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QC 81914

Necessitous circumstances fund

A fund can be endorsed as a deductible gift recipient (DGR) under the general necessitous circumstances fund category.

Last updated 22 August 2025

Characteristics of a necessitous circumstances fund

A necessitous circumstances fund is a [public fund](#) established and maintained to [provide relief](#) for individuals in Australia who are in [necessitous circumstances](#).

They have the following characteristics:

- the fund must be either
 - an [Australian government agency](#)
 - a [registered charity](#)
 - operated by an Australian government agency or a registered charity
- provides relief to persons who are in necessitous circumstances
- the fund doesn't provide [other benefits](#)
- the persons receiving relief must [be in Australia](#).

If you're eligible, you can [apply for endorsement as a deductible gift recipient](#).

For more information about necessitous circumstances funds, see [TR 2000/9 Income tax: necessitous circumstances funds](#).

Examples of necessitous circumstances

The term 'necessitous circumstances' refers to financial necessity. It doesn't extend to needs generally. For example, being sick, incapacitated or aged are not necessitous circumstances on their own.

Being in necessitous circumstances:

- involves poverty, though it may not be abject poverty or destitution
- doesn't mean just being without luxuries.

A person is in necessitous circumstances where they don't have enough financial resources to have a modest standard of living in Australia.

An indicator of this would be where a person's level of income is such that they are eligible to receive income-tested government benefits. Other indicators are health needs (such as sickness or disability) and family responsibilities. Such non-financial needs can cause financial necessity.

Some needs (such as health needs) are non-financial but can cause financial need.

The death of a family member or the loss of an asset or business will not necessarily place a person in necessitous circumstances. You must consider other sources of income and assets, such as super, insurance and compensation.

The particular circumstances giving rise to financial necessity will not necessarily be permanent. For example, tropical cyclones, floods and other disasters can cause people to be in short-term financial need.

Example: Non-financial care needs

While on holidays interstate, Jennifer is seriously injured in a car accident. She is suffering from loneliness because she faces a long hospital stay before she can return home.

A local service club raises funds to fly Jennifer's mother interstate to comfort her.

Jennifer's needs are not financial. The fund is **not** a necessitous circumstances fund.

Example: Care dependent on funds

Geoff is 17 years old and was permanently incapacitated while playing football. He will need full time care for the rest of his life. He had no insurance and his parents can't meet the costs.

The local community raises funds for Geoff. The money raised by the community pays for necessary modifications to his parents' home and for the services of a carer.

The fund is a necessitous circumstances fund.

Example: Having financial dependents

During recent floods, 3 volunteer workers were killed while carrying out a rescue. None of the three volunteers had any financial dependants.

A public fund to give money to the volunteers' families is not a necessitous circumstances fund.

Providing relief of necessitous circumstances

The common method of relieving a person in necessitous circumstances is by giving money or goods directly to the person.

A necessitous circumstances fund can make distributions such as money or goods to other organisations, as long as those organisations provide care for persons in necessitous circumstances.

- If a public fund distributes for various purposes, only one of which is the care of persons in necessitous circumstances, it may be a [public ancillary fund](#).

Not only must a fund be for persons in necessitous circumstances, it must also be for the relief of necessitous circumstances.

Not all funds directed towards people in necessitous circumstances are for the relief of necessitous circumstances.

Example: Fund doesn't provide relief

A fund provides scholarships for students to attend a particular school. Preference is given to meritorious students who are in necessitous circumstances.

While persons in necessitous circumstances may benefit from the fund, the fund is not dedicated to providing relief of necessitous circumstances.

Where a fund is maintained primarily to relieve one individual, family or similar group, its governing documents must make it clear that the fund is to relieve their particular necessitous circumstances. They

must not just state that the fund is held on trust for the named individual or individuals.

Example: Funds to relieve temporary circumstances

A fund is set up to raise money for two families whose homes were badly damaged in a bushfire. The rules of the fund state that the money will go to 'food, clothing and emergency shelter'. It is clear that the fund is to relieve necessitous circumstances and not just for the personal benefit of the families.

Normally, a necessitous circumstances fund will use an application form to obtain financial information from anyone seeking assistance. However, in some situations the financial need will be obvious. For example, immediately after a natural disaster, a fund's employees would not normally need to check on the financial resources of each beneficiary.

Example: Relieving immediate circumstances

Smithfield has been devastated by a tropical cyclone.

A mayoral fund is set up to provide short-term assistance to residents who were victims of flood and cyclone damage.

In the immediate short-term, the circumstances of the disaster itself would indicate the need for relief. During this period, close consideration of the potential beneficiaries' finances would not be necessary.

The fund must exclusively, or at least chiefly, relieve persons who are in necessitous circumstances. If the fund also provides benefits to persons who are not in necessitous circumstances, it is not a necessitous circumstances fund.

Example: Fund not exclusively for relief

A fund has been set up to distribute money evenly for the following purposes:

- financial need
- disaster relief
- talented children
- sporting achievement.

It is not a necessitous circumstances fund because it is not exclusively or chiefly for the relief of necessitous circumstances.

Persons receiving relief must be in Australia

The persons receiving relief from their necessitous circumstances must be in Australia.

Example: Location rules

A fund has been set up to provide money, food and clothing to victims of a plane crash in New Guinea.

It is not a necessitous circumstances fund because it is not for the relief of people in Australia.

In exceptional circumstances, a fund established for the benefit of persons in Australia may actually provide relief to persons outside Australia. For example, a fund can provide money for an Australian person to have an operation overseas because the operation is not available in Australia.

Example: Australians needing assistance overseas

Justin is a 10 year old Australian boy with cancer. The most appropriate treatment is available at a clinic in Germany.

Justin's family can't meet the costs. A necessitous circumstances fund can help pay for Justin's treatment.

