

## **EXPLANATORY STATEMENT**

### **Issued by authority of the Assistant Treasurer, Minister for Housing and Minister for Homelessness, Social and Community Housing**

*Income Tax Assessment Act 1997*

*Income Tax Assessment (Developing Country Relief Funds) Declaration 2021*

Subsection 30-85(2) of the *Income Tax Assessment Act 1997* (the Act) provides that the Minister may, by legislative instrument, declare a public fund to be a developing country relief fund if the Minister is satisfied the relevant conditions set out in the Act have been met in relation to the fund.

The purpose of the *Income Tax Assessment (Developing Country Relief Funds) Declaration 2021* (the instrument) is to:

- declare four new public funds to be developing country relief funds; and
- consolidate all previous declarations of developing country relief funds into a single instrument.

By way of background, the income tax law allows income tax deductions for taxpayers who make gifts of \$2 or more to a deductible gift recipient. Deductible gift recipients are entities that fall within one of the general categories set out in Division 30 of the Act or are specifically listed by name in that Division. Deductible gift recipient status helps eligible organisations attract public financial support for their activities.

The Overseas Aid Gift Deduction Scheme (OAGDS) is one of the general categories set out in Division 30 of the Act. Australian organisations approved under the OAGDS establish a public fund that is then declared by the Minister as a developing country relief fund. The fund is entitled to received tax deductible gifts.

Before the Minister declares a public fund to be a developing country relief fund, the Minister must be satisfied that the fund has been established by an organisation declared by the Minister for Foreign Affairs to be an approved organisation, and the fund is solely for the relief of people in a developing country (as determined by either the Organisation for Economic Co- operation and Development's Development Assistance Committee or the Minister for Foreign Affairs).

The Minister having been satisfied of the matters set out in the Act, the instrument declares four new public funds to be developing country relief funds. Details of the newly declared funds are set out at [Attachment A](#).

Following reforms to the declaration process which came into effect on 1 October 2020, all declarations are now to be made by of way of legislative instrument. The reforms ensure proper Parliamentary scrutiny of the deductible gift recipients added under the OAGDS. As this is the first instrument to be made following the coming into effect of the reforms, this instrument also consolidates all previous declarations

of developing country relief funds into a single instrument which can be more easily accessed on the Federal Register of Legislation.

Consultation on the instrument was undertaken with the Australian Taxation Office and the Department of Foreign Affairs and Trade. Public consultation was not undertaken on the instrument as it minor and machinery in nature. Entities seeking access to deductible gift recipient status under the OAGDS are subject to an application process, details of which are available at [www.dfat.gov.au/aid/who-we-work-with/ngos/Pages/tax-deductibility](http://www.dfat.gov.au/aid/who-we-work-with/ngos/Pages/tax-deductibility).

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 the day the instrument was registered on the Federal Register of Legislation.

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

**Details of the *Income Tax Assessment (Developing Country Relief Funds) Declaration 2021***

**Section 1 – Name of the instrument**

This section provides that the name of the instrument is the *Income Tax Assessment (Developing Country Relief Funds) Declaration 2021* (the instrument).

**Section 2 – Commencement**

The instrument commenced on the day after the instrument was registered on the Federal Register of Legislation.

**Section 3 – Authority**

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

**Section 4 – Definitions**

This section defines terms used throughout the instrument.

**Section 5 – Public funds declared to be developing country relief funds**

This section declares public funds as developing country relief funds. The names of declared public funds are listed in a table alongside the name of the operator of the public fund and the Australian Business Number of the operator.

The table of declared public funds includes all previously declared (and still current) developing country relief funds as well as the four newly declared public funds.

*Newly declared funds*

Australian Water Safety on the Mekong (AWSOM) Project Westpac Community Solutions One operated by the approved organisation and registered charity ‘Australian Water Safety on the Mekong Project’ (AWSOM) has been declared a developing country relief fund. AWSOM supports drowning prevention in Vietnam (a developing country), with a focus along the Mekong river in Tien Giang Province. Further details can be found at [www.awsomproject.com](http://www.awsomproject.com).

The IGWR-Nepal Development Fund operated by the approved organisation and registered charity ‘IGWR In Giving We Receive Inc.’ (IGWR) has been declared a developing country relief fund. IGWR was established to empower children and families in Nepal (a developing country) through education and support. Further details can be found at [www.igwr-nepal.com](http://www.igwr-nepal.com).

REACH for Nepal Foundation – Reach for Nepal Public Fund operated by the approved organisation and registered charity ‘REACH for Nepal Foundation’ (REACH) has been declared a developing country relief fund. REACH was established to provide support to rural Nepalese communities affected by

earthquakes. Nepal is a developing country. Further details can be found at [www.reachfornepal.org](http://www.reachfornepal.org).

Yatra Foundation Public Fund Account operated by the approved organisation and registered charity 'Yatra Foundation Australia' (Yatra) has been declared a developing country relief fund. Yatra was established to give disadvantaged children the opportunity to access education by assisting communities in regional areas of India (a developed country) to establish, develop and maintain schools. Further details can be found at [www.yatrafoundation.org](http://www.yatrafoundation.org).

#### Section 6 – Revocation of existing declarations

This section revokes all existing declarations to ensure that the table of declared public funds in section 5 contains a full and complete list of all declared developing country relief funds.

The table in section 5 was developed in close consultation with the Australian Taxation Office, the Australian Business Registrar and the Department of Foreign Affairs and Trade to ensure it reflects the complete list of all currently declared and operating developing country relief funds.

## **Statement of Compatibility with Human Rights**

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

### **Income Tax Assessment (Developing Country Relief Funds) Declaration 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 (Developing Country Relief Funds) Declaration 2021* (the instrument) is to:

- declare four new public funds to be developing country relief funds; and
- consolidate all previous declarations of developing country relief funds into a single legislative instrument.

By way of background, the income tax law allows income tax deductions for taxpayers who make gifts of \$2 or more to a deductible gift recipient. Deductible gift recipients are entities that fall within one of the general categories set out in Division 30 of the Act or are specifically listed by name in that Division. Deductible gift recipient status helps eligible organisations attract public financial support for their activities.

The Overseas Aid Gift Deduction Scheme (OAGDS) is one of the general categories set out in Division 30 of the Act. Australian organisations approved under the OAGDS establish a public fund that is then declared by the Minister as a developing country relief fund. The fund is entitled to received tax deductible gifts.

#### **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.