



This document has been provided by the International Center for Not-for-Profit Law (ICNL).

ICNL is the leading source for information on the legal environment for civil society and public participation. Since 1992, ICNL has served as a resource to civil society leaders, government officials, and the donor community in over 90 countries.

Visit ICNL's **Online Library** at
<http://www.icnl.org/knowledge/library/index.php>
for further resources and research from countries all over the world.

Disclaimers

Content. The information provided herein is for general informational and educational purposes only. It is not intended and should not be construed to constitute legal advice. The information contained herein may not be applicable in all situations and may not, after the date of its presentation, even reflect the most current authority. Nothing contained herein should be relied or acted upon without the benefit of legal advice based upon the particular facts and circumstances presented, and nothing herein should be construed otherwise.

Translations. Translations by ICNL of any materials into other languages are intended solely as a convenience. Translation accuracy is not guaranteed nor implied. If any questions arise related to the accuracy of a translation, please refer to the original language official version of the document. Any discrepancies or differences created in the translation are not binding and have no legal effect for compliance or enforcement purposes.

Warranty and Limitation of Liability. Although ICNL uses reasonable efforts to include accurate and up-to-date information herein, ICNL makes no warranties or representations of any kind as to its accuracy, currency or completeness. You agree that access to and use of this document and the content thereof is at your own risk. ICNL disclaims all warranties of any kind, express or implied. Neither ICNL nor any party involved in creating, producing or delivering this document shall be liable for any damages whatsoever arising out of access to, use of or inability to use this document, or any errors or omissions in the content thereof.

KEY PROVISIONS OF THE INCOME TAX ACT 1997

Note: This Appendix includes a transcription of the income tax exemption provisions (Division 50) and the gift provisions (Division 30) of the *Income Tax Assessment Act 1997* (ITAA97). This is not a complete representation of the provisions and should not be relied on. The purpose of this Appendix is to list the types of entities included in the provisions and not the taxation requirements and special conditions. The information was sourced at <http://www.ato.gov.au> on the Australian Taxation Office legal database.

Division 50 — Exempt entities

Subdivision 50-A — Various exempt entities

50-1 Entities whose ordinary income and statutory income is exempt

The total ordinary income and statutory income of the entities covered by the following tables is exempt from income tax.

50-5 Charity, education, science and religion

| Item | Exempt entity |
|------|--|
| 1.1 | *Charitable institution |
| 1.2 | Religious institution |
| 1.3 | Scientific institution |
| 1.4 | Public educational institution |
| 1.5 | *Fund established for public charitable purposes by will before 1 July 1997 |
| 1.5A | *Trust covered by paragraph 50-80(1)(c) |
| 1.5B | *Fund established in Australia for public charitable purposes by will or instrument of trust (and not covered by item 1.5 or 1.5A) |
| 1.6 | Fund established to enable scientific research to be conducted by or in conjunction with a public university or public hospital |
| 1.7 | Society, association or club established for the encouragement of science |

*Any entity covered by item 1.1, 1.5, 1.5A and 1.5B is not exempt from income tax unless the entity is endorsed as exempt from income tax by the Australia Taxation Office.

50-10 Community service

| Item | Exempt entity |
|------|---|
| 2.1 | Society, association or club established for community service purposes (except political or lobbying purposes) |

50-15 Employees and employers

| Item | Exempt entity | Special conditions |
|------|--|---|
| 3.1 | (a) employee association; or (b) employer association | the association: (a) is registered under an Australian Law relating to the settlement of industrial disputes; and (b) is located in Australia, and incurs its expenditure and pursues its objectives principally in Australia |
| 3.2 | trade union | located in Australia and incurring its expenditure and pursuing its objectives principally in Australia |

Note: Despite items 3.1 and 3.2, certain ordinary and statutory income of some associations of employees and some registered trade unions may be subject to income tax under Division 8A of Part III of the *Income Tax Assessment Act 1936*.

50-20 Finance

| Item | Exempt entity |
|------|---|
| 4.1 | a friendly society (except a friendly society dispensary) |

50-25 Government

| Item | Exempt entity |
|------|---|
| 5.1 | (a) a municipal corporation; or (b) a local governing body |
| 5.2 | a public authority constituted under an Australian Law |

Note: The ordinary and statutory income of a State or Territory body is exempt: see Division 1AB of Part III of the *Income Tax Assessment Act 1936*.