If you don't meet the requirements of this category and want to collect tax-deductible donations for people who are victims of disaster you may be able to under other [DGR categories](#).

QC 16220

Private ancillary funds

Eligibility of private ancillary funds to be deductible gift recipients, and minimum annual distribution requirements.

Last updated 23 July 2020

Private ancillary funds (private AFs) may be eligible to be deductible gift recipients (DGRs).

To be endorsed under the DGR category for private AFs, a fund must meet all the following requirements:

- have an Australian business number (ABN)
- be in Australia
- comply with the rules in the *Private Ancillary Fund Guidelines 2019* and all the trustees of the fund must comply with these rules
- have acceptable rules for the transfer of surplus gifts and deductible contributions on winding-up or revocation of endorsement
- apply to us for endorsement as a DGR.

See also:

- [Is my organisation eligible for DGR endorsement?](#)
- [Private ancillary funds – trustee guidance](#)
- [Taxation Administration \(Private Ancillary Funds\) Guidelines 2019](#)


DGR requirements for private AFs

Your fund must have the following characteristics to be endorsed under the private ancillary fund (AF) DGR category:

- It is a ['fund'](#).
- It is established and maintained under a will or an [instrument of trust](#).
- It is established and operated on a not-for-profit basis.
- It is allowed, by the terms of the will or instrument of trust, to invest money in ways that an Australian law allows trustees to invest trust money.
- It is established and maintained solely for the purpose of providing money, property or benefits to DGRs (except other private AFs or public AFs) or the establishment of such DGRs.
- Each of its trustees is a constitutional corporation.
- Each trustee has agreed, in the approved form, to comply with the rules in the *Private Ancillary Fund Guidelines 2019* and none of the trustees have revoked that agreement.

What is a 'fund'?

A fund is a pool of money or property that is managed or held to make distributions to other entities. A fund does not deliver services.

What is an instrument of trust?

Trust deeds and wills are instruments of trust.

The ATO provides a model deed that can be used. It must be edited according to your individual circumstances - for example, to include the details of the trust.

As the model deed may be updated, you should use the current version available on our website. Copies you have previously downloaded may be out-of-date.

Applications for endorsement as a DGR using non-conforming deeds will not be accepted.

If the governing rules of the private AF change, the trustee must notify us in the approved form within 21 days of the change being made.

See also:

- [Private ancillary fund model trust deed](#)
- [Notification of change to the governing rules of an endorsed private ancillary fund](#)

Governing rules for the fund

You need to include the following governing rules in your trust deed:

- [Objects of the fund](#)
- [Receipts](#)
- [Not-for-profit basis](#)
- [Prohibit from indemnity](#)
- [Responsible person](#)
- [Winding-up, ceasing to be a private AF or revocation of DGR endorsement](#)
- [The trustee must be a constitutional corporation](#)

See also:

- [Taxation Administration \(Private Ancillary Funds\) Guidelines 2019](#)


Objects of the fund

The governing rules contained in your trust instrument must reflect the objects of your fund.

Receipts

Receipts must be issued in the name of your fund.

Not-for-profit basis

A not-for-profit entity is one that is not operating for the profit or gain of its individual members. This applies both while the fund is operating and when it winds up.

Your fund must not provide any benefit directly or indirectly to any of the following:

- the trustee

- a member, director, employee, agent or officer of the trustee
- the donor or founder
- an associate of any of these entities.

The governing rules contained in your trust instrument must clearly set out and reflect this.

Prohibit from indemnity

The governing rules in your trust instrument must prohibit your fund from indemnifying the trustee, or an employee, officer or agent of the trustee for a loss attributable to their:

- dishonesty
- gross negligence
- recklessness
- deliberate act
- omission.

Responsible person

At least one of the people involved in the decision making of the fund has a degree of responsibility to the community. This person is generally called a 'responsible person'.

A responsible person must be an active director and a member of any other controlling body of the fund but cannot be any of the following:

- a founder
- a donor to the fund who has contributed more than \$10,000
- an associate of a founder or a donor who has contributed more than \$10,000.

Winding-up, ceasing to be a private AF or revocation of DGR endorsement

The trustee is required to transfer the following surplus to an eligible DGR, on the winding-up of the trust, it ceasing to be a private AF, or revocation of its DGR endorsement:

- gifts and deductible contributions made to the fund for its principal purpose
- any money received by the fund because of such gifts and contributions.

The trustee must be a constitutional corporation

A constitutional corporation is either:

- a corporation to which paragraph 51(xx) of the *Australian Constitution* applies
- a body corporate that is incorporated in a territory. A constitutional corporation would usually be registered with the Australian Securities & Investments Commission (ASIC) and have an Australian company number.

Less frequently, it may be incorporated under associations incorporation legislation in a state or territory and have an association or incorporation number.

Applying for DGR endorsement

To apply for DGR endorsement, complete the following application form, schedule and agreement:

- [Application for endorsement as a deductible gift recipient](#)
- [Private ancillary fund – schedule for deductible gift recipient applicants](#)
- [Agreement to comply with the private ancillary fund guidelines](#)

When lodging these documents, you will be required to provide a copy of your executed will or instrument of trust.

Find out about:

- [DGR endorsement start date](#)
- [Consequences of DGR endorsement](#)
- [Notification of endorsement](#)
- [If your application is refused](#)
- [If there are delays in notification](#)

See also:

- abn.business.gov.au 
- [Penalties](#)
- [Claiming tax deductions](#)

DGR endorsement start date

The application form will ask you for the date you want your fund to be endorsed from.

Consequences of DGR endorsement

The following are the consequences of DGR endorsement:

- [Gift deductibility](#)
- [Australian Business Register](#)
- [Receipts](#)
- [Self-review](#)
- [Record keeping](#)
- [Annual returns](#)

Gift deductibility

Your fund will be entitled to receive income tax deductible gifts from the date its DGR endorsement starts and while it is endorsed. [Claiming tax deductions](#) for gifts to a DGR are claimed by the person or organisation that makes the gift (the donor).

