


# ***CR 2014/5 - Income tax: format of mobile phone invoice as evidence for donations to United Nations Children's Fund via SMS***

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## Class Ruling

# Income tax: format of mobile phone invoice as evidence for donations to United Nations Children's Fund via SMS

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### **ⓘ This publication provides you with the following level of protection:**

This publication (excluding appendixes) is a public ruling for the purposes of the *Taxation Administration Act 1953*.

A public ruling is an expression of the Commissioner's opinion about the way in which a relevant provision applies, or would apply, to entities generally or to a class of entities in relation to a particular scheme or a class of schemes.

If you rely on this ruling, the Commissioner must apply the law to you in the way set out in the ruling (unless the Commissioner is satisfied that the ruling is incorrect and disadvantages you, in which case the law may be applied to you in a way that is more favourable for you – provided the Commissioner is not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any underpaid tax, penalty or interest in respect of the matters covered by this ruling if it turns out that it does not correctly state how the relevant provision applies to you.

## What this Ruling is about

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1. This Ruling sets out the Commissioner's opinion on the way in which the relevant provisions identified below apply to the defined class of entities, who take part in the scheme to which this Ruling relates.

### Relevant provisions

2. The relevant provisions dealt with in this Ruling are:
- section 30-15 of the *Income Tax Assessment Act 1997* (ITAA 1997); and
  - section 30-228 of the ITAA 1997.

All subsequent legislative references in this Ruling are to the ITAA 1997 unless otherwise stated.

### Class of entities

3. The class of entities to which this Ruling applies is mobile phone subscribers who:
- are residents of Australia within the meaning of subsection 6(1) of the *Income Tax Assessment Act 1936*;

- make a tax deductible gift to the United Nation's Children's Fund (UNCF) by way of a premium short message service (SMS) to a designated mobile phone number operated by a Mobile Phone Carrier (MPC);
- receive a mobile phone invoice with the relevant details of the donation from the MPC; and
- use the mobile phone invoice as evidence to claim the donation as an allowable deduction under Division 30.

## Qualifications

4. The Commissioner makes this Ruling based on the precise scheme identified in this Ruling.

5. The class of entities defined in this Ruling may rely on its contents provided the scheme actually carried out is carried out in accordance with the scheme described in paragraphs 8 to 21 of this Ruling.

6. If the scheme actually carried out is materially different from the scheme that is described in this Ruling, then:

- this Ruling has no binding effect on the Commissioner because the scheme entered into is not the scheme on which the Commissioner has ruled; and
- this Ruling may be withdrawn or modified.

## Date of effect

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7. This Ruling applies from 1 February 2014 until 30 June 2019. The Ruling continues to apply after 30 June 2019 to all entities within the specified class who entered into the specified scheme during the term of the Ruling. However, this Ruling will 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 this Ruling (see paragraphs 75 and 76 of Taxation Ruling TR 2006/10).

## Scheme

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8. The following description of the scheme is based upon the information provided by the applicant. This description shall be read with the details in the application for class ruling dated 11 February 2013.

**Note:** certain information has been provided on a commercial-in-confidence basis and will not be disclosed or released under Freedom of Information legislation.

