

5 Philanthropic fundraising

Fundraising

Fundraising is the activity of seeking donations from the public for your, or your organisation's general or specific projects. It includes public collections, fundraising events and raffles.

State and territory fundraising licences and requirements

Each state and territory has its own legal requirements for fundraising activities with the exception of Northern Territory. You may need to notify state/territory authorities, or receive permits/approvals or licences from these authorities. Further, it may be necessary to obtain permits from the relevant local government authorities for conducting fundraising activities in their area. The complete list of local government authorities is available at www.alga.asn.au/links/obc.php

The conduct of raffles and lotteries is regulated by legislation in each state and territory and may be relevant even for a charitable entity.

| State | Authorities |
|------------------------|--|
| ACT | ACT Gambling & Racing Commission http://www.gamblingandracing.act.gov.au Office of Regulatory Services, ACT Department of Justice and Community Safety www.ors.act.gov.au |
| NSW | NSW Office of Liquor, Gaming and Racing, Department of the Arts, Sport and Recreation www.olgr.nsw.gov.au |
| NT | Licensing and Regulation Division, NT Department of Justice www.nt.gov.au/justice/licenreg |
| Queensland | Department of Justice and Attorney-General, Queensland www.fairtrading.qld.gov.au |
| South Australia | Office of the Liquor and Gambling Commissioner www.olgc.sa.gov.au |

| | |
|--------------------------|--|
| Tasmania | <p>Liquor and Gaming Branch, representing the Tasmanian Gaming Commission www.treasury.tas.gov.au</p> <p>Consumer Affairs and Fair Trading www.consumer.tas.gov.au/business_affairs/charities</p> |
| Victoria | <p>Consumer Affairs Victoria, Department of Justice www.consumer.vic.gov.au</p> <p>Victorian Commission for Gambling Regulation, Department of Justice www.vcgr.vic.gov.au</p> |
| Western Australia | <p>Department of Consumer and Employment Protection www.docep.wa.gov.au/charities</p> <p>Department of Racing, Gaming and Liquor www.rgl.wa.gov.au</p> <p>Department of Racing, Gaming and Liquor www.rgl.wa.gov.au</p> |

Minor Benefit Rule

Some fundraising events seek donations as part of an overall payment. The ATO's minor benefit rule associated with fundraising dinners and events enables individuals to claim a tax deduction for part of the cost of the ticket. The value of the minor benefit allowed is 20 per cent of the gift and cannot exceed \$150.

For example, a \$200 ticket to a fundraising dinner, the benefit (i.e. the dinner) has a market value of \$35 (less than 20 percent of the gift). The participant would be entitled to a tax deduction on the balance - \$165.

General fundraising

Regular giving, major gift and capital campaign fundraising can bring in substantial donations. It is important to apply tax awareness in all these activities.

Subscription add-ons

Annual subscription materials (online, by mail or in published brochures) present an opportunity for add-on donations. GST will generally apply to the subscription, but not to the donation. This should be clear in the promotional material and on the receipt provided to subscribers.

FIA offers best practice guidelines in fundraising

http://www.fia.org.au/AM/Template.cfm?Section=Principles_and_Standards_of_Fundraising_Practice&Template=/CM/HTMLDisplay.cfm&ContentID=8547

http://www.fia.org.au/Content/NavigationMenu/EventFlyers/Standard_of_Direct_Mail_Fundraising_Practice.pdf

Workplace giving

Workplace giving (also known as payroll deductions) is a simple way for salaried employees to make regular pre-tax donations to a nominated DGR organisation. The receiving organisation receives a lump sum - usually monthly - made up of the collective donations from the employer and is not required to issue receipts to the individual donors.

Workplace giving is an effective strategy with low administration and costs.

ATO's how to set up a workplace giving program
<http://www.ato.gov.au/content/downloads/n9185-06-04.pdf>

FIA workplace giving best practice guidelines
http://www.fia.org.au/content/navigationmenu/eventflyers/standard_of_workplace_giving_fundraising_practice.pdf

Bequests

A bequest is an amount of money or an asset that is given to a recipient upon the owner's death as specified in the owner's will. The bequest can be given 'freely', which means that the receiving organisation may use it as it chooses, or it can come with conditions, which are legally binding. Where conditions are more onerous than beneficial for the organisation, the organisation may not choose to accept the bequest.

The laws applicable to claims on wills are different in each state and territory. These laws will determine an organisation's rights and obligations when benefactors have bequeathed money or property. State and territory authorities determine whether you are able to receive a copy of the will, administer the application to receive a will once probate is granted and the will is made a public document, and also whether you can obtain a copy of a will before probate is granted.

