PS LA 2002/15 - Workplace giving programs: required evidence

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PS LA 2002/15

Workplace giving programs: required evidence

This Law Administration Practice Statement explains what evidence is required to support gifts made via workplace giving programs.

This practice statement is an internal ATO document, and is an instruction to ATO staff.

Taxpayers can rely on this practice statement to provide them with protection from interest and penalties in the following way. 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 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.

1. What is this practice statement about?

This practice statement tells you what evidence you can accept as proof of a gift (or gifts), made by a taxpayer, via a workplace giving program.

2. What is a workplace giving program?

A workplace giving program is an arrangement by which an employer forwards an employee's gift to a Deductible Gift Recipient (DGR). Subject to meeting the requirements of Division 30 of the *Income Tax Assessment Act 1997* ITAA 1997), the employee may claim a deduction for the gift in their tax return for the relevant year.

3. What evidence can you accept in support of a claim?

Taxpayers must satisfy the Commissioner that gifts to a DGR have been made. However, there are no legislative provisions governing the particular form evidence should take. Confirmation by the employer to the employee that a gift has been made through a workplace giving program is sufficient evidence. Examples of evidence you can accept are:

- The PAYG payment summary.
- Other written or electronic communication from the employer to the employee.

4. What evidence can you accept if a taxpayer makes multiple gifts?

You may accept the confirmation provided by the employer as evidence, provided it meets the following criteria:

- It states the total quantum of the gifts made by the taxpayer.
- It states that each gift has been made to a Division 30 DGR.

It is desirable that the confirmation identify each DGR to which the employee has made a gift, however this is not a requirement.

5. Is the DGR obliged to provide evidence of receipt of the gift?

The DGR is expected to provide the employer with a receipt covering all gifts received from them. DGRs are *not* required to provide individual receipts to employees.

Section 30-228 of ITAA 1997 outlines the requirements that a receipt issued by a DGR should meet. As the employer is not a DGR, the provisions of section 30-228 of ITAA 1997 do not apply to the confirmation they provide to their employees.

6. More information

For more information on:

- the legislative provisions whereby taxpayers can claim a tax deduction for certain gifts to DGRs see Division 30 of the *Income Tax Assessment Act 1997*
- the complete list of DGRs see: www.abn.business.gov.au

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