

2 Organisations

While anyone can give you a gift, your donor can only get a tax deduction for it if your organisation or a fund that it operates is endorsed as a **deductible gift recipient** (DGR).

Many philanthropic foundations and trusts can only make grants to organisations with DGR status as well as **tax concession charity** (TCC) status.

If you do not yet have these endorsements or are not eligible for them, you will have to look into whether you may be eligible for assistance from other bodies.

Having endorsement as both a DGR and a TCC organisation will maximise your access to philanthropic income.

Should we become a deductible gift recipient (DGR)?

Before your organisation undertakes the process of applying for DGR endorsement, it is crucial to be aware of the long-term implications of having it.

Having DGR endorsement comes with legal and organisational obligations.

You also need to be aware that, if your fundraising strategies change, and you no longer need to provide tax deductions to your donors for their gifts, you can't simply cancel your DGR endorsement. Your organisation - or its gift fund (depending on which has the endorsement) - will have to distribute all its assets to another organisation or fund with similar objectives. This means your organisation or its gift fund will effectively cease to exist as it will not be able to continue to hold its assets.

This would also apply if the DGR was revoked by the ATO, which can occur if the organisation is no longer meeting its obligations.

This may be a reason why an organisation may choose not to apply for DGR endorsement. Another reason may be, if your funding comes predominantly from government grants or bequests, you do not need to be set up to provide tax deductions. Some organisations successfully attract gifts without DGR endorsement - the Starving Kids Records case study on page 27 provides an account of this.

To help you decide, it is advisable to get legal advice - from a lawyer or agencies that specialise in the not-for-profit sector - for your specific needs.

If an organisation does not have DGR status

Organisations that do not yet have, want, or cannot have DGR status, may find the Australia Cultural Fund useful. See page 13.

Which DGR category should I apply for?

There are a number of different categories of DGR endorsement and your organisation may be entitled for endorsement under more than one. You should apply under the category that is most appropriate for what you want to achieve.

Some other classifications that may be relevant for your organisation include:

- public library, museum or gallery, and
- scholarship fund.

How can an organisation get deductible gift recipient (DGR) status?

An eligible organisation may obtain DGR endorsement by application to the Australian Tax Office (ATO). The ATO can give DGR endorsement to the organisation as a whole, or to a fund, authority or institution that the organisation operates. In the second case, only donations to the fund, authority or institution are tax deductible.

You have to formally apply for DGR, but first check that you are [eligible](#).

<http://www.ato.gov.au/nonprofit/content.asp?doc=/content/34490.htm&page=2&H2>

Gift Account

In order to endorse a separate fund of an organisation as the DGR entity, organisations must maintain a dedicated gift account (or gift fund). This does not apply however where the organisation is endorsed as a DGR as a whole.

The gift account requirement helps ensure that DGRs use gifts only for their principal purpose. This involves special conditions, including holding gifts separately from other property until they are used.

General DGR

Organisations responsible for cultural collections (public art galleries, museums, libraries and archives) apply directly to the ATO for general DGR endorsement. Once endorsed, they can issue tax deductible receipts for gifts of money and property. They may also be able to offer donors a tax deduction for gifts of cultural material under the Cultural Gifts Program.

See http://www.ato.gov.au/nonprofit/content.asp?doc=/content/34490.htm&page=32#P2034_138217

Register of Cultural Organisations

Non-collecting cultural organisations may obtain DGR endorsement by application for listing on the Register for Cultural Organisations (ROCO). ROCO is administered by the Department of Environment, Water, Heritage and the Arts (DEWHA), who forward the application to the ATO for final approval. This option requires you to have a public fund established specifically for any donations you receive.

See http://www.ato.gov.au/nonprofit/content.asp?doc=/content/34490.htm&page=31#P1998_135479

DGR Item 1 and Item 2

Deductible Gift Recipient endorsement will also identify you as either a DGR 'Item 1' or 'Item 2' entity.

Many philanthropic foundations and trusts can only make grants to organisations with DGR Item 1 status – those that actively undertake charitable and other programs.

'Item 2' entities are grant making entities that only collect and distribute funds e.g. Private Ancillary Funds, public ancillary funds. 'Item 2' DGRs are not entitled to give to each other.

The Australian Business Register provides information on whether an entity is an 'Item 1' or 'Item 2'.

DGR Special Listing

A handful of cultural organisations that fall outside the general DGR categories still have DGR through special listing in the Income Tax Assessment Act e.g. the Australian Fund and the National Trust organisations.