There are benefits of obtaining a copy of the probate, as often this includes a copy of the will and inventory of assets and liabilities. Where receiving a bequest, a not-for-profit organisation can approximate how long it will take to receive payment of its bequest based on the inventory information. In some states, the estate is required to pay you interest on the bequest if it is not received by a certain period from the date of death.

Unless an organisation is a tax concession charity (see page 14) it will be assessed for tax on bequest income. Where the bequest is a gift (i.e. it is a voluntary payment where no material benefit is provided to the payer) then no GST applies. An organisation may be seen as providing a material benefit to the payer when complying with conditions associated with the bequest, and GST may apply in these cases.

In addition, often donors may be uncertain as to the tax implications of the bequest, including capital gains tax. If pro bono legal or tax advice does not alleviate this, an option is to suggest that they donate in their lifetime.

It is important to be aware that family provision rules may apply to vary the terms of a will to ensure that dependents and family of the deceased are sufficiently provided for under the will. A consequence of this is that despite being named in a will, the gift may be reduced or removed altogether where these rules apply.

QUT: Keeping Giving Going: Charitable Bequests and Australians
<https://wiki.qut.edu.au/display/CPNS/Keeping+Giving+Going>

FIA best practice bequest fundraising guidelines
http://www.fia.org.au/Content/NavigationMenu/EventFlyers/Standard_of_Bequest_Fundraising_Practice.pdf

Dinners

Fundraising events may encourage payments which may also extend minor benefits to the donor. Donors may be able to claim a deduction providing the payment is made at an eligible fundraising event held by a DGR organisation and that it is more than \$150 cash payment. However, the GST inclusive value of benefit received by the donor must not exceed 20 percent of the value of the contribution, or \$150.

The tax deduction available to the donor is the amount of the payment in excess of the benefit received.

Example

Andrew buys a ticket for \$400 to a gala performance organised by a DGR. The gala performance has a ticket price on the open market of \$100. Therefore Andrew cannot claim **any** deduction as the market value of the performance (the benefit he receives in return for his payment of \$400) exceeds 20 per cent of the value of his payment (20 percent x \$400 = \$80).

Determining value of the contribution

Where minor benefits have been extended to donors, the onus is on the DGR to value the minor benefit, which is the market value at that point in time.

Case Study: National Institute of Dramatic Art – Annual Gala Event

The National Institute of Dramatic Art (NIDA) trains gifted young people at tertiary level in preparation for professional careers in theatre, film and TV.

NIDA has a separate legal entity, the NIDA Foundation Trust which has a separate board of directors to NIDA, and is endorsed as both an item 2 deductible gift recipient (DGR) and tax concession charity (TCC). The Trust is a repository for income raised through corporate partnerships, private giving, foundations and bequests for activities and events that fall outside NIDA's operational budget. These include:

- scholarships for financially disadvantaged students
- community access and outreach programs
- equipment and resources for the school
- play commissions and new play productions
- archiving and presenting its cultural material

Contributions to the Trust can be made by donation to the specific programs above or as a general unencumbered donation to be used by NIDA for priorities deemed by the directors of the Trust.

While being a separate legal entity, the Trust is fundamentally an instrument for NIDA's fundraising activities and brings added networks and the expertise of its directors. The Trust cannot spend the money it raises itself, but exists to make distributions to NIDA to support the strategic priorities of the flagship company.

Profits from NIDA's annual gala support NIDA's scholarship program, and the school's technology and equipment upgrade.

NIDA ensures that all tax and legal requirements are satisfied each year before undertaking the gala event. A detailed budgeting process balances the actual costs of the event with a ticket price that guests are willing to pay, of which a proportion is tax deductible. This is done with reference to the appropriate ATO authorities and is reviewed every year.