Australian Business Register

The Australian Business Register (ABR) records if an organisation has DGR status and if that DGR is a private AF.

Receipts

When your fund issues a receipt for a tax deductible gift, it must include certain information on the receipt. If your fund does not include this information on its receipts, your endorsement may be revoked.

Self-review

You must notify us in writing if your fund's circumstances change and it stops being entitled to DGR endorsement. This obligation means you will need to carry out regular reviews of your fund's status. The law does not require any particular intervals between reviews, but we recommend a yearly review.

Trustees and directors of trustees of private AFs may be liable for administrative penalties if they represent a private AF as being entitled to remain endorsed as a DGR and the fund is not entitled.

Record keeping

As a DGR, your fund must keep adequate accounting and other records that detail and explain all transactions that are relevant to its status as a DGR. You must maintain these records for at least five years after the completion of the transactions or acts they relate to. The penalty for not keeping proper records is 10 penalty units.

Annual returns

Trustees are required to lodge an ancillary fund return for each financial year. Ancillary funds that are registered with the Australian Charities and Not-for-profits Commission (ACNC) will lodge their ancillary fund return with the ACNC's annual information statement (AIS).

Notification of endorsement

We will send you written notification of the outcome of your application, to tell you if your fund has been endorsed or refused endorsement as a DGR.

If your application is refused

If your fund's application for endorsement is refused, you can have the decision reviewed by us. You will need to put your full reasons for seeking a review in writing. If endorsement is refused after the review, you will be advised of further appeal rights.

If there are delays in notification

If you believe we are too slow in notifying you if your fund is endorsed, you can have your application treated as if it had been refused. The deemed refusal will trigger formal review rights.

The earliest you can notify us that you want your application to be treated as if it had been refused is the later of the following:

- the end of the 60th day after you made the application
- the end of the 28th day after the last day on which you gave us information or documentation that we had requested.

To have your application treated as if it had been refused, you must give us written notice that you want it treated in that way. Your application will be deemed to be refused on the day you give such notice.

Minimum annual distribution requirements

During each financial year, apart from the year the fund is established, a private ancillary fund must distribute at least 5% of the market value of the fund's net assets (as at the end of the previous financial year).

The fund must distribute at least \$11,000, or the remainder of the fund if that is worth less than \$11,000, during that financial year, if both of the following applies:

- the 5% is less than \$11,000
- any of the expenses of the fund in relation to that financial year are paid directly or indirectly from the fund's assets or income.

A distribution is the provision of money, property or benefits.

Penalties may apply for not meeting the minimum annual distribution requirements, but a fund can apply to reduce the minimum annual distribution rate.

See also:

- [Application to reduce the minimum ancillary fund distribution rate](#)

Amended guidelines for COVID-19 response

The guidelines have been amended to encourage increased distributions to deductible gift recipients (DGRs) as a result of the COVID-19 pandemic.

Private ancillary funds that exceed their minimum annual distribution rate for the 2019–20 and 2020–21 financial years, by a total of

five percentage points or more, will have a lower minimum annual distribution rate of 4% in future years.

To determine if a private ancillary fund is eligible, they will need to work through the following steps:

Step 1 Add together the ancillary fund's annual distribution rate for the 2019–20 and 2020–21 financial years, rounding each year's rate to the nearest whole number.

Step 2 Reduce the combined rate from step 1 by 10% which is the minimum required annual distribution rate for the two years. The balance is the fund's credit amount.

Step 3 If the credit amount at step 2 is 5% or more, the fund is eligible to apply the reduced distribution rate at step 4.

Step 4 For every 2% of the fund's credit, their minimum annual distribution rate will reduce to 4% for one financial year. This applies from the 2021–22 financial year until the fund's credit is less than 2%. The fund can still choose to exceed the minimum annual distribution rate in those financial years.

This means that eligible private ancillary funds will have a 4% minimum annual distribution rate for at least the 2021–22 and 2022–23 financial years.

Example 1

Generous Family Foundation, a private ancillary fund, decides to increase distributions to a number of DGRs providing community support during the COVID-19 pandemic.

Generous Family Foundation makes an annual distribution of 8% (rounded) in 2019–20 and 7% in 2020–21. This is a total of 15% distributed over the two financial years.

After reducing the amount by 10%, which is the required minimum annual distribution for the two years, they have a credit amount of 5%. They are therefore eligible for the reduced minimum annual distribution rate for 2 years.

Generous Family Foundation will have a 4% minimum annual distribution rate for the:

- 2021–22 financial year (reducing their credit to 3%)
- 2022–23 financial year (reducing their credit to 1%)

As the remaining unused credit is less than 2%, the reduced minimum distribution rate no longer applies. From the 2023–24 financial year their minimum annual distribution rate will return to 5%.

Example 2

Daphne Family Foundation, a private ancillary fund, increases their annual distributions to several DGRs supporting the community during the COVID-19 pandemic.

Daphne Family Foundation makes an annual distribution of 9% (rounded) in 2019–20 and 9% in 2020–21. This is a total of 18% distributed over the two financial years.

After reducing the amount by 10%, which is the required minimum annual distribution for the two years, they have a credit amount of 8%. They are therefore eligible for the reduced minimum annual distribution rate for 4 years.

Daphne Family Foundation will have a 4% minimum annual distribution rate for the:

- 2021–22 financial year (reducing their credit to 6%)
- 2022–23 financial year (reducing their credit to 4%)
- 2023–24 financial year (reducing their credit to 2%)
- 2024–25 financial year (reducing their credit to nil).

From the 2025–26 financial year their minimum annual distribution rate will return to 5%.

