

Introduction

This guide will help not-for-profit arts/ cultural organisations and individual artists understand the formalities associated with receiving philanthropic income.

It will introduce:

- the legal and tax requirements associated with receiving tax deductible gifts
- terminology associated with giving
- different types of tax deductible gifts and their conditions
- the legal and tax requirements associated with fundraising events.

There is an entire division of tax law [[Division 30 of the Income Tax Assessment Act 1997](#)] dedicated to the conditions associated with tax deductible giving.

Philanthropic income for artists and arts organisations has grown substantially in the last decade and the trend is expected to continue.

Donations to arts organisations increased by 57 percent to \$60.0 million between 2004/5 – 2008/9. (Register of Cultural Organisations data 2008-09)

<http://www.environment.gov.au/about/publications/annual-report/08-09/outcome4.html>

Distributions to the cultural sector from private ancillary funds PAFs (known as prescribed private funds PPFs until October 2009) grew from \$0.76m to \$9.58 million between 2001/2 and 2007/8.

http://www.bus.qut.edu.au/research/cpns/publications/documents/2010_1_PPFs_Web_v2.pdf

The Australia Business Arts Foundation has granted more than \$6 million in tax deductible donations via the Australia Cultural Fund to individual artists and arts organisations since 2001.

<http://www.abaf.org.au/index.php?sectionID=1354&pageID=4936>

[Artsupport Australia](#) has facilitated more than \$45 million in philanthropic income for artists and arts organisations through its free one-to-one mentoring programs and brokering services for individual philanthropists, philanthropic foundations and trusts. Case studies include:

- The [Tasmanian Symphony Orchestra](#) reported an increase of more than 50 percent in its donations revenue, and \$1.6 million in donations and pledges to its new foundation, at the end of a formal two-year mentorship.
- [Glen Donnelly](#) a talented viola player, mentored since 2007, secured over 90 per cent of his fees for two years at the Royal Academy of Music, London, from donations and philanthropic grants.

Let them inspire you to seek your own donations and philanthropic grants.

1 Background

Philanthropic income

Income sources for not-for-profit arts/cultural organisations and artists are typically a mix of:

- earned income – from box office, sales and events
- government grants, and
- private sources – sponsorship and **philanthropy**.

Philanthropic income can come from:

- individuals – as direct donations of money, shares, goods, services and property (e.g. buildings or artwork), from fundraising events or bequests
- business – as donations of money, shares, goods, services and property
- philanthropic trusts and foundations (individual, family or corporate) – as money (grants), shares or property.

On paper, philanthropic income can appear similar to sponsorship and government grants, but clear differences arise with the financial, legal and tax obligations associated with receiving donations. For instance, donations do not incur GST.

What is a gift?

A gift is a sum of money or an asset (property or goods) voluntarily transferred to you or your organisation for its use and benefit. A gift can be given conditionally in the sense that it can be given for a specific purpose.

To receive a tax deduction for the gift, the provider cannot expect any tangible benefit in return, and the organisation must be endorsed as a deductible gift recipient (DGR). *More information is on page 9 and this ATO weblink:*

<http://www.ato.gov.au/nonprofit/content.asp?doc=/content/34496.htm&page=2&H2>

A bequest is a special type of gift, that is transferred to you or your organisation on the owner's death, as specified in the owner's will. It can be given unconditionally or with conditions, which are legally binding – *refer to page 24*.

Definitions

Artsupport Australia

An initiative of the Australia Council to the Arts to grow cultural philanthropy.

http://www.australiacouncil.gov.au/philanthropy/artsupport_australia

Australia Business Arts Foundation (AbaF)

AbaF is a national organisation which promotes private sector support for the arts, and administers the Australia Cultural Fund.

<http://www.abaf.org.au>

Australian Business Register (ABR)

The register provides access to publically available information provided by businesses when they register for an Australian Business Number (ABN) i.e. GST and DGR status.

<http://www.abr.gov.au>

Australia Cultural Fund (ACF)

The Australia Cultural Fund enables eligible individual artists and arts organisations without deductible gift recipient (DGR) status to receive tax-deductible donations.

<http://www.abaf.org.au/index.php?sectionID=1354&pageID=1391>

Australian Taxation Office (ATO)

The Australian Taxation Office is the Australian Government's principal revenue collecting agency.

<http://www.ato.gov.au/corporate/content.asp?doc=/content/00166129.htm&page=2&H2=&pc=&mnu=46398&mf p=001&st=&cy=>

Bequest

A donation of money or an asset upon the owner's death as specified in the owner's will.

Charity

A charity is an institution or fund established for a charitable purpose – which encompasses many not-for-profit arts and cultural organisations.

<http://www.ato.gov.au/nonprofit/content.asp?doc=/content/24483.htm&page=2&H2>

Deductible gift recipient (DGR) endorsement

DGR endorsement is provided to eligible not-for-profit organisations by the ATO. Being endorsed as a DGR enables the organisation to receive income tax deductible gifts. Most trusts and foundations require their grant recipients to be endorsed as a DGR.

