Tax Working Group Public Submissions Information Release

Release Document

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Key to sections of the Official Information Act 1982 under which information has been withheld.

Certain information in this document has been withheld under one or more of the following sections of the Official Information Act, as applicable:

[1] 9(2)(a) - to protect the privacy of natural persons, including deceased people;

[2] 9(2)(k) - to prevent the disclosure of official information for improper gain or improper advantage.

Where information has been withheld, a numbered reference to the applicable section of the Official Information Act has been made, as listed above. For example, a [1] appearing where information has been withheld in a release document refers to section 9(2)(a).

In preparing this Information Release, the Treasury has considered the public interest considerations in section 9(1) of the Official Information Act.

ALEXANDER TURNBULL LIBRARY ENDOWMENT TRUST

PO BOX 12 349, WELLINGTON

30 April 2018

Sir Michael Cullen
Tax Working Group
PO Box 3724
Wellington 6140

Dear Sir Michael,

This is a submission from the Alexander Turnbull Library Endowment Trust to let you know some of the tax topics that interest it.

As a Charitable Trust, ATLET supports the continuation of existing tax treatment for charities.

1. This means for genuine charities (those organisations who work for the greater good that goes beyond private benefit) there are strong reasons for their earnings to remain outside the system that taxes revenue when that revenue is spent on charitable purposes; and
2. There are strong reasons for rebates for donations to genuine charities to remain uncapped as this it is a way for all New Zealanders to support organisations like ATLET whose objectives are to achieve outcomes for the wider public good.

ATLET would like the Tax Working Group to go one step further and consider tax provisions such as those available in Australia to provide an incentive to New Zealanders to share their cultural and heritage assets, following the example of Alexander Turnbull 100 years ago. With 110,000 not-for-profits in New Zealand (and nearly 100,000 of them sporting bodies) who, amongst other things can offer benefits such as stadium advertising, the donations space in New Zealand is highly competitive. The Australian tax treatment of culture and heritage is a way of balancing this. ATLET believes this model could be adapted for the New Zealand cultural heritage environment. The attached appendix provides details of the Australian model.

Thank-you for the opportunity to provide this submission. ATLET would be happy to discuss this aspect further with members of the Tax Working Group.

Warm regards,

John Meads
Chair, ATLET
[1]

contact@turnbulltrust.org.nz

https://www.ato.gov.au/Non-profit/Gifts-and-fundraising/Claiming-tax-deductions/Gift-types,-requirements-and-valuation-rules/Cultural-gifts-program/

Cultural Gifts Program

To encourage people to donate cultural items to public art galleries, museums, libraries and archives in Australia, the Cultural Gifts Program offers tax incentives to donors.

Donors can be an individual, company, trust or other type of taxpayer.

The Cultural Gifts Program has no special rules for gifts of trading stock. This program is administered by the Department of Communication and the Arts.

On this page:

- What types of property can I donate?
- Who can I donate my property to?
- How much can I claim?

See also:

- Cultural Gifts ProgramExternal Link
- Trading stock

What types of property can I donate?

You can donate property, other than an estate, interest in land or interest in a building or part of a building. Examples of tax deductible gifts which qualify under the Cultural Gifts Program include:

- Indigenous arts
- cultural artefacts
- natural and scientific materials
- film and social history pieces
- paintings

- manuscripts
- books
- antiques
- jewellery.

Who can I donate my property to?

Under the Cultural Gifts Program you can donate property to:

- the Australiana Fund
- a public library in Australia
- a public museum in Australia
- a public art gallery in Australia
- an institution in Australia consisting of a public library, a public museum and a public art gallery or of any two of them
- the Australian Government for Artbank.

With the exception of the Australiana Fund and Artbank, the recipient of the gift must be a DGR.

The DGR must ensure the gift is included in a collection it is maintaining or establishing.

How much can I claim?

You will need to get a valuation of the property you are donating.

The general rule is that the amount you can claim as a deduction is the average of two or more written valuations made by valuers approved by the Arts Secretary.

However, different arrangements apply if the property was:

- acquired for the purpose of donating it
- acquired subject to an arrangement that it would be donated, or
- acquired (except by inheritance) less than one year before donating it.

