

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Education

Declaration under subsection 4(2) of the *Higher Education Funding Act 1988*

AUTHORITY

Under subsection 4(2) of the *Higher Education Funding Act 1988* (the Act), the Minister may declare that a Table in subsection 4(1) is amended in the manner specified in the Declaration and, where such a Declaration is made, the Declaration has effect accordingly.

Section 110 of the Act provides that a Declaration made by the Minister under subsection 4(2) is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

BACKGROUND

Higher education institutions which are established in Australia may apply to the Australian Taxation Office for deductible gift recipient (DGR) endorsement.

It is a requirement of the *Income Tax Assessment Act 1997* (ITAA) that in order to be eligible for DGR endorsement, a higher education institution must be either a public university or a 'higher education institution within the meaning of the *Higher Education Funding Act 1988*'. The Act remains current for this purpose as the ITAA makes no reference to the subsequent enabling legislation, the *Higher Education Support Act 2003* (HESA). As a consequence, in order for a higher education institution (that is not a public university) to gain DGR endorsement, it must be added to a table in subsection 4(1) of the Act by means of a Ministerial Declaration under subsection 4(2) of the Act.

PURPOSE/ EFFECT OF DECLARATION

The effect of this Declaration is to add the following institutions to Table B in subsection 4(1) of the Act:

Gordon Institute of TAFE
Melbourne Institute for Experiential and Creative Arts Therapy
Alphacrucis College Limited

This would mean that these institutions are 'higher education institutions' within the meaning of the Act, thus meeting the requirements of the ITAA.

CONSULTATION

The Department of Education, Employment and Workplace Relations has consulted with The Treasury and the Australian Taxation Office regarding this declaration and they are in agreement.

COMMENCEMENT

The instrument commences the day after the day on which it is registered on the Federal Register of Legislative Instruments in accordance with the *Legislative Instruments Act 2003*.