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Word Investments Ltd: High Court Dismisses Tax Office Appeal

Not for Profits will breathe a collective sigh of relief following the decision of the High Court in Word Investments Limited today.

Moores Legal has welcomed the decision which allows charitable institutions including schools, churches and welfare agencies to run business activities and not be subject to tax.

This is a significant ruling for the charitable sector as it will finally put to rest the fears many charities have held that their commercial fund raising activities would no longer be exempt from tax.

Moores Legal acted for Word Investments Limited, a company established to support the charity, Wycliffe Bible Translators, through business and investment ventures. The commercial activities carried on by Word included a funeral business.

The Australian Taxation Office refused to endorse Word as a charity on the ground that it was not established to advance or promote charitable purposes but to run a business.

The High Court dismissed an Appeal by the Commissioner of Taxation against a decision of the Full Court of the Federal Court that business activities did not disqualify a charity from charitable status.

Four of the Judges in a joint judgement said that to determine whether an institution is charitable, it is necessary to look at its purposes and not just its activities. If the purpose of all the activities were charitable, then the organisation was charitable. The commercial nature of the activity did not prevent the company from being a charity.

Justice Michael Kirby dissenting said that the law should draw the line at "unrelated" revenue raising activity.

This decision will impact organisations large and small such as Sanitarium (part of the Seventh Day Adventist Church) and opportunity shops which sell used clothing – even lamington drives and sausage sizzles.

The High Court has recognised the legitimate involvement of charities in business ventures as part of their charitable purposes.

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Link to decision: http://www.austlii.edu.au/au/cases/cth/high_ct/2008/55.html

Link to High Court Media Release:
http://www.hcourt.gov.au/publications_04.html