

Application for Charitable Exemption – Opportunity Shops

Land Tax Act 2005
Revenue Ruling LTA 005

Preamble

Land is exempt from land tax under section 74 of the *Land Tax Act 2005* (the Act) if the Commissioner of State Revenue (the Commissioner) determines that the land is used by a charitable institution exclusively for charitable purposes. To claim this exemption, the owner of the land must apply to the Commissioner as required by section 74(3) of the Act. For an explanation of how section 74 of the Act operates and how to apply for this exemption, please refer to Revenue Ruling LTA004.

Generally, only purposes directly related to the achievement of the objectives of a charitable institution are considered charitable while activities to raise money for a charitable institution are not, even though the funds raised are used for charitable purposes. Accordingly, land used by a charitable institution to operate a shop to raise funds for its charitable purposes elsewhere was not considered as a use for a charitable purpose (*Oxfam v Birmingham City Council* 1976 AC 126).

However, in *Trustees of the Superior Council of Australia of the Society of Saint Vincent de Paul v Goulburn City Council* [1974] 2 NSWLR 655, the court held that an opportunity shop that sold goods on terms 'designed to relieve poverty and necessity and to preserve some semblance of dignity' for its shoppers was for a charitable purpose.

This Revenue Ruling provides a list of criteria that must be met by an opportunity shop to be considered as a use for a charitable purpose for the exemption under section 74 of the Act.

Ruling

For land used by a charitable organisation to operate an opportunity shop to be exempt under section 74 of the Act, the opportunity shop must meet all the following criteria:

- the activities conducted in the opportunity shop must specifically meet the aims and objectives of the organisation's charitable work (the opportunity shop must, through its operations, directly provide relief of poverty for its shoppers, as distinct from raising funds)
- goods must be sold at nominal prices
- goods sold by the opportunity shop must be predominantly donated to the charitable organisation, and
- goods sold in the opportunity shop must be predominantly secondhand.

In addition, the following factors may also be taken into account in support of an application for the exemption:

- the opportunity shop is staffed by volunteers, and
- it operates under limited trading hours.

This Revenue Ruling covers land subject to land tax for the 2006 land tax period and onwards.

Please note that rulings do not have the force of law. Each decision made by the State Revenue Office is made on the merits of each individual case having regard to any relevant ruling. All rulings must be read subject to Revenue Ruling GEN.001.