

PS LA 2002/15 - Evidence for making of a gift by a taxpayer who participates in a workplace giving program

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! Refer to end of document for amendment history. Prior versions can be requested by emailing TCNLawPublishingandPolicy@ato.gov.au if required.

! This document has changed over time. This version was published on *1 July 2002*



PS LA 2002/15

This practice statement was originally published on 7 August 2002. Versions published from 6 December 2011 are available electronically – refer to the online version of the practice statement. Versions published prior to this date are not available electronically. If needed, these can be obtained from the [Advice and Guidance](#) in Tax Counsel Network.

This law administration practice statement is issued under the authority of the Commissioner and must be read in conjunction with Law Administration Practice Statement [PS LA 1998/1](#). ATO personnel, including non ongoing staff and relevant contractors, must comply with this law administration practice statement, unless doing so creates unintended consequences or is considered incorrect. Where this occurs, ATO personnel must follow their business line's escalation process.

Taxpayers can rely on this law administration practice statement to provide them with protection from interest and penalties in the way explained below. If a statement turns out to be incorrect and taxpayers underpay their tax as a result, they will not have to pay a penalty. Nor will they have to pay interest on the underpayment provided they reasonably relied on this law administration practice statement in good faith. However, even if they don't have to pay a penalty or interest, taxpayers will have to pay the correct amount of tax provided the time limits under the law allow it.

SUBJECT: Evidence for making of a gift by a taxpayer who participates in a workplace giving program

PURPOSE: To set out what is sufficient evidence to confirm that a taxpayer has made a gift to a Deductible Gift Recipient through participation in a workplace-giving program

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STATEMENT

1. For the purposes of determining whether an individual taxpayer has made a gift to a Deductible Gift Recipient (DGR) through a workplace-giving program, confirmation by employer to the employee that the gift has been made is sufficient evidence. Acceptable means of providing the confirmation include:
 - the PAYG payment summary;
 - other written or electronic communication from the employer to the employee.

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.

EXPLANATION

3. Division 30 of the *Income Tax Assessment Act 1997* (ITAA 1997) sets out the legislative provisions whereby taxpayers can claim a tax deduction for certain gifts to DGRs.
4. A workplace-giving program is an arrangement under which an employer forwards the employee's gift to a DGR. Provided the requirements of Division 30 of the ITAA 1997 are met, the employee will claim a deduction for the gift in their tax return of the relevant year.
5. In recognition that employees who take part in workplace-giving programs are entitled to claim a deduction for the gift, in Special Gazette 251 on 2 July 2002 the ATO issued a PAYG variation under section 15-15 of Schedule 1 to the *Taxation Administration Act 1953*.
6. Following the 2 July 2002 PAYG variation, some DGRs have entered into arrangements with large employers who are willing to support a workplace-giving program. Employers who agree to support a workplace-giving program are likely to provide their employees with a limited choice of DGRs. The employees will choose which DGRs to support and the quantum that they wish to donate. Some employers have automated the workplace-giving program so as to minimise administrative costs to the employer and the DGRs.
7. While the DGR can be expected to provide a receipt to the employer for gifts that are made by all employees of that employer, the individual employee will not always be able to obtain a receipt from the DGR. The employer will have the capacity to confirm to individual employees the quantum of gifts forwarded to DGRs on their behalf.
8. Gifts to DGRs are not expenses to which substantiation provisions of Division 900 of the ITAA 1997 apply. Taxpayers must be able to satisfy the Commissioner that the gifts to DGRs have been made but there are no legislative provisions that require that the documentary evidence be in a particular form.
9. Where the employer and its employees are at arm's length, confirmation by the employer to the employee of the quantum of the gifts made to the DGRs that the employee is supporting is sufficient to support the employee's claim for a deduction in their tax return.
10. Section 30-228 of the ITAA 1997 sets out the requirements that a receipt issued by a DGR must meet. As the employer is not the DGR, the employer is not subject to that provision. The employer's advice to the employee must be either sufficiently detailed to identify the DGR to whom the gift has been made or should state that all of the gifts are being made to Division 30 DGRs.
11. Without intending to limit the means by which an employer can confirm to an employee the quantum of gifts made to DGRs, the confirmation can be provided to the employer in any of the following manners:
 - if the employer has the capacity to print the advice on the PAYG payment summary for the year, the PAYG payment summary is acceptable; or
 - any other form of written or electronic communication by the employer to the employee is acceptable.

Amendment history

| Date of amendment | Part | Comment |
|-------------------|--------------------------------|--|
| 22 April 2014 | Contact details | Updated. |
| 6 December 2011 | Legislative references section | TR 93/1 has been withdrawn and the reference to it has been removed. |
| 28 April 2011 | Contact details | Updated. |
| 16 September 2008 | Contact details | Updated. |
| 7 April 2008 | Contact details | Updated. |
| 1 June 2004 | Paragraph 6 | Minor changes. |

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| Subject references | deductible gift recipients PAYG variations workplace giving programs |
| Legislative references | ITAA 1997 Div 30 ITAA 1997 30-228 ITAA 1997 Div 900 TAA 1953 Sch 1 15-15 |
| File references | 2002/009020; 2002/011174 |
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