

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) Amendment Declaration (No. 1) 2021

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 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) Amendment Declaration (No. 1) 2021* (the Declaration) is to declare grant programs administered by the State of Victoria as eligible programs for the purposes of section 59-97 of the Act, under which a payment received by a small business entity (as defined in that provision) from an eligible program is non-assessable non-exempt income.

As part of an ongoing 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 provides that payments received by eligible businesses under grant programs, which have been declared as eligible programs by the Treasurer, are non-assessable non-exempt income. The effect of this is that these payments are not subject to income tax by the Commonwealth.

The Declaration includes new grant programs as eligible programs. This means that payments received under these grant programs are non-assessable non-exempt income, and would therefore not be subject to income tax by the Commonwealth.

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 as the administering agency, and the Victorian Government, whose programs have been declared in the Declaration.

Details of the instrument are set out in Attachment A.

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

The instrument commenced on the day after it was registered.

A statement of Compatibility with Human Rights is at Attachment B.

Details of the *Income Tax Assessment (Eligible State and Territory COVID-19 Economic Recovery Grant Programs) Amendment Declaration (No. 1) 2021*

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) Amendment Declaration (No. 1) 2021* (the Declaration).

Section 2 – Commencement

This section provides for the commencement of the Declaration.

Section 3 – Authority

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

Section 4 – Schedule

This section provides that each instrument that is specified in the Schedules to this instrument will be amended or repealed as set out in the applicable items in the Schedules, and any other item in the Schedules to this instrument has effect according to its terms.

Schedule 1 – Amendments

Items 1 to 4 amend the table in section 5 of the *Income Tax Assessment (Eligible State and Territory COVID-19 Economic Recovery Grant Programs) Declaration 2020* to declare the following grant programs as eligible grant programs:

- the Alpine Support Program;
- the Business Costs Assistance Program Round Two;
- the Impacted Public Events Support Program;
- the Independent Cinema Support Program;
- the Licensed Hospitality Venue Fund 2021;
- the Live Performance Support Program; and
- the Sustainable Event Business Program.

The Alpine Support Program provides support to businesses at Victoria's alpine resorts, Dinner Plain, and key businesses located off mountain in the surrounding towns to help them manage the ongoing impacts of the Coronavirus.

The Business Costs Assistance Program Round Two assists eligible small to medium businesses affected by the Coronavirus restrictions in Victoria, and includes the Tourism Supplement, which provides additional support to accommodation, attractions and tourism operators.

The Impacted Public Events Support Program provides support to organisers and suppliers of eligible larger public events which have been postponed or cancelled following Victoria's Coronavirus restrictions.

The Independent Cinema Support Program provides support to independent cinemas that are unable to operate, or that have been impacted with the cancellation or postponement of events, as a result of Victoria's Coronavirus restrictions.

The Licensed Hospitality Venue Fund 2021 provides support to eligible liquor licensees operating a restaurant, hotel, café, pub, bar, club, or reception centre registered to serve food and alcohol who have been affected by Victoria's Coronavirus restrictions.

The Live Performance Support Program provides support to eligible businesses that have been impacted with the cancellation or postponement of events as a result of Victoria's Coronavirus restrictions.

This program is split into two streams. The presenters stream provides support to presenters of live performance events, which includes producers, promoters, venue owners or artists. The suppliers stream provides support to suppliers of goods and services involved with live performance events, including musicians and performers. Both these streams are intended to be captured under the declaration of the Live Performance Support Program.

The Sustainable Event Business Program provides a pathway to support the financial sustainability of major event organisers, hosts and suppliers who have had the ongoing viability of their event or business significantly affected as a result of Victoria's Coronavirus restrictions.

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 Grant Programs) Amendment Declaration (No. 1) 2021

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 purpose of the *Income Tax Assessment (Eligible State and Territory COVID-19 Economic Recovery Grant Programs) Amendment Declaration (No. 1) 2021* (the Declaration) is to declare grant programs administered by the State of Victoria 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.