Public ancillary funds

Requirements for public ancillary funds seeking endorsement as a deductible gift recipient (DGR).

Last updated 28 August 2025

Eligibility criteria for DGR endorsement

For a public ancillary fund (public AF) to be endorsed as a DGR it must meet the following requirements:

- have an Australian business number (ABN)
- be in Australia
- comply with the rules in the [Public Ancillary Fund Guidelines 2022](#)  and all of the trustees of the fund must comply with these rules
- have acceptable rules for the transfer of surplus gifts and deductible contributions on winding-up or revocation of endorsement
- fall within the DGR category for public AFs.

It must also have the following characteristics:

- It is a 'fund'.
- It is established and maintained under a will or an instrument of trust. The [model trust deed](#) relevant to your state or territory, can be used to establish an acceptable form of trust for public AFs.
- It is established and operated on a [not-for-profit](#) basis.
- It is allowed, by the terms of the will or instrument of trust, to invest money in ways that an Australian law allows trustees to invest trust money.
- It is established and maintained solely for the purpose of providing money, property or benefits to DGRs (except other private AFs or public AFs) or the establishment of such DGRs.
- At least one of the following applies:
 - each of its trustees is a constitutional corporation

- the only trustee is a Public Trustee of a state or territory
- the trustees are prescribed by regulation.
- Each trustee has agreed, in the approved form, to comply with the rules in the *Public Ancillary Fund Guidelines 2022* and none of the trustees has revoked that agreement.

Applying for DGR endorsement

To apply for DGR endorsement, complete the following application form, schedule and agreement:

- [Application for endorsement as a deductible gift recipient](#)
- [Public ancillary fund – schedule for deductible gift recipient applicants](#)
- [Agreement to comply with the public ancillary fund guidelines.](#)

When lodging these documents, you will be required to provide a copy of your executed will or instrument of trust.

Further information can be found by accessing [Is my organisation eligible for DGR endorsement?](#)

Public ancillary funds

What is a 'fund'?

A fund is a pool of money or property that is managed or held to make distributions to other entities. A fund does not deliver services.

What must be in the fund's governing rules?

Objects of the fund

The rules must clearly set out and reflect the objects of your fund.

Receipts

The rules must reflect that receipts need to be issued in the name of your fund.

Invitation to the general public to contribute

The rules must reflect that the public must be invited to contribute.

Non-profit basis

The rules must clearly set out and reflect your fund's non-profit status.

Prohibit from indemnity

The rules must prohibit your fund from indemnifying the trustee, or an employee, officer or agent of the trustee, for a loss attributable to their:

- dishonesty
- gross negligence
- recklessness
- deliberate act
- omission.

Responsible person

The rules must reflect that the majority of individuals, who are one of the following, must have a degree of responsibility to the community:

- a trustee
- a member of any committee or other controlling body of the fund
- a director of a trustee.

This is generally called a 'responsible person'.

On winding-up, ceasing to be a public AF or revocation of DGR endorsement

The rules must require the trustee to transfer the following surplus to an eligible DGR, on whichever is the earliest of the winding-up of the trust, it ceasing to be a public AF, or revocation of its DGR endorsement:

- gifts and deductible contributions made to the fund for its principal purpose
- any money received by the fund because of such gifts and contributions.

What is a constitutional corporation?

A constitutional corporation is either:

- a corporation to which paragraph 51(xx) of the Australian Constitution applies
- a body corporate that is incorporated in a territory.

A constitutional corporation would usually be registered with the Australian Securities & Investments Commission (ASIC) and have an Australian company number (ACN).

Less frequently, it may be incorporated under associations' incorporation legislation in a state or territory and have an association or incorporation number.

What are the consequences of DGR endorsement?

Gift deductibility

Your fund will be entitled to receive income tax deductible gifts from the date its DGR endorsement starts and while it is endorsed.

Deductions for gifts to a DGR are claimed by the person or organisation that makes the gift (the donor).

Australian Business Register

The Australian Business Register (ABR) website will record that your organisation is a DGR.

Receipts

When your fund issues a receipt for a tax-deductible gift, it must include certain information on the receipt. If your fund does not include this information on its receipts, your endorsement may be revoked.

Self-review

You must notify us in writing if your fund's circumstances change and it stops being entitled to DGR endorsement. This obligation means you will need to carry out regular reviews of your fund's status. The law does not require any particular intervals between reviews, but we recommend a yearly review.

Trustees and directors of trustees of public AFs may be liable for administrative penalties if they represent a public AF as being entitled

to remain endorsed as a DGR and the fund is not entitled.

Record keeping

As a DGR, your fund must keep adequate accounting and other records that detail and explain all transactions that are relevant to its status as a DGR. You must maintain these records for at least 5 years after the completion of the transactions or acts they relate to. The penalty for not keeping proper records is 10 [penalty units](#).

Annual returns

The trustee may be asked to provide us with a return form for each financial year.

Notifications, timing and outcomes

We will send you written notification of the outcome of your application.

If you believe we are too slow in notifying you, you can have your application treated as if it had been refused. The deemed refusal will trigger formal review rights.

To have your application treated as if it had been refused, you must give us written notice that you want it treated in that way.

The earliest you can notify us that you want your application to be treated as if it had been refused is the later of the following:

- 60 days after you made the application
- 28 days after the last day on which you gave us information or documentation that we requested.

Refusal of application

If your application is refused, you can have the decision reviewed by [lodging an objection](#).

If endorsement is refused after the review, you will be advised of further appeal rights.

Revoking endorsement

We can revoke a DGR's endorsement if any of the following apply:

- it is not entitled to be endorsed
- it has not provided information or documents within the specified time after a request from us
- it has not included the specified information on its receipts.

We will provide written notice of the revocation of endorsement.

