

Gift fund requirements

WHAT IS A DEDUCTIBLE GIFT RECIPIENT?

A deductible gift recipient (DGR) is an organisation which can receive income tax deductible gifts and deductible contributions.

Some DGRs are listed by name in the tax law but most must apply to the Tax Office to be endorsed as DGRs.

WHAT IS DGR ENDORSEMENT?

DGR endorsement is the approval process for organisations that wish to be endorsed by the Tax Office. There are two types of DGR endorsement:

- where an organisation is endorsed as a whole, for example public hospitals and public universities, and
- where an organisation is endorsed for the operation of a fund, authority or institution that it owns or includes, for example school building funds and council libraries.

➤ For more information about the DGR endorsement process, refer to *The endorsement process for deductible gift recipients* (NAT 3193).

WHO IS REQUIRED TO MAINTAIN A GIFT FUND?

Organisations that are endorsed, or seeking to be endorsed, by the Tax Office as a DGR for the operation of a fund, authority or institution must maintain a gift fund.

An exception is where an organisation is seeking DGR endorsement for a fund, authority or institution that it operates and the organisation is already endorsed as a DGR as a whole. In this situation, the organisation does not need to maintain a gift fund.

EXAMPLE

A public university is endorsed as a DGR as a whole. The university is seeking endorsement for the operation of a library on its grounds, which is open to the public. The university does not need to operate a gift fund for its library, as the university itself is endorsed as a DGR as a whole.

From 12 April 2007, organisations that are endorsed, or seeking to be endorsed, as DGRs as a whole are not required to maintain a gift fund. However, these organisations may choose to maintain a gift fund.

EXAMPLE

A public benevolent institution is endorsed as a DGR as a whole. It operates a hostel and a detox centre. All the money or property handled by the organisation is used to further DGR purposes. It is not required to maintain a gift fund. However the organisation may choose to maintain a gift fund.

WHAT IS A GIFT FUND?

A gift fund has these characteristics:

- it is a fund
- it is maintained for the principle purpose of the fund, authority or institution
- all gifts, and deductible contributions, of money or property for that purpose are made to it
- any money received by the organisation, because of such gifts, or deductible contributions, is credited to it
- it does not receive any other money or property
- the fund is used only for the principal purpose of the fund, authority or institution, and
- the organisation is required – by a law, its constituent documents or governing rules – to transfer any surplus assets of the gift fund to another gift deductible fund, authority or institution when the fund, authority or institution is wound up or the DGR endorsement is revoked, whichever occurs first.¹

➤ For more information on the transferring of assets upon revocation or winding up, see page 3 'What requirements must be satisfied on winding up or revocation of endorsement?'

¹ Winding up clauses are not required if the entity is established by an Act of the Commonwealth Parliament which does not provide for the winding up or termination of the entity.



HOW DO YOU SET UP A GIFT FUND?

A gift fund should be set up as part of the organisation or of the fund, authority or institution. It may have its own rules or constitution, or they may be part of the governing documents of the organisation or of the fund, authority or institution.

The rules or governing documents should provide evidence of the gift fund's existence, name, purpose and operations.

If an organisation is seeking endorsement for more than one fund, authority or institution that it operates, it must meet the gift fund requirements in respect of each of its funds, authorities or institutions. An organisation can do this by maintaining a single gift fund or multiple gift funds.

EXAMPLE

A school is seeking endorsement for a school building fund, a scholarship fund and a public library that it operates.

The school can choose to maintain:

- separate gift funds for the school building fund, the scholarship fund and the library, or
- a single gift fund in respect of two of them and one separate gift fund for the other, or
- a single gift fund in respect of all three.

HOW DO YOU OPERATE A GIFT FUND?

Essential to the running of a gift fund is the separate recording of:

- all gifts and contributions, through a bank account or other cash management system for money, and a register for property
- transfers from the gift fund, whether as payments, disbursements or for use by the fund, authority or institution, and
- investment returns on money or property that have been transferred out.

The money and property of the gift fund must be clearly separate from that of the rest of the organisation and accounted for accordingly.

EXAMPLE

A public art gallery receives gifts, entrance fees and sale proceeds from its gallery gift shop. All amounts received at the gallery – gifts, fees and sales – are banked into its donation account. The gallery is not maintaining a gift fund.

If an organisation maintains one gift fund for two or more funds, authorities or institutions that it operates, it must keep records identifying:

- gifts and deductible contributions made to the gift fund and any money credited to the gift fund in respect of each of the funds, authorities or institutions, and
- gifts, deductible contributions and money in the gift fund have been used for the principal purpose of the fund, authority or institution to which they relate.

IS A SEPARATE BANK ACCOUNT REQUIRED?

While the tax law doesn't require that a separate bank account be opened for the gift fund, banking money in a separate account will provide clear evidence of the existence of a gift fund. Money or property of a gift fund should not be mixed with other money or property of the organisation.

DOES THE EXISTENCE OF A PUBLIC FUND SATISFY THE GIFT FUND REQUIREMENT?

Many types of DGRs are required to be public funds. For example, necessitous circumstances funds, school building funds and ancillary funds.

