

Checklist: Deductible Gift Recipient (DGR) categories

Overview

This checklist is to assist community organisations who wish to apply to the Australian Taxation Office (ATO) for endorsement as a Deductible Gift Recipient (DGR). It sets out just some of the DGR categories that community organisations may be eligible for.

For a full list and details of all of the DGR categories, case studies of various types of organisations and whether they meet the DGR category criteria, and category checklists, you should refer to the ATO's free *Giftpack* publication (see the Related resources section at the end of this document).

Note: The information contained in this fact sheet is intended as a guide only, and is not legal advice. If you or your organisation has a legal problem you should talk to a lawyer before making a decision about what to do. The information in this fact sheet is written for organisations and people resident in, or affected by, the laws that apply in Victoria, Australia and is current at 1 January 2011.

Which category of DGR?

The category of DGR will depend on your organisation's purposes and activities.

Tip: If your organisation is going to apply for DGR endorsement, you will need to provide the ATO with copies of your organisation's constituent documents (rules or constitution). You should be aware that the ATO will look carefully at your organisation's objects clause, (or statement of purposes) to see that it reflects the criteria of the particular DGR category your organisation is applying for. Your constituent documents may also need a non-profit clause and a winding up clause and may need other clauses about funding sources.

Given the technical language required to comply with some of the categories, you may wish to seek advice and assistance in drafting (or re-drafting) your organisation's constituent documents before you apply for DGR endorsement.

Use the checklist below to see which DGR category you might fit into. Remember, your answer must be based on your organisation's principal purpose. The checklist provides a brief summary of some categories only.

Public benevolent institution

Does your organisation provide direct welfare services to people?

- Yes – your organisation may be eligible for DGR endorsement as a *public benevolent institution*.

A public benevolent institution (PBI) is a charity with the dominant purpose of providing 'direct relief of such poverty, sickness, suffering, distress, misfortune, disability, destitution or helplessness of people as arouses compassion in the community.' An example might be a homeless shelter run by a community organisation.

To qualify as a PBI, the predominant purpose of your organisation must be to provide services *directly* to people in need of relief (ie. disadvantaged people). It is not enough to be a research, advocacy, information or referral service for the community generally. Also, your organisation is unlikely to qualify as a PBI if its activities are aimed at preventing poverty or suffering; the activities must relieve the actual needs (for example improve the conditions of) an identifiable class of disadvantaged people. The services that your organisation provides must be available to the public or a section of the public, based on need rather than on a discriminatory basis (generally this means the 'benevolent' services are not just provided to members of your organisation).

There are a number of other conditions that your organisation must meet to be a PBI, including that your activities must be carried out in Australia. For a full list of conditions, as well as examples of organisations that qualify as PBIs, and those that don't, see the ATO's *Giftpack* publication.

For more information see Tax Ruling 2003/5 which sets out the ATO's view on what is a PBI. The Related resources section at the end of this document provides a link to the Tax Rulings page on the ATO's website.

Harm prevention charity

Is your organisation trying to minimise or control abusive behaviours, substance or alcohol abuse, self harm, suicide or gambling?

- Yes – Your organisation may be eligible for DGR endorsement as a *harm prevention charity*.

A harm prevention charity is a charity whose principal activity is to promote the prevention or control of 'behavior that is harmful or abusive to human beings'. This is defined in the tax legislation to be one or more of emotional abuse, sexual abuse, physical abuse, substance abuse, self-harm, suicide or harmful gambling. This can be done directly through counselling, workshops or support, or indirectly through community education and awareness-raising. An example might be an organisation established for suicide prevention.

Before your organisation can be endorsed as a harm prevention charity, your organisation must apply to be listed on the Register of Harm Prevention Charitable Institutions, maintained by the Commonwealth Department of Families, Housing, Community Services and Indigenous Affairs (FAHCSIA).

There are a number of other conditions that your organisation must meet to be a harm prevention charity. For a full list of conditions, see the ATO's *Giftpack* publication. See the Register of Harm Prevention Charities Guidelines and a list of current registered harm prevention charities on FAHCSIA's website (see Related resources at the end of this document).

Health promotion charity

Does your organisation promote the prevention or control of disease in human beings?

Yes – Your organisation may be eligible for DGR endorsement as a *health promotion charity*.

A health promotion charity is a charity whose principal activity is to promote the prevention or the control of diseases in human beings. Disease includes 'any mental or physical ailment, disorder, defect or morbid condition, whether of sudden onset or gradual development and whether of genetic or other origin.'

Your community organisation may be considered to be a health promotion charity if it undertakes one of the following as its principal activity:

- ▶ providing relevant information to sufferers of a disease, health professionals, carers and the public; or
- ▶ undertaking research on how to detect, prevent or treat diseases in people, or developing or providing aids or equipment to sufferers of a disease.

Community organisations whose principal activity is accident prevention will not meet the definition of a health promotion charity.

There are a number of other conditions that your organisation must meet to be an health promotion charity. For a full list of conditions, see the ATO's *Giftpack* publication.

For more information see Tax Ruling 2004/8 which sets out the ATO's view on what is a health promotion charity. The Related resources section at the end of this document provides a link to the Tax Ruling page on the ATO's website.

Animal welfare charity

Does your organisation provide direct care or rehabilitation for animals?

- Yes – Your organisation may be eligible for DGR endorsement as an *animal welfare charity*.

An animal welfare charity is a charity whose principal activity is:

- ▶ providing short-term direct care to animals (but not only native wildlife) that have been lost, mistreated or are without owners; and / or
- ▶ rehabilitating orphaned, sick or injured animals (but not only native wildlife) that have been lost, mistreated or are without owners.