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

A Federal government department that deals with cultural affairs, including arts tax incentive programs including the Cultural Gifts Program and the Register of Cultural Organisations.

http://www.arts.gov.au/tax_incentives

Fringe Benefits Tax (FBT)

FBT is a tax payable by employers who provide fringe, or non-cash benefits to their employees. An example of a fringe benefit on which FBT may be payable is when an employer allows an employee to use a work car for private purposes.

Fundraising

Fundraising is the act of soliciting donations from the public for general or specific purposes and is regulated by legislation in each state and territory of Australia. Further, it may be necessary to obtain a permit from local government authorities to conduct fundraising in their area.

Gift

A gift is the term used in tax law to refer to a sum of money or an asset (property or goods) voluntarily transferred to you or your organisation for its use and benefit.

<http://www.ato.gov.au/nonprofit/content.asp?doc=/content/34496.htm&page=2&H2>

Gift account

An organisation is only required to have a gift account (or gift fund) when it has established a public fund or funds as part of its DGR process. The gift account requirement helps ensure that DGRs use gifts only for their principal purpose.

<http://www.ato.gov.au/nonprofit/content.asp?doc=/content/34496.htm&page=2&H2>

Goods and services tax (GST)

GST is a broad-based tax of 10 percent on the supply of most goods and services consumed in Australia, where the supply is a taxable supply and the importation of most goods into Australia. See page 25 for *GST treatment of a fundraising dinner*.

Grant

A payment of financial assistance from one organisation (usually a government entity or a grant making foundation) to another by means of direct contributions, subsidies, co-payments or similar.

ATO ruling – Grants of financial assistance <http://law.ato.gov.au/pdf/gstr2000-011c1.pdf>

Input taxed

For GST purposes, a sale is input taxed where no GST is included in the price and no credit is claimed by the supplier in respect of GST paid for goods and services to enable the provision of the supply. An example of a sale that may be treated as input taxed is where an organisation that is endorsed as a DGR elects to treat an eligible fundraising event as input taxed.

Not-for-profit

An organisation is not-for-profit if it is prohibited from distributing profits or gains to its individual members either during operation or on winding up.

<http://www.ato.gov.au/nonprofit/content.asp?doc=/content/33732.htm>

Philanthropy

According to Philanthropy Australia, philanthropy is ‘the planned and structured giving of money, time, information, goods and services, voice and influence to improve the wellbeing of humanity and the community’.

<http://www.philanthropy.org.au/>

Private Ancillary Funds (PAFs)

A Private Ancillary Fund is a charitable trust that is limited to receiving contributions from a private group (such as a family) rather than the public and making distributions to DGRs (other than Item 2 DGRs, which generally includes other PAFs and public ancillary funds). Until October 2009 PAFs were known as Prescribed Private Funds (PPFs).

<http://www.ato.gov.au/nonprofit/content.asp?doc=/content/00215720.htm&page=3>

Public Fund

A fund (a trust or foundation in legal terms) that operates on a not-for-profit basis and is designed to attract public contributions. ROCO requires the recipient of gifts or deductible contributions to be a public fund. The ATO has outlined their requirements for public funds in Taxation Ruling TR 95/27. An organisation may have a number of public funds in order to fundraise for different tax deductible purposes. In the accounting process, these public funds can be serviced by one gift account to keep them separate from the operational accounts. See also gift account.

<http://www.ato.gov.au/nonprofit/content.asp?doc=/content/20926.htm>

ROCO (Register of Cultural Organisations)

Cultural organisations listed on ROCO have a public fund which is endorsed as a DGR and is therefore eligible to receive tax deductible donations. Listing on the ROCO is suitable only for **non-collecting** arts/cultural bodies (such as art gallery societies). **Collecting** cultural bodies (such as art galleries) are approved under other general DGR categories.

http://www.arts.gov.au/tax_incentives/register_of_cultural_organisations

Sponsorship

Sponsorship is a business agreement between an organisation and a sponsoring business with the aim of mutual benefit—material and organisational. Sponsors can provide cash, advertising, signage in exchange for tickets to performances, new audiences, markets or naming rights etc. Sponsoring businesses can claim a tax deduction for legitimate business expenses.

<http://www.ato.gov.au/nonprofit/content.asp?doc=/content/00100253.htm>

Tax Concession Charity (TCC)

Not-for-profit organisations that exist for purposes that fall within the legal definition of charity can apply to the ATO to receive endorsement as a tax concession charity (TCC). Being endorsed as a TCC provides an organisation with exemption from income tax and the lodgement of income tax returns as well as other concessions in relation to Fringe Benefits Tax and GST. A TCC was formerly known as the Income Tax Exempt Charity (ITEC). Many philanthropic foundations and trusts require their grant recipients to be endorsed as a TCC.

<http://www.ato.gov.au/nonprofit/content.asp?doc=/content/13267.htm>

Taxable Supply

For GST purposes, a taxable supply is generally a supply of goods or services made by an organisation in Australia that is registered (or required to be registered) for GST where the supply is not input taxed or GST-free under the GST legislation.

Will

A legal document in which an owner specifies how to deal with or allocate their assets after their death.

Workplace Giving

Workplace giving is a mechanism for salaried employees to make regular pre-tax donations to DGR organisations. It is also referred to as pre-tax payroll deductions or giving.

<http://www.ato.gov.au/content/downloads/n9185-06-04.pdf>