


IT 2355 - Income tax : donation of moneys "blocked" in developing countries to an australian overseas aid fund

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TAXATION RULING NO. IT 2355

INCOME TAX : DONATION OF MONEYS "BLOCKED" IN DEVELOPING COUNTRIES TO AN AUSTRALIAN OVERSEAS AID FUND

F.O.I. EMBARGO: May be released

REF

H.O. REF: 85/7068-0

DATE OF EFFECT:

B.O. REF:

DATE ORIG. MEMO ISSUED:

F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1210051	OVERSEAS AID FUNDS	78(1) (a) (lxii)
	GIFTS MADE OVERSEAS	78(12)

FACTS

Income tax deductions are available for gifts to the value of \$2 or more to a public fund satisfying the provisions of sub-paragraph 78(1) (a) (lxii) of the Income Tax Assessment Act. The sub-paragraph relates to funds which are commonly known as overseas aid funds and are used to provide relief in certified developing countries (sub-section 78(12)).

2. Enquiries have been received from trustees of overseas aid funds about the availability of income tax deductions where gifts are made to an overseas aid fund from moneys located outside Australia. In the particular circumstances giving rise to the enquiries expatriates of certified developing countries now resident in Australia have moneys in bank accounts, etc. in the developing countries of their origin. Because of laws existing in the developing countries the transfer of moneys to Australia is prohibited or, as the term is sometimes used, blocked.

3. Some expatriate residents of Australia have indicated to trustees of overseas aid funds that they would be prepared to donate blocked moneys held by them in developing countries to Australian overseas aid projects in the particular developing countries. Trustees have asked whether gifts made in these circumstances would be allowable as income tax deductions.

RULING

4. Paragraph 78(1) (a) applies to gifts made to funds, authorities and institutions in Australia, i.e. those that are established in Australia and which have Australian residents involved in their control and direction. The paragraph does not require that gifts be made from assessable income - there is not any restriction on the source of moneys used to make a gift.

5. In the case of overseas aid funds the relief and aid activities will take place outside Australia. Gifts to overseas aid funds in the certified developing countries in which they are operating are gifts to the funds generally in the same way as a payment to a branch of a company is a payment to the company. Where blocked moneys are deposited into a bank account

operated by an Australian overseas aid fund in a certified developing country to be used for the general purposes of the overseas aid fund, they will qualify for deduction under sub-paragraph 78(1) (a) (lxii) where the taxpayer establishes the bona fides of the gift.

COMMISSIONER OF TAXATION
20 August 1986