

NFP Alert

JANUARY | 2009



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Profits for an NFP

For sometime now, Not for Profits have had to face the prospect of dwindling fundraising dollars, donor fatigue and now, the calamitous credit crunch.

In response, many NFP's have diversified their activities into what could be described as purely commercial operations using the profits from those businesses to bolster the funds available for their core NFP activities.

Concern has existed for a long time as to whether these related commercial businesses compromised the NFP'S tax exempt status.

A recent High Court decision on 3 December 2008 in the *Word Case* has provided some clarification.

The Word Case

Word Investments engaged in activities that generated profits from investments and a separate funeral business.

All its profits were given to other organizations which undertook charitable activities associated with the furtherance of religion but they themselves did not engage in these activities. The ATO refused to endorse them as an income tax exempt charity.

High Court Decision

The decision can be summarized as follows:

1. Word was a charity even though its Constitution gave it powers to engage in commercial activities but only for its charitable purposes.
2. Having charitable purposes will not be enough – any profits must be used for those purposes
3. The organization does not have to engage in the charitable activities itself

Implications for you

The decision is very relevant for your organization if you have separate commercial activities.

It means that:

- So long as the organisation's purposes are predominantly charitable and the funds are used for those purposes, income tax exemption will continue to apply
- If you are endorsed as a charity, you must have a regular review of your endorsement status as the ATO will be checking this from time to time