



HIGH COURT OF AUSTRALIA

Public Information Officer

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COMMISSIONER OF TAXATION OF THE COMMONWEALTH OF AUSTRALIA v WORD INVESTMENTS LIMITED

A company that conducted commercial businesses to raise funds for a missionary organisation was entitled to the status of a tax-exempt charity, the High Court of Australia held today.

Since 1986, Word Investments has accepted deposits from the public which were invested at commercial rates of interest. Between 1996 and 2002 it operated a funeral business. Profits generated from the investment and funeral businesses supported Christian activities carried out by Wycliffe Bible Translators (International). The Australian arm, Wycliffe Bible Translators Australia, has had charitable status since 1 July 2000. Wycliffe's missionaries were mostly active in developing countries. They learned the local language, taught people to read and write their language, translated the Bible into that language, and taught people how to read the Bible. Word was founded by people associated with Wycliffe to raise money in Australia to give to Wycliffe to carry out its purposes. Word does not directly carry out the training or despatching of missionaries overseas, the publishing of the Bible or the preaching of the gospel.

The Tax Commissioner rejected Word's applications for endorsement as an income tax-exempt charity on the basis that it was not an organisation instituted to advance or promote charitable purposes. The Commissioner claimed there were four obstacles to a tax exemption. The first was that Word's objects were not confined to charitable purposes. The second was that an entity conducting investment, trading or other commercial activity for profit was not a charitable institution even though it was established for the purpose of distributing its profits wholly or mainly to charities. The third was that the bodies to which Word gave its profits were not confined as to the use to which the funds could be put. The fourth was that Word did not have a physical presence in Australia and did not incur its expenditure or pursue its objectives principally in Australia.

The Administrative Appeals Tribunal set aside the Tax Commissioner's refusal to endorse Word as a charity. The Federal Court of Australia dismissed an appeal by the Commissioner and allowed a cross-appeal by Word so that Word's income tax-exempt status was extended back to 1 July 2000. The Full Court of the Federal Court dismissed the Commissioner's appeal from those orders. The Commissioner then appealed to the High Court.

The Court, by a 4-1 majority, dismissed the appeal. It resolved the issues surrounding the four obstacles in Word's favour. The Court held that Word's purposes were charitable, that it was a charitable institution, and that that character was not lost by the fact that it did not advance charitable purposes directly but gave its profits to other institutions which did. It held that Word's objects in its memorandum of association were for advancing religious charitable purposes and the powers set out in the memorandum did not authorise conduct which did not further those purposes. The goal of making a profit was not an end in itself but was incidental to its charitable purposes. Its commercial activities were not intrinsically charitable but were charitable in character. Wycliffe was not at liberty to spend the money it received from Word on non-charitable objects and there was no evidence that it did. The Court held that Word had a physical presence exclusively in Australia and advanced its money to Wycliffe in Australia. Wycliffe was not required under the *Income Tax Assessment Act* to spend the money within Australia. The Act only required that Word incur its expenditure and pursue its objectives principally in Australia.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*