9. Australian Committee for UNICEF Limited (UNICEF) is an Australian Public Company that is endorsed as a Charitable Institution and operates a Deductible Gift Recipient Fund (DGR) named the UNCF.
10. UNICEF has authorised the MPC to collect donations on their behalf via a designated SMS.
11. Donors make a gift to the UNCF by sending an SMS to a pre-determined mobile phone number controlled by a message aggregator and the MPC.
12. The value of the donation is a fixed pre-determined dollar value and linked to the premium SMS mobile phone number.
13. Donors will use a specific short code supplied by the message aggregator to SMS their donation requests. For example, the short code for UNCF will be to text 'Donate' to 19991111.
14. For up to 6 months, the dollar donation amounts will be set at \$5. An SMS donation from the donor will be for \$5 per SMS sent.
15. In the future, this may change to variable amounts up to \$20 per SMS where either different codes are used to send the SMS or the amount is placed in the body of the SMS or mobile internet page. For example, a donor will text 'Donate 5' for a \$5 donation, or 'Donate 10' for a \$10 donation.
16. UNCF publishes this code as part of their charity campaign available to mobile phone subscribers.
17. Upon receiving the SMS donation, the charity will immediately respond to the mobile number thanking them for the donation and informing them that their donation will appear on their MPC post-paid bill or will be deducted from their pre-paid balance.
18. The message aggregator collates the details of the donors and advises the MPC accordingly.
19. Based upon these details and on behalf of the UNCF, the MPC invoices the donors for their gift on their mobile phone invoice. Each gift will appear on the mobile phone invoice in a similar manner to a phone call.
20. The mobile phone invoice will include the date and time of the donation, the name of the DGR, the Australian Business Number (ABN) of the DGR, the fact that it is a gift and the amount of the gift.
21. The MPC will, within 45 days of the end of each calendar month remit the total amount of billable SMS donations to UNCF via UNICEF less any other withholdings or deductions under the agreement.

## Ruling

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22. The Commissioner accepts that the mobile phone invoice satisfies the gift receipt requirements under section 30-228 provided the mobile phone invoice identifies the:

- (a) date of the gift by the donor;
- (b) description of the transaction in the following format:  
*GIFT UNCF (ABN of UNICEF); and*
- (c) quantum of the gift by the donor.

23. The itemised mobile phone invoice issued by the MPC to the donor as outlined in paragraph 22 of this Ruling is an acceptable document to substantiate the donor's claim for a tax deduction under section 30-15 of the gift made to UNCF.

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**Commissioner of Taxation**

15 January 2014

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## Appendix 1 – Explanation

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**ⓘ** *This Appendix is provided as information to help you understand how the Commissioner's view has been reached. It does not form part of the binding public ruling.*

### Gift payment

24. As the MPC is authorised by UNICEF to collect the donations on UNICEF's behalf and pass it on to UNICEF at the end of the billing period, the donor has made a donation to the UNCF when the donor sends the SMS message and payment is made via the mobile phone invoice.

25. In *Milroy v. Lord* (1862) 45 ER 1185; (1862) 4 De G F & J 264, Turner LJ said at ER 1189; De G F & J 274 that for a gift to be valid and effectual, the giver:

must have done everything which according to the nature of the property comprised in the settlement, was necessary to be done in order to transfer the property and render the settlement binding upon him.

26. In this instance, the transfer of monies by the MPC to the DGR is made as per the arrangement between the DGR and the MPC. As the MPC is authorised by the DGR to collect the donations, the donor has done everything in order to transfer the donation to the DGR by paying the mobile phone invoice.

### Content of receipt for gift or contribution

27. DGRs are not required to issue receipts however subsection 30-228(1) states that:

If a deductible gift recipient issues a receipt for a gift described in the relevant item of the table in section 30-15 to the fund, authority or institution, the deductible gift recipient must ensure that the receipt states:

- (a) the name of the fund, authority or institution; and
- (b) the ABN (if any) of the deductible gift recipient; and
- (c) the fact that the receipt is for a gift.

28. Subsection 30-228(1) applies only where a receipt is issued by a DGR.

29. In this arrangement, the DGR does not issue the receipts rather it is the MPC, which is authorised by the DGR to show the donation details on the mobile phone invoice as evidence of the donation.

30. Guidance is provided by the ATO publication *Fundraising (NAT 13095-09.2008)* (Fundraising Guide) in relation to the evidence of a gift made to a DGR via an organisation authorised by that DGR to collect donations on its behalf.

31. Under 'Other Arrangements' on page 9, the Fundraising Guide states that:

An organisation that is authorised by a DGR to make collections on its behalf may collect tax deductible gifts from the public on behalf of the DGR. Examples include collections through:

- financial institutions – via a direct debit to the customer's bank account;
- retail outlets – via an item included in the customer's shopping docket; and
- telephone or electricity providers – via a charge on the customer's statement of account.

