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AUSTRALIA

THE TREASURY

Individuals and Entities Tax Division
The Treasury
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28 August, 2003

Dr Sarah Bachelard
Acting Secretary
Senate Standing Committee on Economics
The Senate
Parliament House
Canberra ACT 2600

Dear Dr Bachelard

SCHEDULE 3 – TAXATION LAWS AMENDMENT BILL (NO. 7) 2003

Further to the Department of the Treasury's appearance before the Senate Standing Committee on Economics on 22 August 2003, we submit the following information concerning Schedule 3 of the Taxation Laws Amendment Bill (No.7) 2003 to assist in the deliberation of the Committee.

Schedule 3 of the Taxation Laws Amendment Bill (No. 7) 2003 contains a provision to require that specifically listed deductible gift recipients (DGRs) be prescribed by regulation from 1 July 2003. This would also involve moving all existing specifically listed DGRs from the *Income Tax Assessment Act 1997* (the Act) to regulations under the Act.

At present, there are around 18,000 organisations and funds that are eligible to receive deductible gifts. The DGR status of an organisation or fund is publicly available information on the Australian Business Register so that donors can verify whether or not a gift would be deductible.

In order to be a DGR an organisation or fund must either fall within one of the general DGR categories set out in the gift provisions of the Act or be specifically listed under those provisions.

The general DGR categories include organisations such as public benevolent institutions, public universities, approved research institutes, cultural and environmental organisations, school building funds and overseas aid funds. Since 1 July 2002, to qualify as a DGR under a general category, an organisation or fund must be endorsed by the Commissioner of Taxation. These organisations will not be affected by the provisions in the Taxation Laws Amendment Bill (No. 7) 2003.

Under the current law, organisations that do not fall under the general categories may achieve DGR status by being specifically listed in the gift provisions of the Act. At present, there are around 200 organisations and funds specifically listed as DGRs. Schedule 3 of the Taxation Laws Amendment Bill (No. 7) contains a provision to allow future additions to the list of organisations specifically named as deductible gift recipients to be prescribed by regulation rather than requiring a legislative amendment to the Act. This will allow continued scrutiny by Parliament, particularly the Standing Committee on Regulation and Ordinances, but will make the process less administratively costly and more timely.

The process of achieving specific listing will not change as a result of the provisions in Schedule 3 of the Taxation Laws Amendment Bill (No. 7) 2003. Specific listing would still be ultimately a change in tax law rather than the exercise of any Ministerial discretion provided under that law. Each organisation seeking specifically listed DGR status would still be considered by the Government on a case by case basis.

Importantly, endorsement as a DGR is a separate process from endorsement as a charity. From our reading of the hearing transcript, it appears that this point may not have been made sufficiently clear. An organisation's DGR status is not connected with its charitable status. DGR status will not be affected by the Charities Bill 2003, which will define charities and charitable purpose. There are currently around 45,000 endorsed income tax exempt charities compared to around 18,000 DGRs. Figure 1 indicates the overlap between organisations and funds with income tax exempt charities status and DGR status.

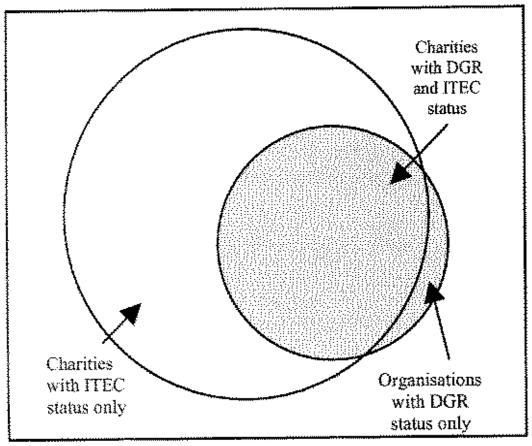

Figure 1: Indicative overlap between organisations and funds with income tax exempt charity (ITEC) status and DGR status.

I am happy to elaborate further if that would be of assistance to the Committee.

Yours sincerely

Paul McCullough
General Manager
Individuals and Entities Tax Division