

# Duties (Guidelines - Insurance Exempt from Duty) Determination 2002 (No 1)

## Disallowable instrument DI2002—118

made under the

**Duties Act 1999, s201A (Insurance exempt from duty in certain circumstances)**

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I determine the following guidelines for the purpose of section 201A to commence on and from 1 July 2002:

1. The purpose of section 201A of the *Duties Act 1999* (the Duties Act) is to provide exemption from duty imposed by part 8.2 on a premium, or part of a premium, for public liability insurance or other general insurance prescribed by these guidelines.

### DEFINITIONS FOR THE PURPOSES OF THESE GUIDELINES

2. In this determination:

***Eligible not-for-profit body*** means an amateur sporting body or community organisation that is run on a not-for-profit basis and pursues their objectives and incurs expenditure principally in the ACT.

***Not-for-profit*** means a non-profit organisation that is:

- (a) eligible for income tax exemption; or
  - (b) treated as a non-profit company and is eligible for special rates of tax;
- in accordance with guidelines provided by the Australian Taxation Office in its publication 'A Taxation Guide for Clubs, Societies and Associations-ClubPack', and its guidelines on 'Income Tax Concessions for Charities under the New Tax System'.

***Exempt insurance contract*** means insurance contracts of ***exempt insurance*** that relate to the risks associated with the pursuit of the objectives of the ***eligible not-for-profit body***, taken out and paid for by the ***eligible not-for-profit body***, or taken out on their behalf by a national or umbrella organisation, or by a group of similar bodies, and paid for by the ***eligible not-for-profit body***.

**Exempt insurance** means:

- (a) **public liability and products liability** where this provides indemnity for the body and its directors, officers, members and volunteers from claims for damages arising from accidental injury, property damage, claims arising from the negligence of the body and its directors, officers, members and volunteers, the condition of the premises or venue of any event, or any products that were directly provided either commercially or free of charge by the body;
- (b) **professional indemnity** where this provides indemnity for the directors, officers, members and volunteers of the body against claims for damages by third parties for personal injury and/or property damage resulting from a breach of their professional duty whilst acting for the body;
- (c) **directors' and officers' liability** where this provides indemnity for the directors and officers in respect of their personal liability for the payment of damages and costs connected with the performance of their roles for the body; and
- (d) **group personal accident** insurance where this is taken to protect individuals when any disabling injuries occur and provide for all reasonable expenses incurred by an individual for such immediate treatment as may be necessary at the time of the accident causing injury to any individual.

### **CIRCUMSTANCES OF DUTY EXEMPTION**

3. Not-for-profit amateur sporting and community organisations will be granted exemptions from insurance duty for **exempt insurance contracts** that would normally be taken out by them in order to be able to hold a public event.
4. Exemptions from duty will be granted based on legal proof of the status of the organisation and evidence that the sporting activities or other activities are not being conducted on a professional basis, or that such organisations are not receiving any payments for the conduct of the event/s. Non-profit organisations will remain eligible for exemption if they sustain receipts that are categorised as assessable income for non-profit organisations.

### **EXTENT OF DUTY EXEMPTION**

5. The premium or any part of a premium paid for an **exempt insurance contract** shall be exempt from duty under part 8.2 of the Duties Act 1999.
6. Where the insurance contract covers multiple risks, the percentage of the premium applicable to the **exempt insurance** will be exempt from duty.

7. Where the insurance contract is taken out by a member as part of a group insurance scheme, the percentage of premium applicable to the *eligible not-for-profit body* in the ACT will be exempt from duty.

8. Where a group insurance scheme covers multiple jurisdictions, the premium that applies to the *exempt insurance contract* is to be apportioned in the same ratio as the risk in the ACT relates to the total risk.

## APPLICATION PROCEDURES

9. To apply for an exemption from the duty payable on the premium, or part of the premium paid for an *exempt insurance contract*, the *eligible not-for-profit body* must provide supporting evidence to the Commissioner for ACT Revenue. If satisfied that the organisation is an *eligible not-for-profit body* the Commissioner will give approval in writing stating:

- the organisation is an *eligible not-for-profit body* for the purposes of section 201A of the Duties Act; and
- the types of *exempt insurance*.

10. The Commissioner may revoke the approval if the body ceases to be an *eligible not-for-profit body*.

11. Applications, in the form of a letter addressed to the Commissioner for ACT Revenue, should contain the following information:

- Name of the Organisation and ABN number
- Name and official position of person submitting the application
- Name and official position of contact person (if different)
- Postal Address
- Street address/es of the organisation (if different)
- Email Address
- Telephone Number (business hours and after hours)
- Facsimile Number
- Whether the organisation is an Incorporated Association or not, together with a copy of the organisation's constituent or governing documents which prevent the organisation from distributing profits or assets for the benefit of particular persons, both while they are operating and on winding up
- The focus of the organisation and its major objectives, activities and functions
- The number of paid employees and members
- The specific types of insurance policies for which exemption is sought
- For insurance policies that cover multiple risks, the percentage and amount of the total premium for which exemption is sought must be provided
- If the organisation is a member of a group insurance scheme, the percentage and amount of the premium that applies to the exemption sought
- For a group insurance scheme the appropriate amount that applies to the ACT where the group insurance scheme covers multiple jurisdictions.

- If the duty on the premium, or part premium, for an *exempt insurance contract* has already been paid, a request for a refund of the duty must be accompanied by proof that the payment was made by the *eligible not-for-profit body*.

12. The Commissioner may request further information if required.

Ted Quinlan  
Treasurer

27 June 2002