DGRs and organisations that are authorised to collect on their behalf will have confirmed:

- arrangements for issuing receipts to donors; and
- that the arrangements in place meet with any state or territory regulations.

The DGR may prefer to issue receipts and ask that the collector supply details of the name, address and amount collected from each donor. Alternatively, arrangements may be agreed to whereby the collector will issue a statement to each donor identifying the amount collected on behalf of the DGR.

32. The Fundraising Guide further states under 'Other statements and records' on page 10 that:

If a donor does not have a receipt, they should keep any other statement or record with details of their gift to assist in the preparation of their tax return and in case claims are checked by us.

33. The Fundraising Guide further provides that, if a donor has made a gift to a DGR, for example through another organisation such as a telephone or electricity provider, then the donor should retain their account records, with proof of payment.

34. Even though UNICEF is not issuing the receipts, the format of the details that will appear on the mobile phone invoice as evidence that a donation was made to UNICEF is as follows:

- (a) date and time of the transaction;
- (b) description of the transaction;
- (c) value of the donation; and
- (d) transaction identifier consisting of 13 digits.

35. The details of the transaction provided on the mobile phone invoice are the date of the donation, the description 'GIFT UNCF (ABN of UNICEF)', and the amount of the gift.

**Abbreviation of the name of the DGR**

36. For the purposes of subsection 30-228(1) the space available on the mobile phone invoice to convey the transaction details of the donation may, depending on the MPC, be limited to a fixed number of characters.

37. Law Administration Practice Statement PS LA 2002/15 *Evidence for making of a gift by a taxpayer who participates in a workplace giving program* provides guidance on addressing the circumstance where space or printing constraints exist on documents used to substantiate a claim for a tax deduction of a gift. Specifically, PS LA 2002/15 states at paragraph 2:

Where possible, the advice from the employer should identify each DGR. If space or printing constraints are such that each DGR cannot be identified in the advice to the employee, a statement to the effect that each gift is being made to a Division 30 DGR can be accepted. The total quantum of gifts made to the DGRs should be stated.

38. Although PS LA 2002/15 relates specifically to the issue of evidence provided by an employer for the purposes of a workplace-giving program, it is nonetheless instructive on the issue in this Ruling.

39. In this context, as long as the substance of the information required by subsection 30-228(1) is conveyed to the donor, PS LA 2002/15 provides that the Commissioner will accept it for that purpose. Accordingly, the abbreviation of the DGR's name to UNCF will enable the DGR to be identifiable on the mobile phone invoice for the purposes of subsection 30-228(1).

**Format of mobile phone invoice**

40. In this case, for the purposes of section 30-228, the mobile phone invoice must identify the:

- (a) date of the gift by the donor;
- (b) description of the transaction in the following format:  
*GIFT UNCF (ABN of UNICEF)*; and
- (c) quantum of the gift by the donor.

41. Consequently, the itemised mobile phone invoice with the details of the donation as outlined in paragraph 40 of this Ruling will be an acceptable document to substantiate the donor's claim for a tax deduction under section 30-15 of the gift made to the UNCF.

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## **Appendix 2 – Detailed contents list**

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42. The following is a detailed contents list for this Ruling:

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## References

*Previous draft:*

Not previously issued as a draft

- ITAA 1997 30-228(1)
- TAA 1953
- Copyright Act 1968

*Related Rulings/Determinations:*

TR 2006/10

*Case references:*

- Milroy v. Lord (1862) 45 ER 1185; (1862) 4 De G F & J 264; [1861-73] All ER Rep 783

*Subject references:*

- deductible gift recipients
- receipts for donations
- gifts

*Other references:*

- PS LA 2002/15
- Fundraising (NAT 13095-09.2008)

*Legislative references:*

- ITAA 1936 6(1)
- ITAA 1997 Div 30
- ITAA 1997 30-15
- ITAA 1997 30-228

## ATO references

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