The revocation has effect from a date specified by us and the date may be retrospective.

If you are dissatisfied with a revocation of endorsement, you can lodge an objection against the revocation. You do this in writing to us, giving the grounds for the objection.

Suspension or removal of trustees

We can suspend or remove a trustee (other than a Public Trustee) that breaches the guidelines or any other Australian law.

We will give the trustee written notice advising them of our decision. It will explain the reasons why the decision was taken and, in the case of suspension, set out the period of suspension.

When a trustee is suspended or removed, we will appoint an acting trustee. They will undertake the duties of trustee until the suspension period has ended or a replacement trustee is appointed. We may give directions to the acting trustee. Any conduct by an acting trustee that contravenes a notice from us is an offence.

When we appoint an acting trustee, we must make a written order vesting the property of the public AF with the acting trustee. Non-compliance with a written order from us, or the acting trustee, is an offence.

You have the right under the law to ask for our decision to be reviewed, by [lodging an objection](#). You must do this in writing and give the full reasons for your objection.

The following decisions are also reviewable by the Administrative Review Tribunal and the Federal Court of Australia:

- a decision to suspend a trustee
- a decision to change the time a suspension of a trustee ends

- a decision to remove a trustee.

Impact on income tax

DGR endorsement is separate from income tax exemption.

Endorsement as a DGR does not allow an organisation to be income tax exempt.

Only certain types of not-for-profit (NFP) organisations are exempt from income tax under the income tax law. If an NFP doesn't fall within one of the types of exempt entity, it cannot be exempt.

More information can be found by accessing [Income tax exempt organisations](#).

Complying with the guidelines

What happens if you fail to comply with the guidelines?

Failure to comply with the [Public Ancillary Fund Guidelines 2022](#)  means:

- the trustee and directors of trustees may incur administrative penalties
- the public AF will no longer be entitled to endorsement.

The guidelines also set out the amount of an administrative penalty, or how to work out the amount of an administrative penalty.

Trustees and directors of trustees of public AFs are jointly and severally liable to any administrative penalty associated with the guidelines, and the penalty cannot be paid or reimbursed from the trust fund.

Directors of trustees that are licensed trustee companies and directors, and statutory office holders of Public Trustees are not personally liable for these penalties.

How do you revoke an agreement to comply with the guidelines?

A trustee may revoke an agreement to comply with the rules in the guidelines by giving the revocation to us in the approved form.

This is further set out by accessing [Revocation of agreement to comply with the public ancillary fund guidelines](#) (NAT 74033).

Minimum annual distribution requirements

Each financial year, public ancillary funds must distribute at least 4% of the market value of their net assets (as at the end of the previous financial year). A newly established fund is not required to make a distribution in its first four years of operation.

The fund must distribute at least \$8,800 (or the remainder of the fund if that is worth less than \$8,800) during that financial year, if both of the following applies:

- the 4% is less than \$8,800
- any of the expenses of the fund in relation to that financial year are paid directly or indirectly from the fund's assets or income.

A distribution includes the provision of money, property or benefits.

Penalties may apply for not meeting the minimum annual distribution requirements, but funds can apply to reduce the minimum annual distribution rate.

Further information can be found by accessing [Application to reduce the minimum ancillary fund distribution rate](#).

How to confirm endorsement details

Public AFs endorsed as DGRs should receive a notice of *Endorsement as a deductible gift recipient* stating:

Endorsement as a deductible gift recipient under Subdivision 30-BA of the *Income Tax Assessment Act 1997* is provided as detailed below.

You can also confirm your endorsement details by visiting the ABR look for the term 'Item 2' in the 'Deductible gift recipient status' section of the 'Current details' screen.

You should phone us on **1300 130 248** if any of the following apply:

- you need to change your fund's contact details

- the name of the fund on the notice or the ABR is incorrect
- your fund is no longer entitled to endorsement
- you cannot confirm your fund's DGR endorsement as explained above and you believe that your fund should be endorsed, including where:
 - your fund's notice of endorsement states 'Endorsement as a deductible gift recipient under Subdivision 30-BA of the *Income Tax Assessment Act 1997* is provided for the operation of a fund, authority or institution'
- the ABR indicates that your fund is covered by 'Item 2', but your fund is listed as a fund, authority or institution operated by another entity.

When you phone us, you will need to meet proof of identity requirements, including quoting your organisation's ABN.

Once we confirm your fund's details, we will send you a replacement notice of endorsement if required. The 'Endorsement date of effect' on the replacement notice will show the date from which your fund was entitled to endorsement. The date will not be changed to 1 January 2012 as a result of the changes to public AF DGR category.

Amended guidelines for COVID-19 response

The guidelines have been amended to encourage increased distributions to DGRs as a result of the COVID-19 pandemic.

Public AFs that exceed their minimum annual distribution rate for the 2019–20 and 2020–21 financial years, by a total of 5% points or more, will have a lower minimum annual distribution rate of 3% in future years.

To determine if a public AF is eligible, they will need to work through the following steps:

1. Add together the ancillary fund's annual distribution rate for the 2019–20 and 2020–21 financial years (rounding each year's rate to the nearest whole number).
2. Reduce the combined rate from step 1 by 8%, which is the minimum required annual distribution rate for the 2 years. The balance is the fund's credit amount.

3. If the credit amount at step 2 is 5% or more, the fund is eligible for the reduced distribution rate at step 4.
4. For every 2% of the fund's credit, their minimum annual distribution rate will reduce to 3% for one financial year. This applies from the 2021–22 financial year until the fund's credit is less than 2%. The fund can still choose to exceed the minimum annual distribution rate in those financial years.

This means that eligible public AFs will have a 3% minimum annual distribution rate for at least the 2021–22 and 2022–23 financial years.

