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Public Ruling General:

RELIEF OF POVERTY

A Public Ruling, when issued, is the published view of the Commissioner of State Revenue (the Commissioner) on the particular topic to which it relates. It therefore replaces and overrides any existing private rulings, memoranda, manuals and advice provided by the Commissioner in respect of the issue(s) it addresses. Where a change in legislation or case law (the law) affects the content of a Public Ruling, the change in the law overrides the Public Ruling—that is, the Commissioner will determine the tax liability or eligibility for a concession, grant or exemption, as the case may be, in accordance with the law.

What this Ruling is about

1. The various state taxation statutes¹ administered by the Office of State Revenue each provide exemptions, in certain specified circumstances, from the relevant state taxes for organisations which qualify as charitable institutions.
2. The relevant statutes define a charitable institution as being an institution registered under Part 11A of the *Taxation Administration Act 2001*. Charitable institutions can encompass a number of specific categories of organisations covering educational, religious and public benevolent activities. Also an institution may qualify if its principal object or pursuit is the fulfilling of a charitable object or promotion of the public good (not being an object or pursuit that is leisure, recreational, social or sporting).
3. This Public Ruling explains the Commissioner's view of when organisations are charitable institutions on the basis that their principal object or pursuit is the relief of poverty.
4. The terms of each of the relevant statutes must also be satisfied if an institution which qualifies as a charitable institution is to obtain exemption from the relevant state taxes.
5. Public Ruling GEN003—*Charitable institutions* sets out the Commissioner's approach to determining whether an institution qualifies as an charitable institution. This Public Ruling should be read in conjunction with that ruling.

¹ *Duties Act 2001, Payroll Tax Act 1971 and the Land Tax Act 2010* (collectively, the relevant statutes)

Ruling and explanation

Relief of poverty

6. Relief of poverty is not confined to the relief of destitution by providing the mere necessities of life but relates to relieving distress occasioned by lack of money, that is, of those who would otherwise go short.
7. Relief of poverty may be achieved in more than one way. The method of providing relief is immaterial. Examples range from the direct gift of money to the provision of soup kitchens and nursing homes for persons of moderate means. A direct cash contribution is not required.
8. Relief connotes need of some sort such as the need for a home.
9. There must be an element of bounty but it does not follow that the recipients must not be obliged to contribute to what is provided.
10. Poverty is a relative concept and regard may be had to the status in life of the beneficiary.
11. An institution devoted exclusively to those who cannot be classed as poor will not qualify.
12. No specific reference to poverty is necessary. If the conclusion is that the relief of poverty is meant, an institution may qualify.
13. Relief of poverty may be restricted to a locality. This includes the poor of particular towns, religious denominations or specified institutions as well as classes or groups within the community such as victims of a disaster and employees of a specified firm.

Provision of housing as relief of poverty

14. The provision of long term or short term housing to persons who are, by community standards, of limited means and receive low income may qualify the institution as being engaged in the relief of poverty or qualify the organisation as a charitable organisation.²
15. The following factors are not disqualifying factors:
 - (a) the possibility those persons given leases might stay on the premises after acquiring more substantial means
 - (b) the fact that not all tenants meet the criteria for public housing.

² *Common Equity Housing Ltd v Commissioner of State Revenue (Vic)* (1996) 96 ATC 4598

Date of effect

16. This Public Ruling takes effect from the date of issue.

David Smith
Commissioner of State Revenue
Date of Issue 30 June 2010

References

Public Ruling	Issued	Dates of effect	
		From	To
GEN004.3	30 June 2010	30 June 2010	Current
GEN004.2	3 July 2009	30 June 2009	29 June 2010
GEN004.1	24 February 2009	24 February 2009	29 June 2009
Supersedes Revenue Ruling G 3.3	1 July 2005	1 July 2005	23 February 2009