In these circumstances, the valuation of the gift is the lesser of the:

- amount you paid for the property
- average of the written valuations.

Different arrangements also apply if no amount is included in your assessable income for the gift, and an amount would have been included if the property had been sold rather than donated.

In this circumstance, a written valuation is not required.

One example is property purchased with the intention to make a profit that the donor later disposed of as a gift. The valuation of the gift is either:

- the amount paid for the property
- if the property had been manufactured or created, the amount allowable as a tax deduction if it had been sold by the donor.

Your tax deduction will be reduced, by a reasonable amount, if you donate property to a DGR without the DGR actually receiving:

- immediate custody and control
- unconditional right to retain custody and control in perpetuity
- unencumbered legal and equitable title.

Your tax deduction may also be reduced if you place any conditions on donation of the property.

If you are registered for GST (or required to be registered) these amounts may need to be adjusted.

Property donated under the program is exempt from capital gains tax (CGT).

https://www.ato.gov.au/Non-profit/Gifts-and-fundraising/Claiming-tax-deductions/Gift-types,-requirements-and-valuation-rules/Heritage-gifts/

Heritage gifts

You may be able to claim a tax deduction if:

- you donate a heritage gift to a National Trust organisation, and
- the Trust accepts the gift to preserve it for the benefit of the public.

On this page:

What is a heritage gift?

Heritage gifts are places of:

- outstanding natural, Indigenous or historic heritage value to the nation
- significant natural, Indigenous or historic heritage value owned or controlled by the Australian Government
- significant natural, Indigenous or historic heritage value throughout Australia.

You can find lists of heritage places:

- The Commonwealth Heritage List is a list of natural, Indigenous and historic heritage places owned or controlled by the Australian Government.
- The National Heritage List is Australia's list of natural, historic and Indigenous places of outstanding significance to the nation.

See also:

- [National Heritage ListExternal Link]
- [Commonwealth Heritage ListExternal Link]

Who can I donate to?

You can only donate heritage gifts to the following DGRs:

- the Australian Council of National Trusts
- the National Trust of Australia (New South Wales)
- the National Trust of Australia (Victoria)
- the National Trust of Queensland
- the National Trust of South Australia
- the National Trust of Australia (WA)
- the National Trust of Australia (Tasmania)
- the National Trust of Australia (Northern Territory)
- the National Trust of Australia (ACT).

These DGRs must accept the gift to preserve it for the benefit of the public.

Partial donations

The making of a gift to a DGR involves the transfer of property to that DGR. For there to be a transfer, the property that belonged to the donor must become the property of the DGR. However, an exception is provided for heritage gifts.

If the terms and conditions of the gift of the property are such that the DGR does not have immediate custody and control of, or full legal title to, the donated property, the donor can claim a reduced tax deduction. The reduced amount should reflect the benefit the donor received from retaining some rights or custody and enjoyment of the donated property.

Example

Winston owns and resides in a house in Sydney that has significant heritage value. Winston decides to donate the property to the National Trust of Australia (New South Wales) in the current year for inclusion on the National Heritage List. The conditions of the donation stipulate that Winston will be able to continue to reside in the property until his death.

The amount of Winston's tax deduction would need to be reduced by the value of the benefit Winston receives by continuing to reside in the property.

End of example

How much can I claim?

The general rule is that the amount you can claim as a deduction is the average of two or more written valuations made by valuers approved by the Arts Secretary.

However, different arrangements apply if the property was:

- acquired for the purpose of donating it
- acquired subject to an arrangement that it would be donated, or
- acquired (except by inheritance) less than one year before donating it.

In these circumstances, the valuation of the gift is the lesser of the:

- amount the donor paid for the property
- average of the written valuations.

Different arrangements also apply if no amount is included in your assessable income for the gift, and an amount would have been included if the property had been sold rather than donated.

In this circumstance, a written valuation is not required.

One example is property purchased with the intention to make a profit that the donor later disposed of as a gift. The valuation of the gift is either:

- the amount paid for the property

- if the property had been manufactured or created, the amount allowable as a tax deduction if it had been sold by the donor.

If you are registered for GST (or required to be registered) these amounts may need to be adjusted.