

ATO reconsiders tax exemptions for charities and not-for-profits: draft amendment to taxation ruling 2005/22 and a new version of the GiftPack is released

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The ATO recently released a draft amendment to its public ruling 2005/22 which considers when companies will be income tax exempt under Division 50 of the *Income Tax Assessment Act 1997*.

The draft amendments to the ruling are a long awaited response to the High Court's Decision in *Federal Commissioner of Taxation v. Word Investments Ltd* (2008).

In summary, the *Word Investments Ltd* case held that an organisation that was conducting business to raise funds for a charity could have a charitable purpose.

Who do the changes affect?

The ruling clarifies the position of the ATO in relation to charities and not-for-profit organisations (**NFPs**) who control or operate separate tax-exempt entities such as:

1. entities that derive revenue to pass on to charitable or tax exempt NFPs; and
2. entities that provide commercial services or products to charitable organisations at-cost or with significant discounts.

Important things to take from the draft ruling

The changes confirm that the ATO will administer the tax law by allowing organisations that carry out a business for the sole purpose of giving effect to a charitable purpose to be eligible for tax concessions. It is questionable whether it was the Court's intention in *Word Investments* for the law to be interpreted in this way.

The ATO has invited comments on the draft ruling. The last date to comment is **5 August 2011**.

Gadens Lawyers is able to advise organisations that would like to make a submission.

GiftPack

The ATO recently released a new GiftPack guide.

In summary, the new guide incorporates the following topics:

1. contributions and gifts made to political parties;
2. endorsements as a higher education institution; and
3. volunteer bushfire brigades.

Gadens Lawyers is able to advise organisations seeking endorsement from the ATO as a deductible gift recipient.

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