Special Listing is a last resort option for approval as a DGR where none of the categories of endorsement are suitable for your organisation and requires Treasury to agree that your organisation is one that should be entitled to receive tax deductible gifts.

DGR Case Study: Feral Arts

Feral Arts is Brisbane-based community cultural development organisation specialising in digital media. They were previously an incorporated association in Queensland without DGR status, which meant that it was not set up to do business and fundraising easily in other states and territories.

With their growth nationally and internationally, Feral Arts re-structured as a not-for-profit company limited by guarantee under a new constitution, and applied for DGR status. Within months of receiving DGR endorsement for its fund and listing on the ROCO, Feral Arts secured a major three-year philanthropic grant that has leveraged further support for their operations and sustainability.

<http://www.feralarts.com.au/>

What do we have to do once we have DGR?

DGR endorsement comes with a number of obligations. Accurate and regular financial reporting and self-review for the ongoing eligibility of DGR are fundamental. If you do not comply with these obligations, your DGR status may be revoked.

Self review

Organisations that are endorsed as DGRs and TCCs are required to regularly review their purposes, activities and transactions to ensure that they are still entitled to endorsement, and in the event that they are not, notify the ATO that they are no longer entitled to endorsement.

Note: If an organisation had DGR endorsement before it changed legal status from an incorporated association to a company limited by guarantee, its endorsements should continue. This presumes it is taken to be the same entity, and the organisation maintains the same core objectives. In any case, the ATO would need to be advised of any changes.

Record keeping

Organisations with DGR status have a legal requirement to keep separate records and explain transactions associated with their DGR-related activities. Where an organisation has a number of funds, records must clearly separate donations made to each fund, and must show that the gifts have been used for the fund's principal purpose.

Reporting

Arts and cultural organisations that are on the Register of Cultural Organisations are required to complete a report every six months, documenting the donations and grants from philanthropic trusts and foundations.

http://www.arts.gov.au/_data/assets/pdf_file/0005/69791/statistical-return-tax-deductible-donations-7dec2007.pdf

Organisations and funds that are endorsed as DGRs are expected to be audited annually.

ATO recordkeeping for small business guide

http://www.ato.gov.au/content/downloads/BUS76494n3029_06_08.pdf

A standard chart of accounts for non-profit organisations developed by QUT

<https://wiki.qut.edu.au/display/CPNS/Standard+Chart+of+Accounts>

ATO guide to recordkeeping basics for non-profit organizations

<http://www.ato.gov.au/nonprofit/content.asp?doc=/content/33031.htm>

Issuing receipts

If you have DGR, you must issue receipts for any tax deductible gifts of \$2 or more (*except for workplace giving donations - receipts for which are provided by the donor's employer*).

Receipts must state:

- the name of the fund or organisation receiving the donation
- the DGR's ABN
- it is for a gift.

It is also recommended you include:

- the amount donated and method of payment
- description of the gift/s or property
- date the gift was made
- donor name and contact details.

If a donor has elected to spread the tax deduction for a gift over a period of up to five years, the elections and any variations to elections should be noted on the receipt.

The receipt should be issued to the donor within three working days.

You must comply with the national privacy laws regarding donor information.

What can a donor give?

For a gift to qualify for a tax deduction to the donor, the gift must be one of:

- \$2 or more in cash
- shares – Australian Stock Exchange (ASX) listed shares valued at \$5,000 or less, and acquired at least 12 months before the gift was made
- property purchased during the 12 months before the gift was made
- property valued by the Tax Office at more than \$5,000
- trading stock of a business – disposed of outside the ordinary course of the donor's business
- cultural material – property under the Cultural Gifts Program:
http://www.arts.gov.au/tax_incentives/cgp
- heritage gift – places listed in the National Heritage List, the Commonwealth Heritage List or the Register of the National Estate. <http://www.environment.gov.au/heritage/ahdb/>

What can a donor expect?

No material benefit

To qualify for a tax deduction to the donor, the gift must be free of any obligation to you, and you cannot provide the donor with any material benefit.

The ATO considers the following to be material benefits, which could jeopardise a tax deduction:

- Free or discounted tickets
- Free meals, drinks and programs
- Free expertise
- Discounts on purchases and facilities

The following are **not** considered material benefits by the ATO:

- Public acknowledgement e.g. on donor lists, annual reports
- Meeting the cast and management, attending rehearsals or similar
- A personalised ticket booking service
- Free newsletters
- Invitations to special events for which the donor pays to attend
- Naming rights on capital projects

Can a gift be subject to conditions?

