or institution under
3 paragraph 30-120(b) of that Act in respect of the operation of
4 the public fund.

- 5 (2) On and after the commencement of this Part:
- 6 (a) treat the entity as being endorsed as a deductible gift
7 recipient under paragraph 30-120(a) of the *Income Tax*
8 *Assessment Act 1997* based on item 12.1.1 of the table in
9 subsection 30-100(1) of that Act; and
- 10 (b) treat the public fund as being the entity's gift fund mentioned
11 in section 30-130 of that Act, unless or until the entity
12 establishes a replacement gift fund.

13 *Cultural organisations seeking DGR endorsement*

- 14 (3) Subitem (4) applies if, immediately before the commencement of this
15 Part:
- 16 (a) an entity and the public fund it maintains are on the register
17 of cultural organisations mentioned in section 30-295 of the
18 *Income Tax Assessment Act 1997*; and
- 19 (b) the entity has applied under subsection 426-15(1) in
20 Schedule 1 to the *Taxation Administration Act 1953* for
21 endorsement as a deductible gift recipient for the operation of
22 a fund, authority or institution under paragraph 30-120(b) of
23 the *Income Tax Assessment Act 1997* in respect of the
24 operation of the public fund; and
- 25 (c) the Commissioner has not given the applicant written notice
26 that the Commissioner endorses or refuses to endorse the
27 applicant.

- 28 (4) On and after the commencement of this Part:
- 29 (a) treat the application as an application for endorsement as a
30 deductible gift recipient under paragraph 30-120(a) of the
31 *Income Tax Assessment Act 1997* based on item 12.1.1 of the
32 table in subsection 30-100(1) of that Act; and
- 33 (b) treat the public fund as being the entity's gift fund mentioned
34 in section 30-130 of that Act, unless or until the entity
35 establishes a replacement gift fund.

36 *Entities seeking entry on the register of cultural organisations*

- 37 (5) Subitem (6) applies if, immediately before the commencement of this
38 Part:
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- 1 (a) an entity has submitted a request (however described) to the
2 department administered by the Arts Minister seeking to be
3 entered on the register of cultural organisations mentioned in
4 section 30-295 of the *Income Tax Assessment Act 1997*; and
5 (b) the entity has not been notified by the department of the
6 outcome of the request.
- 7 (6) On and after the commencement of this Part:
- 8 (a) treat the request as an application under subsection 426-15(1)
9 in Schedule 1 to the *Taxation Administration Act 1953* by the
10 entity for endorsement as a deductible gift recipient under
11 paragraph 30-120(a) of the *Income Tax Assessment Act 1997*
12 based on item 12.1.1 of the table in subsection 30-100(1) of
13 that Act; and
14 (b) treat the application:
15 (i) as having been made on the commencement of this Part;
16 and
17 (ii) as meeting the requirements set out in
18 subsection 426-15(2) in Schedule 1 to the *Taxation*
19 *Administration Act 1953*.

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Part 4—Overseas aid

Income Tax Assessment Act 1997

17 Subsection 30-80(1) (table item 9.1.1)

Repeal the item, substitute:

9.1.1	an institution or *Australian government agency whose principal purpose is delivering development or humanitarian assistance activities (or both): (a) in a country covered by section 30-85; and (b) in partnership with organisations in the country, based on principles of cooperation, mutual respect and shared accountability	the institution or Australian government agency must: (a) if it is not an Australian government agency—be a *registered charity; and (b) meet the requirements of section 30-130	the gift must be received by the gift fund (mentioned in section 30-130) of the institution or Australian government agency
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18 Section 30-85

Repeal the section, substitute:

30-85 Developing country relief funds

- (1) For the purposes of item 9.1.1 of the table in subsection 30-80(1), a country is covered by this section if:
- (a) it is included in the list of official development assistance recipients published from time to time by the Organisation for Economic Co-operation and Development's Development Assistance Committee; or
 - (b) it is specified in a declaration under subsection (2).
- (2) For the purposes of paragraph (1)(b), the *Foreign Affairs Minister may, by legislative instrument, make a declaration specifying a country as a developing country.

19 Subsection 207-115(5)

Repeal the subsection.

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20 Transitional

Declared developing countries

- (1) Subitem (2) applies if, immediately before the commencement of this Part:
- (a) a country is declared by the Foreign Affairs Minister to be a developing country under subparagraph 30-85(2)(b)(ii) of the *Income Tax Assessment Act 1997*; and
 - (b) that declaration is in force.
- (2) On and after the commencement of this Part, treat the country as being specified as a developing country in a declaration made under subsection 30-85(2) of that Act (as amended by this Part), unless or until the Foreign Affairs Minister makes a declaration under that subsection.

