

IT 2578 - Income tax: overseas aid funds - guidelines for acceptance under the overseas aid gift deduction scheme

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TAXATION RULING NO. IT 2578

INCOME TAX: OVERSEAS AID FUNDS - GUIDELINES FOR
ACCEPTANCE UNDER THE OVERSEAS AID GIFT DEDUCTION SCHEME

F.O.I. EMBARGO: May be released

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I 1012076	GIFTS OVERSEAS AID FUNDS	78(1) (a) (1xii) 78(8), 78(12)

PREAMBLE The gift provisions of the Income Tax Assessment Act (the Act) are generally directed to the allowance of deductions for donations to certain funds, authorities or institutions whose activities are confined to Australia. An exception to this general rule exists in respect of donations made to public funds established exclusively for the relief of persons in certified developing countries. A necessary requirement for this concession is that the public fund be established and administered in Australia.

2. The purpose of this Ruling is to provide guidelines that an organization can follow when seeking approval to have a fund come within the developing country gift deduction arrangements. The arrangements are generally known as the "Overseas Aid Gift Deduction Scheme".

RULING 3. An organization seeking access to the Overseas Aid Gift Deduction Scheme must, in the first instance, be accepted as an "approved organization", that is, an organization approved by the Minister for Foreign Affairs and Trade in terms of subsection 78(12) of the Act. Details of the criteria to be met, and those countries which are considered to be developing countries for the purposes of this provision, may be obtained from the Director, NGO Programs and Liaison Section, Australian International Development Assistance Bureau, Department of Foreign Affairs and Trade, GPO Box 887, Canberra City, ACT, 2601. Formal applications seeking the Minister's approval must also be forwarded to that address. The Minister will inform the Treasurer of each application he approves.

4. Once an organization has gained Ministerial approval, it is then necessary for it to satisfy the Treasurer that it has established a public fund exclusively for the relief of persons in certified developing countries (subsection 78(8)). The Australian Taxation Office is responsible for ensuring that the Treasurer is fully informed before he decides that issue.

5. Consequently, the documentation establishing such a fund

must be submitted to the Australian Taxation Office for subsequent referral to the Treasurer. This can be done at the same time that the formal application has been lodged with the Department of Foreign Affairs and Trade. However, no decision will be made on its suitability until approval of the Minister, as referred to above, has been received.

6. The documentation required to satisfy the Treasurer for the purposes of subsection 78(8) is generally expected to contain the requirements listed below. Such requirements are normally sought to be met by any public fund which comes within the income tax gift provisions contained in paragraph 78(1) (a) of the Act. The requirements are that:

- (a) the fund be governed by a constitution or set of rules from which it is clear that its exclusive purpose is to provide relief to persons in certified developing countries;
- (b) members of the general public be invited to contribute to the fund;
- (c) gifts to the fund be kept separate from any other funds of the sponsoring organisation. A separate bank account and clear accounting procedures are required;
- (d) the fund be public in the sense that it be administered by a committee of persons a majority of whom have a degree of responsibility to the general community. In this respect it will be necessary to provide details of the occupations and positions in the community of the fund's office-bearers;
- (e) should the fund be wound-up any surplus money be transferred to some other fund qualifying under the overseas aid gift provision of the law, i.e., under subparagraph 78(1) (a) (lxii) of the Act; and
- (f) the fund's name reflects the fact that it is a developing country's aid fund and that the name appears on all receipts issued to donors.

7. Should the Treasurer be satisfied for the purposes of subsection 78(8) he may, at his discretion, by notice published in the Commonwealth Government Gazette, declare the fund to be an eligible fund under the Overseas Aid Gift Deduction Scheme.

In such cases, it has been the usual practice for the Treasurer to advise the public of the declaration through the issue of a Press Release.

8. Gifts to an eligible fund will generally be deductible from the date of the Gazette declaring its eligibility, although a later date may be specified.

COMMISSIONER OF TAXATION

5 April 1990