



23 February 2023

Personal and Indirect Tax, Charities and Housing Division  
Treasury  
Langton Cres  
Parkes ACT 2600

Email: [charitiesconsultation@treasury.gov.au](mailto:charitiesconsultation@treasury.gov.au)

Dear Treasury,

## **DEDUCTIBLE GIFT RECIPIENT (DGR) REGISTERS REFORM**

### ***Background***

1. This submission has been prepared by Oxfam Australia ABN 18 055 208 636 (“**Oxfam**”).
2. Oxfam is registered as a charity with the Australian Charity and Not-for-profits Commission (**ACNC**). It is established to relieve and eliminate poverty. Oxfam is a long-term partner of the Australian Government and is supported by thousands of Australians annually who contribute skills, time and financial support to advance our work.
3. Oxfam holds the following DGR endorsements:
  - endorsement as a public benevolent institution (**PBI**) (whole of entity); and
  - endorsement to operate an overseas aid fund (called the “Oxfam Australia Overseas Aid Fund”).
4. Oxfam is a member of Oxfam International, a global confederation of 20 organisations that work together in a networked approach across 80 countries around the world.

### ***Change of administration of Overseas Aid Funds***

5. Oxfam is concerned regarding the proposal to move the administration of overseas aid funds from the Department of Foreign Affairs and Trade (**DFAT**) to the Australian Taxation Office (**ATO**). DFAT holds great expertise and knowledge and Oxfam is concerned that moving the administration as proposed may result in the loss of DFAT’s expert input. The change will also not simplify the administrative burden placed on Oxfam and other overseas aid charities.
6. For these reasons, if the administration of overseas aid funds is to be moved, Oxfam recommends the preferred authority to administer the Register is the ACNC and that careful consideration be given as to how DFAT expertise follows any transfer of administration.
7. Oxfam recommends the ACNC as an appropriate authority because of the ACNC’s existing capabilities. The ACNC currently carries out PBI assessments (whole of entity) and, in doing so, engages with DFAT and the ATO to coordinate their processes. The ACNC is the primary regulator for the charitable sector which has the appropriate resources to carry out assessment of entitlement to operate as a DGR endorsed

overseas aid fund, and to monitor and manage compliance. It is our understanding that the ATO does not have the same range of regulatory tools as are available to the ACNC to regulate charities undertaking this type of work overseas (ranging from education to enforcement activities). The ACNC already works closely with DFAT in regulating all charities that work overseas, and assisting DFAT in implementing Australia's international obligations in relation to terrorism and money-laundering by administering the ACNC Governance standards and External Conduct Standards.

***Changing endorsement of Overseas Aid Funds to 'whole of entity'***

8. Oxfam is concerned about the proposed changes to overseas funds (s30-80(1); (item 9.1.1.)).
9. Oxfam is already endorsed as a PBI (whole of entity) on the basis that Oxfam has "a main purpose of providing benevolent relief to people in need" (see ACNC Commissioner's Interpretation Statement: Public Benevolent Institutions CIS 2016/03) (**PBI CIS**). The ACNC's current view is that a PBI may not have other non-PBI purposes:

*The main purpose of a PBI must be to provide relief to people in need. If an entity has other purposes that are not benevolent, it will be ineligible to be a PBI unless those purposes are ancillary or incidental to the main benevolent purpose. (Para 5.5.2, PBI CIS)*
10. The proposed change (by virtue of the transitional arrangements) will deem Oxfam to be endorsed (whole of entity) as an overseas aid fund, requiring Oxfam to also have a "principal purpose" of 'delivering development or humanitarian assistance activities'. Whilst the 'main purpose of benevolent relief' and the 'principal purpose' of 'delivering development or humanitarian assistance activities' overlap, the recognition of this overlap has largely occurred in recent case law (eg *Hunger Project* and *Global Citizen*); accordingly, there remains some uncertainty as to whether differences remain, especially the extent to which development work (eg economic development programs such as micro-finance) or some aspects of humanitarian activities (such as humanitarian training of the Geneva Convention requirements) neatly fit within the concept of 'benevolent relief'.
11. In Oxfam's view, the best solution is for the amending legislation to ensure that PBIs that operate overseas may have a principal purpose of delivering development and/or humanitarian assistance either in addition, or ancillary, to a main purpose of providing benevolent relief to people in need without compromising the entity's status as a PBI.
12. If you have any questions regarding our submission or would like to discuss further, please contact Carla Williams, Acting General Counsel (email: [carlaw@oxfam.org.au](mailto:carlaw@oxfam.org.au) mobile: (+61) 421 241 343).

Yours sincerely,



Lyn Morgain  
Chief Executive Oxfam Australia



### **About Oxfam Australia**

Oxfam Australia is a registered charity and our purpose is to relieve and eliminate poverty.

We work with, and center, the voice and experience of the people and communities most impacted by poverty, inequality and injustice because they understand the issues and solutions. We work in partnership with others to drive the greatest possible impact in addressing poverty and inequality. We inspire and invite individuals, movements and institutions to contribute their financial support, voices, ideas and resources to advance our shared purpose. We recognise that our team, volunteers and supporters are the greatest assets of our organisation and they are vital to how we affect change.

Oxfam Australia is a long-term partner of the Australian Government and is supported by more than 550,000 Australians annually who contribute skills, time and financial support to advance our work.

Oxfam Australia is a member of Oxfam International, a global confederation of 20 organisations that work together in a networked approach across 90 countries around the world.