Example 1: increased distributions

Public Giving Foundation, a public AF, decides to increase distributions to a number of DGRs providing community support during the COVID-19 pandemic.

Public Giving Foundation makes an annual distribution of 7% (rounded) in 2019–20 and 6% in 2020–21. This is a total of 13% distributed over the 2 financial years.

After reducing the amount by 8%, which is the usual required minimum annual distribution for the 2 years, they have a credit amount of 5%. They are therefore eligible for the reduced minimum annual distribution rate for 2 years.

Public Giving Foundation will have a 3% minimum annual distribution rate for the:

- 2021–22 financial year (reducing their credit to 3%)
- 2022–23 financial year (reducing their credit to 1%).

As the remaining unused credit is less than 2%, the reduced minimum distribution rate no longer applies. From the 2023–24 financial year their minimum annual distribution rate will return to 4%.

Example 2: increased distributions

Community in Need Foundation, a public AF, increases their annual distributions to several DGRs supporting the community during the COVID-19 pandemic.

Community in Need Foundation makes an annual distribution of 8% (rounded) in 2019–20 and 8% in 2020–21. This is a total of 16% distributed over the 2 financial years.

After reducing the amount by 8%, which is the usual required minimum annual distribution for the 2 years, they have a credit amount of 8%. They are therefore eligible for the reduced minimum annual distribution rate for 4 years.

Community in Need Foundation will have a 3% minimum annual distribution rate for the:

- 2021–22 financial year (reducing their credit to 6%)
- 2022–23 financial year (reducing their credit to 4%)
- 2023–24 financial year (reducing their credit to 2%)
- 2024–25 financial year (reducing their credit to nil).

From the 2025–26 financial year their minimum annual distribution rate will return to 4%.

Closing your fund

If you choose to wind up your fund, you will need to provide us with a final audit report which includes financial statements indicating a zero balance in the fund.

QC 25252

Public funds

Learn about public funds for the purposes of endorsement as a deductible gift recipient (DGR).

Last updated 10 April 2026

What is a public fund

A public fund provides money or property to support activities carried out by other entities or people, including its sponsoring organisation.

Public funds for DGR purposes fall under 2 types:

- Funds established and controlled by governmental or quasi-government authority.
- Funds to which the [public is invited to contribute](#) and in fact does contribute. These funds must be controlled or administered by persons or institutions having a [degree of responsibility](#) to the community as a whole. This could arise, for example, from a person's occupation or tenure of some public office, or a person's or institution's position in the community.

A public fund must have its own rules. A public fund may be established in 2 ways:

- as a separate entity, for example under an instrument of trust
- as part of a sponsoring organisation.

The sponsoring organisation must have the power to establish a public fund, for example, in the organisation's objects.

The public fund rules can be incorporated in the organisation's [governing document](#), or in a separate document that has been formally adopted by the sponsoring organisation.

Example 1: Public fund as separate entity

The HopeBridge Relief Trust is a public fund established as a separate legal entity under an executed trust deed. Its sole purpose is to provide financial relief to individuals in Australia who are experiencing severe financial hardship due to illness, disability, or other serious misfortune.

The trust deed includes all the [public fund requirements](#). HopeBridge Relief Trust has been endorsed as a DGR as a [whole](#) under the category of a necessitous circumstances fund.

Example 2: Public fund rules in the sponsoring organisation's governing document

St Elora's Grammar School operates a school building fund known as the St Elora's Building Fund, which is established as part of the school's constitution.

The school's constitution includes an object 'to establish and maintain a school building fund' and contains a dedicated section setting out the fund's rules — including all the [public fund requirements](#).

The fund is used exclusively for constructing and maintaining school buildings, and the school is endorsed as a DGR for the [operation of a fund](#), St Elora's Building Fund, under the school building fund category.

Example 3: Public fund rules separate to the sponsoring organisation's governing document

Northvale Independent College has established a public fund known as the Northvale Scholarship Fund to support the provision of scholarships, bursaries, and prizes that promote education for eligible students.

The college's constitution includes an object 'to establish and maintain a scholarship fund,' providing the legal authority to operate the fund.

The detailed rules governing the fund — including all the [public fund requirements](#) and [scholarship fund requirements](#) — are set out in a separate document titled Northvale Scholarship Fund Rules. This document was formally and unanimously adopted by the college's board at a special general meeting and is maintained as an official policy of the organisation.

The college is endorsed for the [operation of a fund](#), Northvale Scholarship Fund, under the scholarship fund category.

For more information see [Types of DGR endorsement](#).

Which DGRs must be public funds

Various DGR categories require organisations to establish a public fund to receive tax deductible gifts and contributions to be applied for the purposes described in the [DGR category](#).

Examples are:

- school building funds
- developing country relief funds
- necessitous circumstances funds
- scholarship funds
- war memorial repair funds
- fire and emergency services funds.

The requirements of a public fund

For the ATO to recognise a fund as a public fund, the fund's rules must show that it meets certain requirements.

- Objects
- Public contributions
- Committee members
- Operate on a non-profit basis
- Gifts and deductible contributions
- Receipts
- Dissolution clause on winding-up
- Advise us of changes.

Objects

For a fund to fall within one of the 'public fund' DGR categories, its objects must satisfy the requirements of the category. If there is no documentation providing evidence of your fund's existence, purpose and operations, you may have difficulty in demonstrating that your fund is maintained for a purpose required by the DGR category.

Sample clause: Objects (suggestion for a school building fund)

The name of the fund is (insert the name of school building fund – a public fund).

The purpose of the fund is to solicit and receive gifts towards the carrying out of the objects, which is solely to provide money for the acquisition, construction or maintenance of a building used or to be used as a school.

Public contributions

It must be the intention of the promoters or founders that the public will contribute to the fund. Public contributions must be invited, and the public must in fact contribute to the fund. If there are no contributions from the public despite invitations, the fund will not be considered a public fund.

