

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 2023

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 that the fund has been established by an organisation declared by the Minister for Foreign Affairs to be an approved organisation, and 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 by the Minister for Foreign Affairs).

The purpose of the *Income Tax Assessment (Developing Country Relief Funds) Amendment (Update No. 1) Declaration 2023* (the instrument) is to declare six 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. In general, deductible gift recipients are entities that fall within one of the categories set out in Division 30 of the Act and have received endorsement from the Commissioner of Taxation, or are specifically listed by name in Division 30. 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.

The Minister having been satisfied of the matters set out in subsection 30-85(2) of the Act, the instrument declares the relevant 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 (ATO) and the Department of Foreign Affairs and Trade (DFAT). Public consultation was not undertaken on the instrument as it is minor in nature.

From 1 January 2024, due to amendments contained in the *Treasury Laws Amendment (Refining and Improving our Tax System) Act 2023* (the amending Act), administrative responsibility for the OAGDS will transfer from DFAT to the ATO. This is the final instrument to add funds into the OAGDS while it is administered by DFAT. Transitional provisions in the amending Act ensure that organisations currently endorsed as deductible gift recipients under the OAGDS continue to be endorsed if they continue to meet eligibility criteria after administrative responsibility transfers to the ATO.

Details of the instrument are set out at 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 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) Amendment (Update No. 1) Declaration 2023*

Section 1 – Name

This section provides that the name of the declaration is the *Income Tax Assessment (Developing Country Relief Funds) Amendment (Update No. 1) Declaration 2023* (the instrument).

Section 2 – Commencement

This section provides that Schedule 1 to the instrument commenced on the day after the instrument is registered on the Federal Register of Legislation.

Section 3 – Authority

This section provides that the instrument is made under the *Income Tax Assessment Act 1997* (the Act).

Section 4 – Schedules

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

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

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

Newly declared funds

The newly declared funds are as follows.

- Corethics Aid Fund, operated by the approved organisation and registered charity ‘Corethics Limited’ (Corethics). Corethics operates in Indonesia, focusing on water depletion and water pollution, and has supported the construction of ‘recharge wells’, fundraising and public awareness. Further details can be found at <https://www.corethics.net/>.
- Friends of the Franciscan Hospitaleira Asramas – Overseas Aid Fund operated by the approved organisation and registered charity ‘Friends of the Franciscan Hospitaleira Asramas’ (FFHA). FFHA supports boarding houses in the sub-districts of Timor-Leste, which provides young girls with safe accommodation, nutritious meals and transport to school.

- IMESA Public Fund, operated by the approved organisation and registered charity ‘Indian Minority Education Society of Australia Incorporated’ (IMESA). IMESA was established to promote the empowerment of underprivileged and marginalised children in India through education. Further details can be found at <https://imesa.org.au/>.
- Maiya School Fund, operated by the approved organisation and registered charity ‘Maiya School Ltd’ (Maiya School). Maiya School was established to support the education of girls and young women living in Rohingya refugee camps in Bangladesh. Further details can be found at <https://www.maiyaschool.org/>.
- Nina Imani Public Fund, operated by the approved organisation and registered charity ‘Nina Imani Ltd’ (Nina Imani). Nina Imani operates in Tanzania and supports women’s education through funding a vocational centre and graduate restaurant. Further details can be found at <https://www.ninaimani.org/>.
- One Dollar Project Relief Fund, operated by the approved organisation and registered charity ‘One Dollar Project Inc’ (One Dollar Project). One Dollar Project operates in Kenya and its activities include providing clean water supplies through building wells, assisting fire-affected families in the Mukuru-Kwa Rubeni area with basic home essentials, and an annual Ramadhan Food Program that delivers food rations to families. Further details can be found at <https://www.onedollarproject.org.au/>.

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 2023

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 2023* (the instrument) is to declare six 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 and are endorsed, or entities that 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.