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| **EXPOSURE DRAFT (19/01/2023)** |

Inserts for

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

| Commencement information | | |
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| 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. |  |

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.

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:

(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 has applied under subsection 426‑15(1) in Schedule 1 to the *Taxation Administration Act 1953* for endorsement as a deductible gift recipient for the operation of a fund, authority or institution under paragraph 30‑120(b) of the *Income Tax Assessment Act 1997* in respect of the operation of the public fund; and

(c) the Commissioner has not given the applicant written notice that the Commissioner endorses or refuses to endorse the applicant.

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

(a) treat the application as an application for endorsement 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.

Entities seeking entry on the register of environmental organisations

(5) Subitem (6) applies if, immediately before the commencement of this Part:

(a) an entity has submitted a request (however described) to the department administered by the Environment Minister seeking to be entered on the register of environmental organisations mentioned in section 30‑255 of the *Income Tax Assessment Act 1997*; and

(b) the entity has not been notified by the department of the outcome of the request.

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

(a) treat the request as an application under subsection 426‑15(1) in Schedule 1 to the *Taxation Administration Act 1953* by the entity for endorsement 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 application:

(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*.

Part 2—Harm prevention charities

Income Tax Assessment Act 1997

8 Subsection 30‑45(1) (table item 4.1.4)

Repeal the item, substitute:

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| 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) |

9 Subdivision 30‑EA

Repeal the Subdivision.

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

Repeal the definition.

11 Transitional

Harm prevention charities 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 harm prevention charities mentioned in section 30‑287 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 30‑289A(2) 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 4.1.4 of the table in subsection 30‑45(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.

Harm prevention charities seeking DGR endorsement

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

(a) an entity and the public fund it maintains are on the register of harm prevention charities mentioned in section 30‑287 of the *Income Tax Assessment Act 1997*; and

(b) the entity has applied under subsection 426‑15(1) in Schedule 1 to the *Taxation Administration Act 1953* for endorsement as a deductible gift recipient for the operation of a fund, authority or institution under paragraph 30‑120(b) of the *Income Tax Assessment Act 1997* in respect of the operation of the public fund; and

(c) the Commissioner has not given the applicant written notice that the Commissioner endorses or refuses to endorse the applicant.

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

(a) treat the application as an application for endorsement as a deductible gift recipient under paragraph 30‑120(a) of the *Income Tax Assessment Act 1997* based on item 4.1.4 of the table in subsection 30‑45(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.

Entities seeking entry on the register of harm prevention charities

(5) Subitem (6) applies if, immediately before the commencement of this Part:

(a) an entity has submitted a request (however described) to the department administered by the Families Minister seeking to be entered on the register of harm prevention charities mentioned in section 30‑287 of the *Income Tax Assessment Act 1997*; and

(b) the entity has not been notified by the department of the outcome of the request.

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

(a) treat the request as an application under subsection 426‑15(1) in Schedule 1 to the *Taxation Administration Act 1953* by the entity for endorsement as a deductible gift recipient under paragraph 30‑120(a) of the *Income Tax Assessment Act 1997* based on item 4.1.4 of the table in subsection 30‑45(1) of that Act; and

(b) treat the application:

(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*.

Part 3—Cultural organisations

Income Tax Assessment Act 1997

12 Subsection 30‑100(1) (table item 12.1.1)

Repeal the item, substitute:

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| 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 |

13 Subdivision 30‑F

Repeal the Subdivision.

14 Subsection 30‑315(2) (table item 43)

Repeal the item.

15 Section 995‑1 (definition of *cultural organisation*)

Repeal the definition.

16 Transitional

Cultural 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 cultural organisations mentioned in section 30‑295 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.

(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 12.1.1 of the table in subsection 30‑100(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.

Cultural organisations seeking DGR endorsement

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

(a) an entity and the public fund it maintains are on the register of cultural organisations mentioned in section 30‑295 of the *Income Tax Assessment Act 1997*; and

(b) the entity has applied under subsection 426‑15(1) in Schedule 1 to the *Taxation Administration Act 1953* for endorsement as a deductible gift recipient for the operation of a fund, authority or institution under paragraph 30‑120(b) of the *Income Tax Assessment Act 1997* in respect of the operation of the public fund; and

(c) the Commissioner has not given the applicant written notice that the Commissioner endorses or refuses to endorse the applicant.

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

(a) treat the application as an application for endorsement as a deductible gift recipient under paragraph 30‑120(a) of the *Income Tax Assessment Act 1997* based on item 12.1.1 of the table in subsection 30‑100(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.

Entities seeking entry on the register of cultural organisations

(5) Subitem (6) applies if, immediately before the commencement of this Part:

(a) an entity has submitted a request (however described) to the department administered by the Arts Minister seeking to be entered on the register of cultural organisations mentioned in section 30‑295 of the *Income Tax Assessment Act 1997*; and

(b) the entity has not been notified by the department of the outcome of the request.

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

(a) treat the request as an application under subsection 426‑15(1) in Schedule 1 to the *Taxation Administration Act 1953* by the entity for endorsement as a deductible gift recipient under paragraph 30‑120(a) of the *Income Tax Assessment Act 1997* based on item 12.1.1 of the table in subsection 30‑100(1) of that Act; and

(b) treat the application:

(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*.

Part 4—Overseas aid

Income Tax Assessment Act 1997

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

Repeal the item, substitute:

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| 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 |

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.

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.

Approved organisations seeking DGR endorsement

(5) Subitem (6) 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 has applied under subsection 426‑15(1) in Schedule 1 to the *Taxation Administration Act 1953* for endorsement as a deductible gift recipient for the operation of a fund, authority or institution under paragraph 30‑120(b) of the *Income Tax Assessment Act 1997* in respect of the operation of the public fund; and

(d) the Commissioner has not given the applicant written notice that the Commissioner endorses or refuses to endorse the applicant.

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

(a) treat the application as an application for endorsement 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.

Approved organisations seeking declaration of a developing country relief fund

(7) Subitem (8) applies if, immediately before the commencement of this Part:

(a) an organisation is declared by the Foreign Affairs Minister to be an approved organisation under paragraph 30‑85(2)(a) of the *Income Tax Assessment Act 1997*, and that declaration is in force; and

(b) the organisation has submitted a request (however described) to the Commissioner for a public fund it has established to be declared to be a developing country relief fund under subsection 30‑85(2) of that Act; and

(c) the organisation has not been notified by the department of the outcome of the request.

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

(a) treat the request as an application under subsection 426‑15(1) in Schedule 1 to the *Taxation Administration Act 1953* by the entity for endorsement 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 application:

(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*.

Organisations seeking to be approved organisations

(9) Subitem (10) applies if, immediately before the commencement of this Part:

(a) an entity has submitted a request (however described) to the department administered by the Foreign Affairs Minister seeking to be declared as an approved organisation under paragraph 30‑85(2)(a) of the *Income Tax Assessment Act 1997*; and

(b) the entity has not been notified by the department of the outcome of the request.

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

(a) treat the request as an application under subsection 426‑15(1) in Schedule 1 to the *Taxation Administration Act 1953* by the entity for endorsement 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 application:

(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*.

Part 5—Miscellaneous

Income Tax Assessment Act 1997

21 Subsection 30‑5(5)

Repeal the subsection.