50-30 Health

| Item | Exempt entity |
|------|--|
| 6.1 | Public hospital |
| 6.2 | Hospital carried on by a society or association (not carried on for the profit or gain of its individual members) |
| 6.3 | the following organisations registered for the purposes of the <i>National Health Act 1953</i> : (a) a medical benefits organisation; (b) a health benefits organisation; (c) a hospital benefits organisation (not carried on for the profit or gain of its individual members) |

50-35 Mining

| Item | Exempt entity |
|------|---|
| 7.1 | the Phosphate Mining Company of Christmas Island Limited (incorporated in the Australian Capital Territory) |
| 7.2 | The British Phosphate Commissioners Banaba Contingency Fund (established on 1 June 1981) |

50-40 Primary and secondary resources, and tourism

| Item | Exempt entity |
|------|---|
| 8.1 | A society or association established for the purpose of promoting the development of: (a) aviation; or (b) tourism (not carried on for the profit or gain of its individual members) |

| Item | Exempt entity |
|------|--|
| 8.2 | A society or association established for the purpose of promoting the development of any of the following Australian resources: (a) agricultural resources; (b) horticultural resources; (c) industrial resources; (d) manufacturing resources; (e) pastoral resources; (f) viticultural resources; (g) aquacultural resources; (h) fishing resources (not carried on for the profit or gain of its individual members) |

50-45 Sports, culture, film and recreation

| Item | Exempt entity |
|------|--|
| 9.1 | a society, association or club established for the encouragement of: (a) animal racing; or (b) art; or (c) a game or sport; or (d) literature; or (e) music |
| 9.2 | a society, association or club established for musical purposes |
| 9.3 | the Australian Film Finance Corporation Pty Limited (incorporated under the <i>Companies Act 1981</i> on 12 July 1988) |

Division 30 — Gifts or contributions

Subdivision 30-A — Deductions for gifts or contributions

Note: To be able to receive deductible gifts, the entity types in the ‘general’ categories listed in the following tables must be an entity or government entity that is endorsed as a deductible gift recipient by the Australian Taxation Office.

30-15 Table of gifts or contributions that you can deduct

30-20 Health

(1) [General]

This table sets out general categories of health recipients.

| Item | Fund, authority or institution |
|-------|--|
| 1.1.1 | a public hospital |
| 1.1.2 | a hospital carried on by a society or association otherwise than for the purposes of profit or gain to the individual members of the society or association |
| 1.1.3 | a public fund established before 23 October 1963 and maintained for the purpose of providing money for hospitals covered by item 1.1.1 or 1.1.2 or for the establishment of such hospitals |
| 1.1.4 | a public authority engaged in research into the causes, prevention or cure of disease in human beings, animals or plants |
| 1.1.5 | a public institution engaged solely in research into the causes, prevention or cure of disease in human beings, animals or plants |

(2) [Specific]

This table sets out specific health recipients.

| Item | Fund, authority or institution |
|--------|--|
| 1.2.1 | The Royal Australian and New Zealand College of Obstetricians and Gynaecologists |
| 1.2.2 | the Australian College of Occupational Medicine |
| 1.2.3 | the Australian Postgraduate Federation in Medicine |
| 1.2.4 | the College of Radiologists in Australasia |
| 1.2.5 | the New South Wales College of Nursing |
| 1.2.6 | the Royal Australian and New Zealand College of Psychiatrists |
| 1.2.7 | the Royal Australian College of General Practitioners |
| 1.2.8 | the Royal Australasian College of Physicians |
| 1.2.9 | the Royal Australasian College of Surgeons |
| 1.2.10 | the Royal College of Pathologists of Australasia |
| 1.2.11 | the Australian Regional Council of the Royal College of Obstetricians and Gynaecologists |
| 1.2.12 | the Royal College of Nursing, Australia |

| Item | Fund, authority or institution |
|--------|---|
| 1.2.13 | The Australian and New Zealand College of Anaesthetists |

30-25 Education

(1) [General]

This table sets out general categories of education recipients.