A donor may make a gift for a specified purpose or use. If you accept such a gift you must fulfill the purpose or return the gift.

Do we have to accept a donation?

Being offered a donation may appear to be a benefit, but sometimes it may be onerous or may present a risk to your organisation (e.g. from a non-ethical or illegal business). There is no legal obligation for you to accept a donation or bequest, and you can refuse any donation at your discretion without giving any reason.

DGR Resources

Giftpack: Guide to deductible gift recipients and donors

ATO's DGR application pack contains the form, instructions, and the publication GiftPack.

<http://www.ato.gov.au/nonprofit/content.asp?doc=/content/62774.htm>

DGR Fact sheets

ATO's frequently asked questions

<http://www.ato.gov.au/nonprofit/content.asp?doc=/content/62774.htm&page=2&H2>

ATO's frequently asked questions about DGR - endorsement

<http://www.ato.gov.au/nonprofit/content.asp?doc=/content/62774.htm&page=3&H3>

What are the requirements for a gift to be considered a tax deductible gift?

<http://www.ato.gov.au/nonprofit/content.asp?doc=/content/24938.htm&page=3&H3>

DGRs listed by name in the tax law

<http://www.ato.gov.au/nonprofit/content.asp?doc=/content/31654.htm>

ROCO Resources

Fact sheets, list of ROCO organisations, and guide to applying

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

ROCO guide to tax deductible donations to cultural organisations

http://www.arts.gov.au/_data/assets/pdf_file/0014/81023/roco_guide.pdf

ATO's resources on ROCO

Information on public funds, and tax requirements of organisations registered with ROCO

<http://www.ato.gov.au/nonprofit/content.asp?doc=/Content/30661.htm&page=9&H9>

Statistical return of donations form for ROCO

http://www.arts.gov.au/_data/assets/pdf_file/0005/69791/Statistical_Return_of_Donations_ROCO_FOR_M_071207.pdf

Australia Cultural Fund: a service for arts organisations without DGR

If your organisation does not have DGR status, the Australia Business Arts Foundation (AbaF) may be able to assist through its Australia Cultural Fund (ACF). AbaF is able to use its DGR status to receive donations (from individuals) and grants (from foundations that do not require TCC) and pass them on to arts organisations which don't have DGR and which meet AbaF's eligibility guidelines. AbaF provides a tax deductible receipt to individual donors.

AbaF has granted more than \$6 million of tax deductible donations to the arts since 2001.

Registering with the ACF

Arts organisations planning to register must meet eligibility criteria and provide a summary of the project, its budget and timeline.

<http://www.abaf.org.au/index.php?sectionID=1354&pageID=4935>

A simple template for key income and expenditure items is provided.

http://www.abaf.org.au/files/Giving_and_donation_docs/Template_budget.pdf

AbaF holds regular workshops on the ACF and its potential for your organisation.

<http://www.abaf.org.au/index.php?pageID=3053&action=events§ionID=1352>

How does it work?

Donors (individuals) can make tax deductible donations to the ACF (as long as they are not related to the recipient) and foundations (that do not require TCC) can make grant to AbaF and express a preference for the arts organisation or group to which they would like their donation granted.

The AbaF board takes into consideration the preferences of the donors when making its grants. AbaF only accepts cash gifts.

Case Study: The Australian Book Review

Australian Book Review (ABR) is Australia's oldest literary review.

Mentored by Artsupport Australia since 2006, ABR developed its skills and programs to secure new donors. Being a very small organisation, the role of fundraising was taken up by the existing staff. A tiered patrons' scheme was launched in 2007 before they were endorsed as a DGR (Item 1) and they successfully attracted donations using the ACF. In mid 2010 they employed their first philanthropy manager on a part-time basis, and relaunched their giving programs, with a focus on major gifts.

Since it received DGR endorsement, ABR reports that it is:

- attracting smaller, more frequent donations throughout the year
- providing donors with more certainty, as tax deductibility on donations is immediate, and donors can confirm DGR status on the Australian Business Register website. Donors can also express a preference for which projects they wish to support.
- accessing new grant sources from philanthropic trusts and foundations
- being in more control in the timing of any planned giving programs.

www.australianbookreview.com.au

The why and how of Tax Concession Charity endorsement

Many philanthropic foundations and trusts require their grant recipients to be endorsed as a tax concession charity (TCC). TCC determines that for tax purposes, an organisation is a charity.