Sample clause: Public contributions

The general public will be invited to make gifts to the fund, to be used for the purpose of carrying out the objects of the fund.

Committee members

For non-government public funds, the fund must be administered or controlled by people or institutions who, because of their tenure of some public office or their position in the community, have a degree of responsibility to the community as a whole. Examples are:

- church authorities and clergy
- school principals
- judges, solicitors, doctors and other professional people
- mayors, councillors, town clerks and members of parliament
- recipients of awards from government for services to the community such as an Order of Australia

- members of a professional body which has a professional code of ethics and rules of conduct.

A public fund must be managed by a committee made up of a majority of 'responsible people' and must be set up so that it is not possible for public control to lapse. We refer to this as the responsible person requirement. The daily operations however may be delegated to other persons.

Organisations such as Rotary, Lions and Apex Clubs often sponsor public funds. If an organisation doesn't have a public character due to, for example, selective membership, the committee controlling the fund may have a public character if it's controlled by people who meet the responsible person requirement.

Sample clause: Committee members

A committee of management of no fewer than 3 persons will administer the fund.

The committee will be appointed by the organisation.

A majority of the members of the committee must be persons having a degree of responsibility to the general community by reason of their occupation or standing in the community.

Operate on a non-profit basis

The fund must operate on a non-profit basis. This means that money must not be distributed to members of the managing committee or trustees of the fund except as reimbursement for out-of-pocket expenses incurred on behalf of the fund or as proper remuneration for administrative services.

Sample clause: Non-profit basis

The assets and income of the fund shall be applied solely in furtherance of the objects of the fund, and no portion shall be distributed directly or indirectly to any members of the managing committee except as bona fide compensation for services rendered or expenses incurred on behalf of the fund.

Gifts and deductible contributions

Gifts and deductible contributions made to the fund must be kept separate from any other funds of the sponsoring organisation (if there is one). A separate bank account and clear accounting procedures are required for a public fund.

Sample clause: Gifts and deductible contributions

A bank account will be established to receive all gifts and deductible contributions accepted by the fund.

This account must only include any money or property which is a gift or deductible contribution to the fund, or which is received because of such gifts or deductible contributions, including, interest received on any monies in the account. Clear accounting procedures will be maintained.

If the public fund is also the gift fund, an additional clause is required to the effect that the fund only receives gifts or deductible contributions. For more information see [Gift fund requirements](#).

Sample clause: Public fund is a gift fund

The fund receives only gifts or deductible contributions and any money received because of those gifts or deductible contributions. The fund doesn't receive any other money or property.

Receipts

Including a clause covering receipts in your fund's governing rules is part of providing a framework to ensure that property and money donated to the fund is used for the purpose it was donated.

The tax law also requires that if an endorsed DGR issues receipts for tax deductible gifts or contributions, particular information must be provided on the receipts.

Sample clause: Receipts

All receipts for gifts or deductible contributions must be issued in the name of the fund.

Dissolution clause on winding-up

The fund must have an acceptable dissolution clause: that is, one which provides that on winding-up, any surplus money or other assets must be transferred to another endorsed DGR.

To be endorsed as a DGR, an organisation must also have acceptable clauses dealing with the transfer of surplus gifts and deductible contributions on [winding up or revocation of endorsement](#).

For funds that are registered charities or operated by registered charities, the transfer must be to another charitable DGR with similar objects.

Sample clause: Winding up and revocation for a charitable entity

In the event of the fund being wound up or the fund's endorsement as a deductible gift recipient being revoked (whichever occurs first), any surplus assets remaining after the payment of the fund's liabilities shall be transferred to a charity with a similar charitable purpose to which income tax deductible gifts can be made.

Sample clause: Winding up and revocation for a government entity

In the event of the fund being wound up or the fund's endorsement as a deductible gift recipient being revoked (whichever occurs first), any surplus assets remaining after the payment of the fund's liabilities shall be transferred to another fund, authority or institution, which has similar objects, and to which income tax deductible gifts can be made.

Advise us of changes

You must notify us in writing of any changes to the fund's constitution or other founding documents.

Sample clause: Notify ATO

The Board must notify the Australian Taxation Office of any alterations made to the fund rules.

Can a public fund be a gift fund

Organisations that are endorsed or seeking to be endorsed as a DGR for the operation of a fund, authority or institution must maintain a gift fund. An exception is where the organisation as a whole is already endorsed as a DGR.

A public fund may itself satisfy the gift fund requirement if it only receives gifts or deductible contributions and has appropriate winding up rules. If it receives other money or property, it will need to maintain a gift fund.

Things to remember:

- If your organisation is endorsed for the operation of several public funds, then money or property belonging to one public fund must not be used to support the purposes of another fund.
- A single gift fund can be maintained for 2 or more of your public funds.
- Records must be kept evidencing the receipt and use of money and property belonging to each public fund.

Checklist

Consider the following questions, together with the other information we have provided, when working out whether your fund is a public fund.

1. Do the objects clearly set out the purpose of the fund?
2. Do the rules clearly set out that the public will be invited to contribute to the fund?

3. Does the public or a significant part of it, in fact, contribute to the fund?
4. Is the fund set up such that it continues to be controlled by a majority of people who meet the responsible persons requirement?
5. Is the fund operated on a non-profit basis, with suitable non-profit and dissolution clauses in its constituent or governing documents?

For more information see [Taxation Ruling TR 95/27](#) *Income tax: public funds*.

QC 26411

Public libraries, public museums and public art galleries

The characteristics of a public library, museum and art gallery for endorsement as a deductible gift recipient.