| Item | Fund, authority or institution |
|--------|---|
| 2.1.1 | a public university |
| 2.1.2 | a public fund for the establishment of a public university |
| 2.1.3 | a higher education institution within the meaning of the <i>Employment, Education and Training Act 1988</i> |
| 2.1.4 | a residential educational institution affiliated under statutory provisions with a public university |
| 2.1.5 | a residential educational institution established by the Commonwealth |
| 2.1.6 | a residential educational institution that is affiliated with a higher education institution within the meaning of the <i>Employment, Education and Training Act 1988</i> |
| 2.1.7 | an institution that the Minister for Employment, Education, Training and Youth Affairs has declared by a signed instrument to be a technical and further education institution within the meaning of the <i>Employment, Education and Training Act 1988</i> |
| 2.1.8 | a public fund established and maintained solely for the purpose of providing religious instruction in government schools in Australia |
| 2.1.9 | a public fund established and maintained by a Roman Catholic archdiocesan or diocesan authority solely for the purpose of providing religious instruction in government schools in Australia |
| 2.1.10 | a public fund established and maintained solely for providing money for the acquisition, construction or maintenance of a building used, or to be used, as a school or college by: <ul style="list-style-type: none"> (a) a government; or (b) a public authority; or (c) a society or association which is carried on otherwise than for the purposes of profit or gain to the individual members of the society or association |
| 2.1.11 | a public fund established and maintained solely for providing money for the acquisition, construction or maintenance of a rural school hostel building |

(2) [Specific]

This table sets out specific education recipients.

| Item | Fund, authority or institution |
|--------|--|
| 2.2.1 | The Academy of the Social Sciences in Australia Incorporated |
| 2.2.2 | the Australian Academy of Science |
| 2.2.3 | the Australian Academy of the Humanities for the Advancement of Scholarship in Language, Literature, History, Philosophy and the Fine Arts |
| 2.2.4 | the Australian Academy of Technological Sciences and Engineering Limited |
| 2.2.5 | the Australian Administrative Staff College |
| 2.2.6 | the Australian and New Zealand Association for the Advancement of Science |
| 2.2.7 | the Australian Ireland Fund |
| 2.2.8 | the Life Education Centre |
| 2.2.9 | a company that conducts life education programs under the auspices of the Life Education Centre if the company: (a) is not carried on for the purposes of profit or gain to its individual members; and (b) is prohibited by its constitution from making any distribution of money or property to its members |
| 2.2.10 | the Council for Christian Education in Schools |
| 2.2.11 | the Council for Jewish Education in Schools |
| 2.2.12 | H.R.H. The Duke of Edinburgh's Commonwealth Study Conferences (Australia) Incorporated |
| 2.2.13 | the Lionel Murphy Foundation |
| 2.2.14 | the Marcus Oldham Farm Management College |
| 2.2.15 | the Constitutional Centenary Foundation Incorporated |
| 2.2.16 | the Polly Farmer Foundation (Inc) |
| 2.2.17 | The Australian Council of Christians and Jews |
| 2.2.18 | The Sir William Tyree Foundation of The Australian Industry Group |
| 2.2.19 | The Foundation for Gambling Studies |

30-40 Research

(1) [General]

This table sets out general categories of research recipients.

| Item | Fund, authority or institution |
|-------|---|
| 3.1.1 | a university, college, institute, association or organisation which is an approved research institute for the purposes of section 73A (Expenditure on scientific research) of the <i>Income Tax Assessment Act 1936</i> |

(2) [Specific]

This table sets out specific research recipients.

| Item | Fund, authority or institution |
|-------|--|
| 3.2.1 | the Centre for Independent Studies |
| 3.2.2 | The Ian Clunies Ross Memorial Foundation |
| 3.2.3 | the Commonwealth |
| 3.2.4 | The Menzies Research Centre Public Fund |

30-45 Welfare and rights

(1) [General]

This table sets out general categories of welfare and rights recipients.

| Item | Fund, authority or institution |
|-------|--|
| 4.1.1 | a public benevolent institution |
| 4.1.2 | a public fund established before 23 October 1963 and maintained for the purpose of providing money for public benevolent institutions or for the establishment of public benevolent institutions |
| 4.1.3 | a public fund established and maintained for the relief of persons in Australia who are in necessitous circumstances |

(2) [Specific]

This table sets out specific welfare and rights recipients.