Your organisation does not need to be a TCC to receive donations from individuals.

If an organisation is endorsed as a TCC, it is not required to pay income tax or lodge an income tax return, and it also gains access to concessions such as to Fringe Benefits Tax and GST.

<http://www.ato.gov.au/nonprofit/content.asp?doc=/content/00228362.htm&page=2>

Are you eligible for TCC?

To be eligible for endorsement as a TCC you must be an entity (i.e. an institution, incorporated association, unincorporated group, company, trust fund etc.) that exists for public benefit and whose sole purpose is charitable (in the legal sense).

This means that your organisation falls within one of the 'heads' of charity, being:

- relief of poverty
- advancement of education
- advancement of religion or
- other purposes beneficial to the community.

For arts and cultural organisations, this is typically satisfied by benefit to the community or the advancement of education. You are not a charity if you exist primarily for commercial or private benefit, for the provision of services to members, or solely for political, recreational or social activities.

How can you get endorsement as a TCC?

To attain TCC endorsement, organisations need to apply to the ATO.

Note: TCC does not allow you to receive tax deductible gifts. For this, you will need endorsement as a deductible gift recipient. *Refer to page 9.*

TCC concessions available

TCCs may access a range of other tax concessions, or exemptions such as:

- Goods and Services Tax (GST) concessions
- Fringe benefits tax (FBT) rebate
- Refund of franking credits on dividends from investments

TCCs may also be entitled to access concessions and exemptions on state/territory duties and taxes that are administered by the relevant state or territory revenue office including:

- Stamp duty
- Payroll tax
- Land tax

Note: Being a TCC for ATO purposes is **not** the same as being a charity for the state and territory revenue offices. Each revenue office will have different procedures, which may include registering your charitable status. Contact the revenue office in your state or territory for more information.

State	Revenue office
ACT	ACT Revenue Office www.revenue.act.gov.au
NSW	Office of State Revenue NSW Treasury www.osr.nsw.gov.au
NT	Territory Revenue Management www.revenue.nt.gov.au
Queensland	Office of State Revenue www.osr.qld.gov.au
South Australia	RevenueSA www.revenuesa.sa.gov.au
Tasmania	State Revenue Office www.sro.tas.gov.au
Victoria	State Revenue Office Victoria www.sro.vic.gov.au
Western Australia	Office of State Revenue www.osr.wa.gov.au

GST

GST is charged when there are taxable supplies.

Not-for-profit organisations must register for GST if their GST turnover is \$150,000 or more.

A donation to any not-for-profit organisation is not subject to GST as there is no taxable supply.

However, endorsement of your organisation as a DGR or TCC does not mean that you are not required to charge GST in relation to the supply of goods and services. Consequently, GST may apply on certain philanthropic grants seen as payment for a supply of goods, or services (e.g. conditional logo placement). It can also apply to goods or services provided by a TCC in return for payment. Where both the grantor and the grantee are registered for GST and the grantee provides a tax invoice, the grantor will be able to claim back the GST paid on the grant.

You should obtain professional advice in relation to the GST obligations of your organisation.

What if your organisation doesn't qualify as a Tax Concession Charity?

Organisations that are not endorsed as a TCC will be required to pay income tax on their net taxable income and should seek specific advice on income tax matters.

Tax Concession Charity and Income Tax Resources

ATO guide to TCC endorsement and its effect on tax entitlements and obligations

<http://www.ato.gov.au/nonprofit/content.asp?doc=/content/34308.htm&page=12&H12>

ATO income tax guide for not-for-profit organisations

http://www.ato.gov.au/content/downloads/Nat7967_3_2007.pdf

Is your organisation a charity?

<http://www.ato.gov.au/nonprofit/content.asp?doc=/content/34267.htm>

Application form for endorsement as a tax concession charity (TCC)

Note: You may need advice from a lawyer or accountant to help you apply for TCC

<http://www.ato.gov.au/nonprofit/content.asp?doc=/content/46645.htm>

The endorsement process - how to access TCC concessions?

FAQs about how your organisation will find out if its application has been successful

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

Categories of not-for-profit organisations exempt from income tax and definitions and conditions for each type

<http://www.ato.gov.au/nonprofit/content.asp?doc=/content/34269.htm&page=3&H3>

GST and Grants – ATO guidance and rulings on grants that attract GST

<http://www.ato.gov.au/nonprofit/content.asp?doc=/content/00171997.htm>