There are a number of other conditions that your organisation must meet to be an animal welfare charity. For a full list of conditions, see the ATO's *Giftpack* publication.

Arts or cultural organisation

Does your organisation promote arts or culture, such as literature, music, performing arts, visual arts, crafts, design, film, video, television, radio, community arts, Aboriginal arts or moveable cultural heritage?

- Yes – Your organisation may be eligible for DGR endorsement as an *arts or cultural organisation*.

An arts or cultural organisation is one where the principal activity or purpose of the organisation is the promotion of literature, music, a performing art, a visual art, a craft, design, film, video, television, radio, community arts, Aboriginal arts or moveable cultural heritage.

Before your organisation can be endorsed as an arts or cultural organisation DGR, it must apply to be listed on the Register of Cultural Organisations, maintained by the Commonwealth Department of Environment, Water, Heritage and the Arts (DEWHA).

There are a number of other conditions that your organisation must meet to be an arts or cultural organisation. For a full list of conditions, see the ATO's *Giftpack* publication. See also the Register of Cultural Organisations Guide and a list of current registered cultural organisations on the DEWHA website (see Related resources at the end of this document).

Environmental organisation

Is your organisation an environmental organisation?

- Yes – Your organisation may be eligible for DGR endorsement as an *environmental organisation*.

An environmental organisation is an organisation whose principal purpose is:

- ▶ the protection and enhancement of the natural environment or of a significant aspect of the natural environment; or
- ▶ the provision of information or education, or carrying on research about the natural environment or a significant aspect of the natural environment.

Before your organisation can be endorsed as an environmental organisation DGR, it must apply to be listed on the Register of Environmental Organisations, maintained by the Commonwealth Department of Environment, Water, Heritage and the Arts (DEWHA).

There are a number of other conditions that your organisation must meet to be an environmental organisation. For a full list of conditions, see the ATO's *Giftpack* publication. See also the Register of Environmental Organisation Guidelines and a list of current registered environmental organizations on the DEWHA website (see Related resources at the end of this document).

Approved Research Institute

Does your organisation do scientific research?

- Yes – Your organisation may be eligible for DGR endorsement as an *Approved Research Institute*.

An approved research institute is a university, college, association or organisation which is undertaking scientific research that is, or may prove to be, of value to Australia. The 'institute' must be approved by the Australian Commonwealth Scientific Research Organisation (CSIRO), the Commonwealth Department of Health and Ageing or the Department of Education, Employment and Workplace Relations.

There are a number of other conditions that your organisation must meet to be an approved research institute. For a full list of conditions, see the ATO's *Giftpack* publication (see Related resources at the end of this document).

Overseas Aid Fund

Does your organisation provide funds for the relief of people in developing countries?

- Yes – Your organisation may be eligible for DGR endorsement as an *Overseas Aid Fund*.

An overseas aid fund is a charity whose main purpose is the relief of persons in countries declared by the Minister for Foreign Affairs as 'developing'.

Before your organisation can be endorsed as an Overseas Aid Fund your organisation must apply to Australian Agency for International Development (AusAID) to be registered as an 'approved organisation'.

There are a number of other conditions that your organisation must meet to be an approved Overseas Aid Fund. For more information see the Overseas Aid Gift Deduction Scheme (OAGDS) Guidelines on the AusAID website (see Related resources at the end of this document). See also the ATO's *Giftpack* publication.

For more information see the PilchConnect factsheet on community organisations with overseas objectives in Related resources at the end of this document. This factsheet includes links to relevant tax rulings on overseas aid funds.

We don't think our organisation fits one of these. Are these all the categories?

No. This is not a full list of the possible categories for DGR endorsement. There are many other DGR categories that your organisation may fit into – such as:

- ▶ a registered training organisation; or
- ▶ a scholarship fund

as well as many others.

If your organisation does not fit into a DGR category, another option is to look into whether your organisation can set up a fund (or even a separate entity such as an institution) which can receive DGR endorsement.

Please refer to the ATO's *Giftpack* publication and / or seek legal or accountancy advice for more information about whether your organisation may be eligible for endorsement as a DGR.

Related resources

Related PilchConnect Factsheets

Factsheet: - Applying for Tax Concession Charity (TCC) endorsement

Factsheet: - Community organisations with overseas objectives

Related legislation

Income Tax Assessment Act 1997 (Cth)

Related links

For online legal information resources for Victorian community organisations about:

- ▶ deductible gift recipient status see www.pilch.org.au/DGR
- ▶ tax generally see www.pilch.org.au/tax

Related external links

Australian Tax Office (ATO)

- ▶ Tax Rulings see <http://law.ato.gov.au/atolaw/browse.htm?ImA=MainMenu>
- ▶ *Giftpack* publication see www.ato.gov.au/nonprofit/content.asp?doc=/content/18699.htm

Commonwealth Department of Families, Housing, Community Services and Indigenous Affairs (FACCSIA)

- ▶ Harm Prevention Charity Register see www.fahcsia.gov.au/sa/communities/progserv/Register_Harm/Pages/default.aspx

Department of Prime Minister and Cabinet, Office for the Arts

- ▶ Register of Cultural Organisation Guide and list of current registered cultural organisations see www.arts.gov.au/roco

Department of Environment, Water, Heritage and the Arts (DEWHA)

- ▶ Register of Environmental Organisation Guidelines and a list of current registered environmental organisations see www.environment.gov.au/about/tax/reo/index.html

Australian Agency for International Development (AusAID)

- ▶ Overseas Aid Gift Deduction Scheme (OAGDS) Guidelines, see www.ausaid.gov.au/ngos/tax.cfm

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