| Item | Fund, authority or institution |
|--------|---|
| 4.2.1 | Amnesty International |
| 4.2.2 | The Child Accident Prevention Foundation of Australia |
| 4.2.3 | The National Foundation for Australian Women Limited |
| 4.2.4 | The National Safety Council of Australia |
| 4.2.5 | The Pearl Watson Foundation Limited |
| 4.2.6 | The Royal Society for the Prevention of Cruelty to Animals New South Wales |
| 4.2.7 | The Royal Society for the Prevention of Cruelty to Animals (Victoria) |
| 4.2.8 | The Royal Queensland Society for the Prevention of Cruelty |
| 4.2.9 | The Royal Society for the Prevention of Cruelty to Animals (South Australia) Incorporated |
| 4.2.10 | The Royal Society for the Prevention of Cruelty to Animals Western Australia (Incorporated) |
| 4.2.11 | The RSPCA (Tasmania) Incorporated |
| 4.2.12 | The Society for the Prevention of Cruelty to Animals (Northern Territory) |
| 4.2.13 | The Royal Society for the Prevention of Cruelty to Animals (ACT) Incorporated |
| 4.2.14 | The RSPCA Australia Incorporated |
| 4.2.15 | The Business Against Domestic Violence Reserve |
| 4.2.16 | Katherine District Business Re-establishment Fund |
| 4.2.17 | The Community Disaster Relief (Sydney Hail Storm Assistance) Fund |
| 4.2.18 | The Linton Trust |

30-50 Defence

(1) [General]

This table sets out general categories of defence recipients.

| Item | Fund, authority or institution |
|-------|--|
| 5.1.1 | the Commonwealth or a State |
| 5.1.2 | a public institution or public fund established and maintained for the comfort, recreation or welfare of members of the armed forces of any part of Her Majesty's dominions, or of any allied or other foreign force |

serving in association with Her Majesty's armed forces

(2) [Specific]

This table sets out specific defence recipients.

| Item | Fund, authority or institution |
|--------|--|
| 5.2.1 | the Shrine of Remembrance Restoration and Development Trust |
| 5.2.2 | The Sandakan Memorials Trust Fund |
| 5.2.3 | the Cobram and District War Memorial Incorporated Fund |
| 5.2.4 | The Central Synagogue Restoration Fund |
| 5.2.5 | The Borneo Memorials Trust Fund |
| 5.2.6 | Australian National Korean War Memorial Trust Fund |
| 5.2.7 | The National Nurses' Memorial Trust |
| 5.2.8 | Mount Macedon Memorial Cross Restoration, Development and Maintenance Trust Fund |
| 5.2.9 | the Australian Ex-Prisoners of War Memorial Fund |
| 5.2.10 | the RSL and 6th Division Australian-Hellenic Educational Memorial Fund |

30-55 The environment

(1) [General]

This table sets out general categories of environment recipients.

| Item | Fund, authority or institution |
|-------|--|
| 6.1.1 | a public fund that, when the gift is made, is on the register of environmental organisations kept under Subdivision 30-E |

(2) [Specific]

This table sets out specific environment recipients.

| Item | Fund, authority or institution |
|-------|---|
| 6.2.1 | the Australian Conservation Foundation Incorporated |
| 6.2.2 | Greening Australia Limited |
| 6.2.3 | Landcare Australia Limited |

| Item | Fund, authority or institution |
|--------|---|
| 6.2.4 | the National Parks Association of New South Wales |
| 6.2.5 | the Victorian National Parks Association |
| 6.2.6 | Trust for Nature (Victoria) |
| 6.2.7 | the National Parks Association of Queensland |
| 6.2.8 | The Nature Conservation Society of South Australia Incorporated |
| 6.2.9 | the National Parks Foundation of South Australia Incorporated |
| 6.2.10 | the Western Australian National Parks and Reserves Association Incorporated |
| 6.2.11 | the Tasmanian Conservation Trust Incorporated |
| 6.2.12 | the National Parks Association of the Australian Capital Territory Incorporated |
| 6.2.13 | the National Trust of Australia (New South Wales) |
| 6.2.14 | the National Trust of Australia (Victoria) |
| 6.2.15 | The National Trust of Queensland |
| 6.2.16 | The National Trust of South Australia |
| 6.2.17 | The National Trust of Australia (WA) |
| 6.2.18 | the National Trust of Australia (Tasmania) |
| 6.2.19 | The National Trust of Australia (Northern Territory) |
| 6.2.20 | the National Trust of Australia (ACT) |
| 6.2.21 | the Australian Council of National Trusts |
| 6.2.22 | the World Wide Fund for Nature |
| 6.2.23 | AAP Mawson's Huts Foundation Limited |

