



TD 93/139 - Income tax: is a payment of money to an eligible 'umbrella' organisation under a 'preferred donation arrangement' a tax deductible gift if the donor taxpayer or an associate obtains a collateral benefit?

 This cover sheet is provided for information only. It does not form part of *TD 93/139 - Income tax: is a payment of money to an eligible 'umbrella' organisation under a 'preferred donation arrangement' a tax deductible gift if the donor taxpayer or an associate obtains a collateral benefit?*

 This document has changed over time. This is a consolidated version of the ruling which was published on *15 July 1993*

This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA of the *Taxation Administration Act 1953*, is a public ruling for the purposes of that Part. Taxation Ruling TR 92/1 explains when a Determination is a public ruling and how it is binding on the Commissioner. Unless otherwise stated, this Determination applies to years commencing both before and after its date of issue. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of a 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).

Taxation Determination

Income tax: is a payment of money to an eligible 'umbrella' organisation under a 'preferred donation arrangement' a tax deductible gift if the donor taxpayer or an associate obtains a collateral benefit?

1. No. The payment would not be tax deductible for the purposes of section 78 of the *Income Tax Assessment Act 1936*. Section 78A specifically disallows a claim for a 'gift' where the donor or an associate receives a material benefit.
2. For the purposes of section 78 a tax deductible gift requires a donor to transfer property voluntarily to an eligible donee organisation without the donor or an associate of the donor receiving or being entitled to receive in return any material advantage or compensation (apart from the tax saving). The recipient organisation must:
 - (a) obtain in its own right the full value or benefit of the property; and
 - (b) be empowered and have the absolute discretion to distribute the property to those organisations or activities nominated by the donor.
3. A 'preferred donation arrangement' generally involves a person donating money to an eligible 'umbrella organisation'. There is an understanding that the money will be passed on to an affiliate organisation preferred by the donor to fund projects or events nominated by the affiliate and approved by the umbrella organisation.
4. An eligible 'umbrella organisation' is one which covers a number of affiliated groups. The 'umbrella organisation' is approved for tax purposes as an eligible donee organisation and can receive tax deductible gifts on its own behalf or on behalf of its affiliates.
5. A payment to an eligible organisation under a preferred donation arrangement that satisfies subparagraphs 2 (a) and (b) above may be tax deductible. However, in situations where the donor or an associate receives a material benefit from the donee or the affiliate organisation because of a payment to the 'umbrella organisation' no deduction is allowable.

Example:

An eligible 'umbrella' organisation operates a 'preferred donation arrangement' for affiliated organisations.

Participants in an approved event nominated by the affiliate are obligated to fund some of the cost of participation either by paying directly for their travel expenses or by making 'preferred donations' to the 'umbrella' organisation. A participant makes an appropriate donation to the 'umbrella' organisation. The 'umbrella' organisation passes the donated funds to its affiliate organisation and the participant is not required to pay travel expenses.

In this instance the donation to the 'umbrella' organisation would not be a deductible gift because the donor will receive a collateral material benefit from the donation - that is, removal of the obligation to pay travel expenses.

Commissioner of Taxation

15/7/93

FOI INDEX DETAIL: Reference No. I 1215621 Previously released as Draft TD 93/D61

Related Determinations:

Related Rulings: IT 2071; IT 2443

Subject Ref: gifts, preferred grants; umbrella organisations

Legislative Ref: ITAA 78(1)(a); 78A

Case Ref:

ATO Ref: can ac752Pt10

ISSN 1038 - 8982