The existence of a public fund does not necessarily satisfy the gift fund requirement. However, if the public fund only receives gifts or deductible contributions, and the appropriate winding up rules exist, the public fund itself may be the gift fund. In this case there would be no need for a separate gift fund.

! A separate bank account and clear accounting procedures are required for a public fund.

WHICH AMOUNTS GO TO THE GIFT FUND?

The following amounts must be credited to a gift fund:

- All gifts of money or property made for the principal purpose of the fund, authority or institution. This includes testamentary gifts (that is, gifts made under a will) and gifts that are not tax deductible for the donor. It also includes distributions from other charities or DGRs, if made for the principal purpose.
- The whole amount of deductible contributions made to a fundraising event staged to raise funds for the principal purpose.
- Money received because of these gifts and deductible contributions, including proceeds from the sale of gifted property, and investment returns from money or property that continues to be part of the gift fund.

Amounts that are not gifts or deductible contributions are not to be credited to a gift fund. They include:

- receipts from sponsorships or commercial activities, and
- proceeds of raffles, charity auctions, dinners and the like where the proceeds are not deductible contributions.

If money or property is incorrectly received, it must be removed from the gift fund as soon as practicable, with the accounts adjusted and noted accordingly. The gift fund will need procedures to ensure only and all the proper amounts are credited into it.

WHAT SHOULD A GIFT FUND BE USED FOR?

The gift fund must only be used for the principal purpose of the fund, authority or institution.

Acceptable uses of a gift fund for the principal purpose of the fund, authority or institution include:

- transferring money or property to the organisation or to the fund, authority or institution for the fund, authority or institution's current and continuing use
- purchases of property or services for use by the fund, authority or institution or by the organisation for the principal purpose of the fund, authority or institution
- reasonable costs of managing the gift fund, for example, bank charges, stationery, accounting and audit fees relating expressly to the gift fund
- professional fees for fundraising, and
- investment, if it is consistent with carrying out the principal purpose of the fund, authority or institution.

When money is not banked before being used for the purposes of the DGR, it must be properly accounted for in the gift fund's records.

If a DGR maintains one gift fund for two or more funds, authorities or institutions that it operates, it must use gifts and deductible contributions made to the gift fund and any money credited to the gift fund only for the principal purpose of the fund, authority or institution to which the gift, contribution or money relates.

EXAMPLE

A school is endorsed as a DGR for the operation of a school building fund and scholarship fund. The school maintains a single gift fund in respect of its two funds. The school must use the gifts and contributions made to each fund for the principal purpose of the fund to which the gift or contribution relates. The school cannot, for example, transfer funds from its school building fund to its scholarship fund to provide money for scholarships.

WHAT REQUIREMENTS MUST BE SATISFIED ON WINDING UP OR REVOCATION OF ENDORSEMENT?

An organisation¹ must be required – by a law, its constituent documents or governing rules – to transfer any surplus assets of the gift fund to another gift deductible fund, authority or institution on the earlier of:

- the fund, authority or institution being wound up, and
- the DGR endorsement being revoked.

If an organisation is a DGR for more than one fund, authority or institution it operates, it may transfer the assets to another of its gift deductible funds, authorities or institutions upon winding up or revocation of endorsement, where the rules of the fund, authority or institution allow such a transfer.

WHAT ARE THE CONSEQUENCES OF NOT MAINTAINING A GIFT FUND?

If an organisation seeking endorsement for the operation of a fund, authority or institution is not maintaining a gift fund, it cannot be endorsed as a DGR.

If an organisation that is endorsed as a DGR for the operation of a fund, authority or institution stops maintaining a gift fund, it ceases to be entitled to endorsement. The organisation must then notify the Tax Office in writing so that the Tax Office can revoke the organisation's endorsement.

However, if the failure is merely an administrative error and not intentional, and is rectified in a short time, endorsement will not be withdrawn.

EXAMPLE

A public library ran a charity ball and banked all proceeds in the library's gift fund account. When preparing the treasurer's monthly report, the mistake was discovered. The money was immediately transferred to the library's general bank account. The rectification was noted in the gift fund's books.

The library's endorsement would not be revoked and it would not have to notify the Tax Office because it had a system that would identify errors, it rectified the deposit in a short time and noted the accounts.

MORE INFORMATION

For more information on DGR endorsement, refer to *GiftPack for deductible gift recipients and donors* (NAT 3132).

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- visit www.ato.gov.au/nonprofit
- phone **1300 720 092**
- write to us at Australian Taxation Office, **GPO Box 9990 in your capital city**, or
- obtain a fax by phoning **13 28 60**.

To speak to staff trained to deal with non-profit enquiries phone our information line on **1300 130 248**.

If you do not speak English well and want to talk to a tax officer, phone the Translating and Interpreting Service on **13 14 50** for help with your call.

If you have a hearing or speech impairment and have access to appropriate TTY or modem equipment, phone **13 36 77**. If you do not have access to TTY or modem equipment, phone the Speech to Speech Relay Service on **1300 555 727**.

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