

EXPLANATORY STATEMENT

Issued by authority of the Assistant Minister for Competition, Charities and Treasury

Income Tax Assessment Act 1997

*Income Tax Assessment (Developing Country Relief Funds) Amendment
(Update No. 1) Declaration 2022*

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) Amendment (Update No. 1) Declaration 2022* (the instrument) is to declare three new public funds to be developing country relief funds.

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 included in the list of official development assistance recipients published by the Organisation for Economic Co- operation and Development's Development Assistance Committee or as declared the Minister for Foreign Affairs).

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

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.

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.

ATTACHMENT A

Details of the *Income Tax Assessment (Developing Country Relief Funds) Amendment (Update No. 1) Declaration 2022*

Section 1 – Name of the instrument

This section provides that the name of the instrument is the *Income Tax Assessment (Developing Country Relief Funds) Amendment (Update No. 1) Declaration 2022* (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 – Amendment

This section provides that each instrument that is specified in a Schedule to the instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to the instrument has effect according to its terms.

Schedule 1 – Amendments to *Income Tax Assessment (Developing Country Relief Funds) Declaration 2021*

The item in this Schedule inserts three new rows into the table in section 5 of the *Income Tax Assessment (Developing Country Relief Funds) Declaration 2021*, with the effect of declaring the newly listed public funds as developing country relief funds. The names of declared public funds are inserted into the table alongside the name of the operator of the public fund and the Australian Business Number of the operator.

Newly declared funds

A Liquid Future Ltd Gift Fund operated by the approved organisation and registered charity ‘A Liquid Future Ltd’ has been declared a developing country relief fund. A Liquid Future Ltd provides educational courses to young people across twelve villages in the Mentawai Islands and Morotai Island in Indonesia (a developing country). Further details can be found at <https://aliquidfuture.org/>.

The ICDP Foundation Fund operated by the approved organisation and registered charity ‘The Trustee for The ICDP Foundation’ (ICDP) has been declared a developing country relief fund. ICDP was established to promote economic development in developing Pacific countries (Fiji, Papua New Guinea, Samoa, Solomon Islands, Tonga, and Vanuatu). Further details can be found at <https://www.icdp.com.au/icdp-foundation/>.

Mphatso Children's Foundation Gift Fund operated by the approved organisation and registered charity 'Mphatso Children's Foundation Incorporated' (MCFI) has been declared a developing country relief fund. MCFI was established to promote education in the Nkhata Bay region of Malawi (a developing country). Further details can be found at <https://www.mphatso.org/>.

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) Amendment
(Update No. 1) Declaration 2022**

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) Amendment (Update No. 1) Declaration 2022* (the instrument) is to declare three new public funds to be developing country relief funds.

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.