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Australian Government
Australian Taxation Office

Ms Carmen McElwain
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MELBOURNE VIC 3000

Our reference:
Contact officer: Kevin Hughes
Telephone: (03) 9285 1226
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Your reference:
Issue date: 24 June 2005

Dear Carmen

RE – Public Benevolent Institution and charitable status of housing agencies that register under the new provisions of the *Housing Act* 1983

I am writing to confirm my oral advice of 22 June 2005 that mere registration of an organisation under new provisions contained in Part VIII of the *Housing Act* 1983 as at 30 June 2005 will not of itself cause the Tax Office to review or revoke Deductible Gift Recipient or Tax Concession Charity status to which the organisation would otherwise be entitled under the endorsement regime.

I also confirm that we will not be proceeding with the issue of a Taxation Determination on this issue for the Rental Housing sector. Our intention at this stage is to consider issuing a Public Ruling in the near future addressing the broader issues of what constitutes government control, what is government function, etc.

This advice is general in nature and is not binding on the Commissioner. However, the Commissioner will stand by what is said in such advice and will not depart from it unless:

- (i) there have been legislative changes since the advice was given;
- (ii) a Tribunal or Court decision has affected our interpretation of the law since the advice was given; or
- (iii) for other reasons, the advice is no longer considered appropriate - for example, if commercial practice has changed, the advice has been exploited in an abusive and unintended way or the advice is found on reconsideration to be wrong in law.

Where we depart from our earlier advice because of a legislative change to the law, we will apply the change from the date of effect of the amending legislation. If we depart from our earlier advice for other reasons, normally departure from that advice would be on a prospective basis only, unless particular circumstances warrant another approach.

Yours sincerely

Kevin Hughes

Kevin Hughes
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