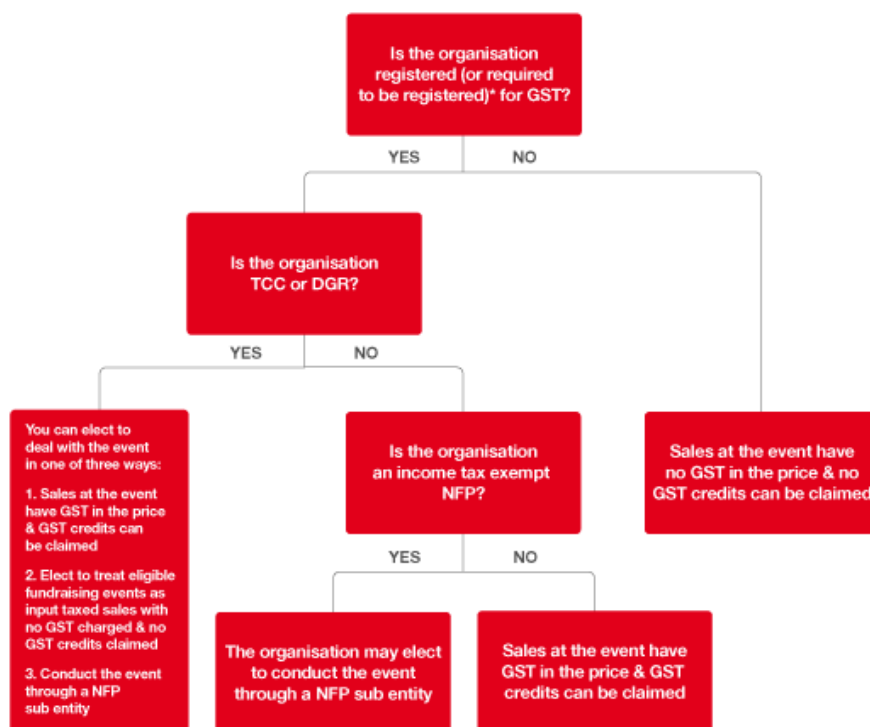
While very labour intensive, NIDA's annual gala is not only a critical means of promoting NIDA's important work, but also helps to identify potential new supporters.

www.nida.com.au

GST treatment of a fundraising dinner or similar event

A GST concession exists when a DGR organisation or charity treats certain fundraising events as input taxed. This means that the organisation will not be entitled to claim GST credits for any acquisitions in relation to the event and it will not be required to charge GST on the sales it makes. If an organisation holds more than 15 of the same events in a financial year, the GST concession will not apply.

The flowchart below illustrates the different GST treatments of a fundraising dinner or similar event.



* an entity is required to be registered for GST where their annual turnover is over a certain threshold. A higher threshold applies for not-for-profit entities.

We recommend obtaining professional advice in relation to the GST treatment of the fundraising event or events that you intend to conduct. It is good to ensure that you are treating the event appropriately for GST purposes as your supporters may be able to claim increased tax deductions, which in turn may encourage their financial support of your organisation.

Auctions

Payments made at auctions organised by a DGR organisation may qualify as tax deductible donations. The onus is often on the DGR to determine the value of auction items sold, as these are considered minor benefits extended to the donors.

Case study: Starving Kids Records tribute nights

Starving Kids Records is a Brisbane-based social enterprise that assists developing artists. In its short years of operation, Starving Kids has helped a number of young bands get a start in a tough industry, with the ultimate goal to help young musicians move forward to successful careers.

Fundraising events are a dynamic aspect of this enterprise, where financial supporters can enjoy the entertainment that Starving Kids has nurtured.

Until recently, Starving Kids did not have DGR status, which was generally seen as a disadvantage, as the organisation could not provide donors with a tax deduction. In their experience however, being without DGR reduced the legislative requirements. So, their events were considered purely commercial, with no fundraising restrictions i.e. no fundraising licences to seek, forms to complete, limitations on the event, or the prizes that could be offered.

Starving Kids did not find any resistance to selling tickets without DGR status. Most supporters were proud to be pay for the event, which ultimately supported the organisation and its aims - so in their case, a tax deduction is not what motivated donations.

While not having DGR status was not a hindrance for fundraising events, some philanthropists will only deal with DGR organisations. Music Industry Community Services Limited, the operator of Starving Kids, has since applied for DGR status both as an institution on the RCO for the MICS Cultural Fund and for a scholarship fund that it operates, The Ken Wood Scholarship. This scholarship fund is a public fund with specific legal requirements to be met. It will be an exciting development in Starving Kids' history to be registered as a non-state school with a music focus that offers scholarships via the scholarship fund.

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

ATO fundraising guide explains the tax treatment and concessions available

<http://www.ato.gov.au/content/downloads/NPO56536.pdf>

Tax deductible contributions - fundraising. Summarises the requirements for tax deductibility of contributions made at a fundraising event.

