


TD 2005/D51 - Income tax: is disaster relief money received from charities, to which local, state or federal government or their agencies have made payments, assessable income of taxpayers carrying on a business?

 This cover sheet is provided for information only. It does not form part of *TD 2005/D51 - Income tax: is disaster relief money received from charities, to which local, state or federal government or their agencies have made payments, assessable income of taxpayers carrying on a business?*

This document has been finalised by TD 2006/22.



Draft Taxation Determination

Income tax: is disaster relief money received from charities, to which local, state or federal government or their agencies have made payments, assessable income of taxpayers carrying on a business?

Preamble

*This document is a draft for industry and professional comment. As such, it represents the preliminary, though considered views of the Australian Taxation Office. This draft may not be relied on by taxpayers and practitioners as it is not a ruling for the purposes of Part IVAAA of the **Taxation Administration Act 1953**. It is only final Taxation Determinations that represent authoritative statements by the Australian Taxation Office.*

1. No. One-off disaster relief money received by a taxpayer carrying on a business from charity as part of community assistance is not assessable income under either section 6-5 or 15-10 of the *Income Tax Assessment Act 1997* (ITAA 1997).
2. This determination deals with situations where taxpayers, who experience financial hardship as a result of a natural disaster such as a drought or bushfire, receive financial assistance from a charity for the basic necessities of life – that is meeting essential family household bills such as food and water, clothing, health and medical bills, children's education costs and the normal household bills of electricity, phone, fuel and communication. The charity conducts a relief appeal and receives donations from the general public and payments from local, state or federal government or their agencies.
3. The receipt of money or other property by way of a simple gift and nothing more is not a receipt of income. A receipt of a voluntary payment of money or a voluntary transfer of property is *prima facie* not income in the hands of the recipient. If nothing more appears than the receipt of some money or property, what is received is capital and not income. On the other hand, if the facts surrounding the transaction show that the payment or transfer was made without legal obligation, but is nevertheless so related to a recipient's employment, or to services rendered, or to a business carried on, that it is, in substance and in reality, not a mere gift but the product of an income earning activity, it is regarded as assessable income of the recipient.
4. Government payments received by a charity that form an unidentifiable part of the overall funds received for the purpose of providing aid to persons in need do not alter the non-taxable nature of the aid provided by the charity.

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Example

5. *A bushfire causes major damage in and around a rural centre. A public fund is established by a charity to accept donations from people wishing to provide assistance to victims of the bushfire. The Federal Government makes a large contribution to the fund. The charity makes one off payments of \$1,000 to those affected by the bushfire. The payments are unconditional and represent a gift to help people in difficult financial circumstances. Both individuals and taxpayers who carry on a business receive a gift of money from the fund. Payments from the fund received by the recipients are not assessable under section 6-5 or 15-10 of the ITAA 1997.*

6. This Determination does not deal with other specific financial assistance provided by local, state or federal government, either directly or through an agency or a third party, to taxpayers carrying on a business. This type of assistance may be ordinary income assessable under section 6-5 of the ITAA 1997 or a bounty, subsidy or grant assessable under section 15-10 of the ITAA 1997.

Date of effect

7. When the final Determination is issued, it is proposed to apply both before and after its date of issue. However, the Determination will not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Your comments

8. We invite you to comment on this draft Taxation Determination. Please forward your comments to the contact officer by the due date.

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FOI status: **draft only – for comment**

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Previous draft:

Not previously issued as a draft

- grant
- ordinary income
- subsidy

Related Rulings/Determinations:

TR 92/20

Legislative references:

- TAA 1953 Pt IVAAA
- ITAA 1997 6-5
- ITAA 1997 15-10

Subject references:

- assessable income
- bounty
- business

ATO references

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Income Tax ~~ Assessable income ~~ compensation and ex gratia payments