30-65 Industry, trade and design

This table sets out specific industry, trade and design recipients.

| Item | Fund, authority or institution |
|-------|--|
| 7.2.1 | the Industrial Design Council of Australia |
| 7.2.2 | the Productivity Promotion Council of Australia |
| 7.2.3 | the Work Skill Australia Foundation Incorporated |

30-70 The family

(1) [General]

This table sets out general categories of family recipients.

| Item | Fund, authority or institution |
|-------|---|
| 8.1.1 | a public fund established and maintained solely for the purpose of providing money to be used in giving or providing marriage education under the <i>Marriage Act 1961</i> , or family and child mediation or family and child counselling under the <i>Family Law Act 1975</i> to persons in Australia through a voluntary organisation or a branch or section of a voluntary organisation |

(2) [Specific]

This table sets out specific family recipients.

| Item | Fund, authority or institution |
|-------|---|
| 8.2.1 | The Nursing Mothers' Association of Australia |
| 8.2.2 | the Stolen Children's Support Fund |

30-80 International affairs

(1) [General]

This table sets out general categories of international affairs recipients.

| Item | Fund, authority or institution |
|-------|---|
| 9.1.1 | a public fund declared by the Treasurer to be a relief fund |

(2) [Specific]

This table sets out specific international affairs recipients.

| Item | Fund, authority or institution |
|-------|--|
| 9.2.1 | the Australian Institute of International Affairs |
| 9.2.2 | the Australian National Travel Association |
| 9.2.3 | The Foundation for Development Cooperation Ltd |
| 9.2.4 | Australian American Education Leadership Foundation Limited |
| 9.2.5 | Sydney Talmudical College Association Refugees Overseas Aid Fund |
| 9.2.6 | United Israel Appeal Refugee Relief Fund Limited |
| 9.2.7 | the Asia Society AustralAsia Centre |
| 9.2.8 | The Global Foundation |
| 9.2.9 | the United Hellenic Earthquake Appeal |

30-90 Sports and recreation

This table sets out specific sports and recreation recipients.

| Item | Fund, authority or institution |
|--------|---|
| 10.2.1 | the Australian Sports Foundation |
| 10.2.2 | Guides Australia Incorporated |
| 10.2.3 | an institution that is known as a State or Territory branch of Guides Australia Incorporated |
| 10.2.4 | the Scout Association of Australia |
| 10.2.5 | an institution that is known as a State or Territory branch of the Scout Association of Australia |
| 10.2.6 | the Australian Games Uniform Company Limited |

30-95 Philanthropic trusts

This table sets out specific philanthropic trusts.

| Item | Fund, authority or institution |
|--------|--|
| 11.2.1 | the Connellan Airways Trust |
| 11.2.2 | The Friends of the Duke of Edinburgh's Award in Australia Incorporated |
| 11.2.3 | the Herbert Vere Evatt Memorial Foundation Incorporated |
| 11.2.4 | the Playford Memorial Trust |
| 11.2.5 | The Sir Robert Menzies Memorial Foundation Limited |
| 11.2.6 | the Queen Elizabeth II Silver Jubilee Trust for Young Australians |
| 11.2.7 | the Winston Churchill Memorial Trust |

30-100 Cultural organisations

(1) [General]

This table sets out general categories of cultural recipients.

| Item | Fund, authority or institution |
|--------|---|
| 12.1.1 | A public fund that, when the gift is made, is on the register of cultural organisations kept under Subdivision 30-F |
| 12.1.2 | A public library |
| 12.1.3 | A public museum |
| 12.1.4 | A public art gallery |
| 12.1.5 | An institution consisting of a public library, public museum and public art gallery or of any 2 of them |

(2) [Specific]

This table sets out specific cultural recipients.

| Item | Fund, authority or institution |
|--------|---|
| 12.2.1 | The Australiana Fund |
| 12.2.2 | Australian Foundation for Culture and the Humanities Ltd. |
| 12.2.3 | The Centenary of Federation Trust Fund |

30-105 Other recipients

This table sets out specific other recipients.

| Item | Fund, authority or institution |
|--------|---|
| 13.2.1 | St Patrick's Cathedral Parramatta Rebuilding Fund |
| 13.2.2 | the Foundation for Rural and Regional Renewal Public Fund |