<http://www.ato.gov.au/nonprofit/content.asp?doc=/content/56543.htm&page=2&H2>

Gifts and fundraising – frequently asked questions

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

ATO factsheet: GST and fundraising dinners or similar functions

<http://www.ato.gov.au/content/downloads/bus24289nat7327042008.pdf>

GST tips for non-profit organisations

<http://www.ato.gov.au/nonprofit/content.asp?doc=/content/00161180.htm>

State and territory government requirements – fundraising. Provides a summary of regulated fundraising activities, and contact details for them

<http://www.ato.gov.au/nonprofit/content.asp?doc=/content/56555.htm>

Scholarships/bursaries/prizes

A scholarship fund is a public fund established by a not-for-profit organisation for charitable purposes solely to provide money for scholarships, bursaries or prizes.

Scholarships, bursaries or prizes must:

- be awarded only to Australian citizens or permanent residents
- be open to individuals or groups in a region of at least 200,000 people, and
- be awarded on merit or reasons of equity for the promotion of recipients' education in an approved course.

A scholarship fund must meet the public fund requirements which include that the fund must have its own written set of rules and objects. All organisations that are endorsed, or seeking to be endorsed, by the Australian Tax Office as DGRs in respect of a fund that they operate, must maintain a 'gift fund'. If your organisation is not maintaining a gift fund, it cannot be endorsed as a DGR. These requirements do not apply where the organisation is endorsed as a DGR in respect of the organisation as a whole. *Refer to page 9.*

The gift fund 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, and having rules to transfer unused gifts to other DGRs on winding up or cessation of endorsement.

ATO guide to eligible scholarships, bursaries and prizes

http://www.ato.gov.au/nonprofit/content.asp?doc=/content/34490.htm&page=21#P1109_49791

The DGR endorsement process for scholarship funds

<http://www.ato.gov.au/nonprofit/content.asp?doc=/content/77052.htm>

ATO information regarding public funds and income tax: Tax Ruling 95/27

<http://law.ato.gov.au/atolaw/view.htm?docid=TXR/TR9527/NAT/ATO/00001>

ATO information regarding gift funds

<http://www.ato.gov.au/nonprofit/content.asp?doc=/content/32068.htm>

Gift fund requirements for deductible gift recipients

<http://www.ato.gov.au/nonprofit/content.asp?doc=/content/13269.htm>

ATO Giftpack section on scholarship fund:

http://www.ato.gov.au/nonprofit/content.asp?doc=/content/34490.htm&page=21#P1109_49791

Case study - GONDWANA CHOIRS bursaries

Gondwana Choirs has an established bursary program specifically to assist children who are either financially disadvantaged or geographically isolated. Approximately half of the choristers in the Gondwana national choirs are from regional or remote Australia. They face higher travel costs to attend programs, and many are also from drought affected communities. The support of a small number of donors in 2008 provided six full and eight partial bursaries for participation in the Gondwana National Choral School and seven bursaries for the Sydney Children's Choir. In 2009 this grew to six full and twenty partial bursaries for Gondwana National Choral School, and seven bursaries for the Sydney Children's Choir.

Bursaries are less difficult to set up than scholarship funds, but also require a public fund in order to achieve DGR status for the organisation. Bursaries are a mechanism that enables the arts organisation to provide financial assistance where it is needed.

Commencing in 2006, the bursary program started with much support from alumni and other existing supporters, and expanded to individuals, trusts & foundations. Set-up and maintenance of the bursary revolves around ensuring that applications meet the bursary's criteria.

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

This page provides details about the tax treatment of fundraising activities.

ATO Fundraising and Tax Guide

<http://www.ato.gov.au/nonprofit/content.asp?doc=/content/56536.htm&pc=001/004/013/007/003&mnu=4945&mfp=001/004&st=&cy=1>

Fundraising laws in other states and territories

<http://www.ato.gov.au/nonprofit/content.asp?doc=/content/56555.htm>

The Fundraising Institute of Australia has published best practice guides and fundraising toolkits for NSW and Queensland – some are member access only

http://www.fia.org.au/AM/Template.cfm?Section=Principles_and_Standards_of_Fundraising_Practice&Template=/CM/HTMLDisplay.cfm&ContentID=8547

Subscribe to the ATO's free Non-profit News Service will keep you up-to-date on key tax issues affecting the non-profit sector

<http://www.ato.gov.au/nonprofit/content.asp?doc=/content/34577.htm&pc=001/004/020/003&mnu=&mfp=&st=&cy=1>

Australian Centre of Philanthropy and Non-profit Studies contains many useful links; Reports, audio recordings and video of seminars, including some on fundraising.

<http://olt.qut.edu.au/bus/BS39/>

Details of publications and reports.

<http://www.bus.qut.edu.au/research/cpns/publications/>

QUT e-Prints is a free service where you can search for and then download research papers on a wide range of topics including fundraising

<http://eprints.qut.edu.au/>