Approved organisations with DGR endorsement

- (3) Subitem (4) applies if, immediately before the commencement of this Part:
- (a) a public fund is declared to be a developing country relief fund under subsection 30-85(2) of the *Income Tax Assessment Act 1997*, and that declaration is in force; and
 - (b) the public fund has been established by an organisation declared by the Foreign Affairs Minister to be an approved organisation under paragraph 30-85(2)(a) of that Act, and that declaration is in force; and
 - (c) the organisation is endorsed as a deductible gift recipient for the operation of a fund, authority or institution under paragraph 30-120(b) of that Act in respect of the operation of the public fund.
- (4) On and after the commencement of this Part:
- (a) treat the entity as being endorsed as a deductible gift recipient under paragraph 30-120(a) of the *Income Tax Assessment Act 1997* based on item 9.1.1 of the table in subsection 30-80(1) of that Act; and
 - (b) treat the public fund as being the entity's gift fund mentioned in section 30-130 of that Act, unless or until the entity establishes a replacement gift fund.

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Approved organisations seeking DGR endorsement

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2 (5) Subitem (6) applies if, immediately before the commencement of this
3 Part:
4 (a) a public fund is declared to be a developing country relief
5 fund under subsection 30-85(2) of the *Income Tax*
6 *Assessment Act 1997*, and that declaration is in force; and
7 (b) the public fund has been established by an organisation
8 declared by the Foreign Affairs Minister to be an approved
9 organisation under paragraph 30-85(2)(a) of that Act, and
10 that declaration is in force; and
11 (c) the organisation has applied under subsection 426-15(1) in
12 Schedule 1 to the *Taxation Administration Act 1953* for
13 endorsement as a deductible gift recipient for the operation of
14 a fund, authority or institution under paragraph 30-120(b) of
15 the *Income Tax Assessment Act 1997* in respect of the
16 operation of the public fund; and
17 (d) the Commissioner has not given the applicant written notice
18 that the Commissioner endorses or refuses to endorse the
19 applicant.
- 20 (6) On and after the commencement of this Part:
21 (a) treat the application as an application for endorsement as a
22 deductible gift recipient under paragraph 30-120(a) of the
23 *Income Tax Assessment Act 1997* based on item 9.1.1 of the
24 table in subsection 30-80(1) of that Act; and
25 (b) treat the public fund as being the entity's gift fund mentioned
26 in section 30-130 of that Act, unless or until the entity
27 establishes a replacement gift fund.

28 *Approved organisations seeking declaration of a developing*
29 *country relief fund*

- 30 (7) Subitem (8) applies if, immediately before the commencement of this
31 Part:
32 (a) an organisation is declared by the Foreign Affairs Minister to
33 be an approved organisation under paragraph 30-85(2)(a) of
34 the *Income Tax Assessment Act 1997*, and that declaration is
35 in force; and
36 (b) the organisation has submitted a request (however described)
37 to the Commissioner for a public fund it has established to be
38 declared to be a developing country relief fund under
39 subsection 30-85(2) of that Act; and

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- 1 (c) the organisation has not been notified by the department of
2 the outcome of the request.
- 3 (8) On and after the commencement of this Part:
- 4 (a) treat the request as an application under subsection 426-15(1)
5 in Schedule 1 to the *Taxation Administration Act 1953* by the
6 entity for endorsement as a deductible gift recipient under
7 paragraph 30-120(a) of the *Income Tax Assessment Act 1997*
8 based on item 9.1.1 of the table in subsection 30-80(1) of that
9 Act; and
- 10 (b) treat the application:
- 11 (i) as having been made on the commencement of this Part;
12 and
- 13 (ii) as meeting the requirements set out in
14 subsection 426-15(2) in Schedule 1 to the *Taxation*
15 *Administration Act 1953*.

Organisations seeking to be approved organisations

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- 17 (9) Subitem (10) applies if, immediately before the commencement of this
18 Part:
- 19 (a) an entity has submitted a request (however described) to the
20 department administered by the Foreign Affairs Minister
21 seeking to be declared as an approved organisation under
22 paragraph 30-85(2)(a) of the *Income Tax Assessment Act*
23 *1997*; and
- 24 (b) the entity has not been notified by the department of the
25 outcome of the request.
- 26 (10) On and after the commencement of this Part:
- 27 (a) treat the request as an application under subsection 426-15(1)
28 in Schedule 1 to the *Taxation Administration Act 1953* by the
29 entity for endorsement as a deductible gift recipient under
30 paragraph 30-120(a) of the *Income Tax Assessment Act 1997*
31 based on item 9.1.1 of the table in subsection 30-80(1) of that
32 Act; and
- 33 (b) treat the application:
- 34 (i) as having been made on the commencement of this Part;
35 and
- 36 (ii) as meeting the requirements set out in
37 subsection 426-15(2) in Schedule 1 to the *Taxation*
38 *Administration Act 1953*.
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1 **Part 5—Miscellaneous**

2 *Income Tax Assessment Act 1997*

3 **21 Subsection 30-5(5)**

4 Repeal the subsection.