

EXPLANATORY STATEMENT

Issued by authority of the Treasurer

Income Tax Assessment Act 1997

Income Tax Assessment (Eligible State and Territory COVID-19 Economic Recovery Grant Programs) Declaration 2020

Subsection 59-97(3) of the *Income Tax Assessment Act 1997* (the Act) provides that the Treasurer must, by legislative instrument, declare a grant program is an eligible program if the Treasurer is satisfied that:

- the program was first publicly announced on or after 13 September 2020 by the State, Territory or authority administering it;
- the program is, in effect, responding to the economic impacts of the Coronavirus;
- the program is, in effect, directed at supporting businesses who are the subject of a public health directive applying to a geographic area where the business operates, and whose operations have been significantly disrupted as a result of the public health directive; and
- the State, Territory or authority has requested the program be declared.

The purpose of the *Income Tax Assessment (Eligible State and Territory COVID-19 Economic Recovery Grant Programs) Declaration 2020* (the Declaration) is to declare certain grant programs administered by a State or Territory, or authority of a State or Territory, as eligible programs for the purposes of section 59-97 of the Act, under which a payment received by an entity from an eligible program is non-assessable non-exempt income.

As part of the response to the Coronavirus pandemic, State and Territory governments are providing grants to certain businesses to help them manage the impacts of the pandemic on their business. The Act has been amended to make payments received by eligible businesses under grant programs, which have been declared as eligible programs by the Treasurer, non-assessable non-exempt income, so that these payments are not subject to income tax by the Commonwealth. The Declaration declares which grant programs are eligible programs.

The Act specifies no conditions that need to be met before the power to make the Declaration may be exercised, other than the matters for which the Treasurer must be satisfied, which are detailed above. The Treasurer was satisfied that the declared programs satisfied the requirements as set out in the Act.

Consultation was undertaken with the Australian Taxation Office, and the Victorian Government, whose programs have been declared in the Declaration.

Details of the Declaration are set out in [Attachment A](#).

The Declaration is a legislative instrument for the purposes of the *Legislation Act 2003*.

The Declaration is unlikely to have more than a minor regulatory impact.

The Declaration commenced the day after it was registered.

A Statement of Compatibility with Human Rights is at [Attachment B](#).

Details of the Coronavirus Recovery Eligible Grants Programs Declaration 2020

Section 1 – Name of the instrument

This section provides that the name of the instrument is the *Income Tax Assessment (Eligible State and Territory COVID-19 Economic Recovery Grant Programs) Declaration 2020* (the Declaration).

Section 2 – Commencement

The Declaration commences on the day after the instrument is registered.

Section 3 – Authority

The Declaration is made under the *Income Tax Assessment Act 1997* (the Act).

Section 4 – Definitions

This section provides for definitions used in the Declaration.

Section 5 – Declared as eligible programs

The table in this section sets out the grants programs administered by a State or Territory, or by an authority of a State or Territory, which are declared by the Treasurer to be eligible grants programs under subsection 59-97(3) of the Act. The table also sets out the State or Territory administering each grant program.

Table item 21 declares the Alpine Business Fund as an eligible grant program. This program provides direct financial support to alpine businesses impacted by the Coronavirus pandemic and covers service fees owed to Alpine Resort Management Boards.

Table item 22 declares the Business Support Fund 3 as an eligible grant program. This program is the third round of the Business Support Fund and provides direct financial support to eligible businesses that must stay closed or operate under restrictions until COVID Normal.

Table item 23 declares the Licensed Hospitality Venue Fund as an eligible grant program. This program provides direct financial support to eligible liquor licensees with hospitality venues impacted by restrictions due to the Coronavirus pandemic.

Table item 24 declares the Melbourne City Recovery Fund—Small business reactivation grants as an eligible grant program. One of the components of the Melbourne City Recovery Fund, the Small business reactivation grants, is designed to support businesses to trade safely, including through outdoor trading activities, and to help encourage customers back into Melbourne central city.

Table item 25 declares the Outdoor Eating and Entertainment Package as an eligible grant program. One of the components of this program is the provision of direct financial support to eligible businesses to adapt their businesses to outdoor dining

and entertainment in order to transition to what the Victorian Government considers 'COVID Normal'.

Table item 26 declares the Sole Trader Support Fund as an eligible grant program. This program provides direct financial assistance to eligible sole traders who have been impacted by restrictions due to the Coronavirus pandemic. The assistance can be used towards overhead costs and to help sole traders' transition to 'COVID Normal'.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Income Tax Assessment (Eligible State and Territory COVID-19 Economic Recovery Grants Programs) Declaration 2020

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The *Income Tax Assessment (Eligible State and Territory COVID-19 Economic Recovery Grant Programs) Declaration 2020* (the Declaration) declares certain grant programs administered by a State or Territory, or authority of a State or Territory, as eligible programs for the purposes of section 59-97 of the *Income Tax Assessment Act 1997*, under which a payment received by an entity from an eligible program is non-assessable non-exempt income.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.