Proposed Changes to the *Income Tax Assessment Act 1997*

January 2010
The Australian Council for Private Education and Training (ACPET) welcomes the opportunity to provide comment on the proposed changes to the *Income Tax Assessment Act 1997* (ITAA 1997).

ACPET is the peak, national industry association for independent providers of post-compulsory education and training. ACPET represents more than 1,100 organisations, from schools to higher education institutes, delivering a full range of education, training and English language courses to both domestic and international students.

ACPET does not support the proposed changes to the ITAA 1997, which will result in the “non-charitable” and/or “non-public” Higher Education Providers, which were endorsed under item no. 2.1.3 of Section 30-25 of the ITAA 1997 in 2007 and 2008, losing their endorsement.

Previous consultation by the Australian Government resulted in endorsement from stakeholders in allowing all Higher Education Providers under the *Higher Education Support Act 2003* access to deductible gift recipient (DGR) endorsement.

Ministers for Education in both the Howard and Rudd Governments have previously made declarations under the *Higher Education Funding Act 1988* (HEFA 1998) listing charitable and non-charitable Higher Education Providers in Table B of the HEFA 1988 for the sole purpose of allowing these institutions to acquire DGR status.

The Explanatory Statement issued with the previous declaration from Minister Gillard noted:

“Consultation was not undertaken and was not considered necessary in this case because the instrument confers a benefit on the named institutions and they are the only bodies affected by the instrument. This instrument will not have a direct or substantial indirect effect on business, nor will it restrict competition.”

Due to the nature in which the Rudd Government approached the last declaration ACPET is surprised and concerned with the proposed amendments to the ITTA 1997 and apparent reversal of the Government’s policy position.

ACPET’s advocates that a grandfather clause should be inserted into any amendments, which ensures the status of all institutions that have been endorsed as a DGR under item no. 2.1.3 of Section 30-25 of the ITAA 1997 be preserved. This would provide the industry with a level of confidence that institutions will not be subject to retrospective changes to previous ministerial determinations and Government direction.
ACPET also recommends that due consideration should be given to those ten Higher Education Providers that requested DEEWR in August 2009 to be listed in Table B of the HEFA 1988 in order to obtain DGR status either be listed in Table B or have some provision made for them to obtain DGR status so to not retrospectively disadvantage these institutions.

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