Last updated 12 October 2016

See also:

- [Application for endorsement as a deductible gift recipient](#)

Characteristics of a public library, museum or art gallery

- [Public ownership agency](#)
- [Available to the public](#)
- [Recognised as library, museum or art gallery](#)
- [Institution](#)

The following are separate DGR categories:

- a public library
- a public museum

- a public art gallery
- an institution consisting of a public library, public museum and public art gallery or of any two of these.

Although they are different DGR categories, they have common characteristics. Each category has all of the following features:

- It is either
 - a charity registered with Australian Charities and Not-for-profits Commission (ACNC), or operated by a registered charity
 - an Australian government agency (or operated by an Australian government agency).
- It has [public ownership agency](#).
- Its collection is made [available to the public](#).
- It is constituted as a [library, museum or art gallery](#), other people recognise it as such, and it conducts itself in the ways that are consistent with such a character.
- It is an [Institution](#).

See also:

- [Australian Charities and Not-for-profits Commission \(ACNC\)](#) 
- [Types of DGRs](#)

Public ownership and control

Non-government institutions must be owned or controlled by people or institutions who, because of their tenure of some public office or their position in the community, have a degree of responsibility to the community as a whole. Church authorities, school principals, judges, clergy, solicitors, doctors and other professional people, mayors, councillors, town clerks and members of parliament would satisfy this requirement.

In the absence of other public participation, a society comprising a small group of close friends and business associates would not be accepted as public irrespective of whether the membership included responsible persons.

Example

A train enthusiast sets up a company. Its members and board are the enthusiast, his solicitor and his accountant. The public control requirement is not met.

If a library, museum or art gallery is carried on by an organisation and operated for the profit or gain of its owners or members, the facility is not public.

Available to the public

A public library, museum or art gallery makes its collection available to the public. Limits that make a collection substantially available only to members of an association or employees of a particular employer are not acceptable.

If limits are in place only to improve availability, they can be acceptable. For example:

- a public library's books may be available only to residents of a particular town
- certain exhibits of a public museum may be available only to people carrying out research.

A school library can be a public library if the school is open to the public. This includes primary and secondary schools run by government or religious bodies and TAFE colleges. It does not include schools run for the profit of their owners.

Library, museum or art gallery

The terms 'library', 'museum' and 'art gallery' have their ordinary meanings. They have been described as follows:

- A library is a place set apart to contain books and other literary material for reading, study or reference.
- A museum is a building or place for the keeping, exhibition and study of objects of scientific, artistic or historical interest.
- An art gallery is a building devoted to the exhibition of works of art; a collection of art for exhibition.

The constituent or governing documents of a public library, museum or art gallery must be consistent with its character. Also, an organisation's activities, acquisitions policy, staffing, advertising and membership will be relevant.

The ways an organisation collects, preserves, maintains and makes its collection available must be consistent with how a library, museum or art gallery operates.

Institution

A public library, museum or art gallery will be either a:

- separate legal entity, such as a corporation, unincorporated association or trust
- part of a legal entity where that part has a separate institutional character.

For a part of an organisation to be a public library, museum or art gallery, it will be necessary that all of the following apply:

- The affairs of the library, museum or art gallery are separate from the general affairs of the organisation.
- The public can readily distinguish the library, museum or art gallery from the rest of the organisation.
- The collection is readily identifiable to the public as the collection of a library, museum or art gallery.
- The accounts of the library, museum or art gallery are separate from those of the rest of the organisation.
- Any gifts made to the library, museum or art gallery will be used only for library, museum or art gallery purposes.

Checklist

You should consider the following checklist when working out whether your organisation is a public library, museum or art gallery:

- Is your organisation one of the following:
 - a registered charity
 - operated by a registered charity

- an Australian government agency
- operated by an Australian government agency?
- Is your organisation an entity (such as a corporation or trust) or does it have a separate institutional character?
- Is your organisation owned or controlled by a government or quasi-government authority, or by persons or an institution having a degree of responsibility to the public?
- Does your organisation make its collection available to the public?
- Do its constituent or governing documents clearly show that it is set up to be a library, museum or art gallery?
- From your organisation's activities, do other people recognise it as a library, museum or art gallery?
- Are these activities consistent with being a library, museum or art gallery?

Organisations that are not public libraries, museums or art galleries

Following are examples of organisations that are not public libraries, museums or art galleries:

- business exhibits set up as part of promoting or carrying on a business
- hobby associations and clubs that exist primarily to provide services and facilities for their members
- support funds that provide money for public libraries, museums and art galleries or for the establishment of such institutions - these funds might fall within the DGR category of [public ancillary fund](#)
- support organisations such as friends of an art gallery or museum
- urban preservation schemes that encourage preservation of buildings of historical and architectural significance.

If your organisation is not a public library, museum or art gallery but otherwise supports literature, the arts or movable cultural heritage it may fall within one of the other cultural DGR categories.

See also:

- [Public ancillary funds](#)

QC 26452

Scholarship funds

The characteristics of a scholarship fund for endorsement as a deductible gift recipient.

Last updated 12 October 2016

The characteristics of a scholarship fund for the purposes of endorsement as a deductible gift recipient.

Next steps:

- [Application for endorsement as a deductible gift recipient](#)
- [Scholarship fund - schedule for deductible gift recipient applicants](#)

Characteristics of a scholarship fund

The scholarship fund DGR category covers funds with all the following characteristics:

- the fund is a public fund
- it is a charity registered with Australian Charities Not-for-profits Commission (ACNC) as a charity or operated by a registered charity
- it is established and maintained solely for providing money for eligible scholarships, bursaries or prizes.

The fund may provide money:

- to recipients of its eligible scholarships, bursaries or prizes or to another organisation to provide its eligible scholarships, bursaries or prizes.

See also:

- [Public fund](#)

- [Australian Charities and Not-for-profits Commission \(ACNC\)](#) 

Requirements of an eligible scholarship, bursary or prize

Scholarships and bursaries are ongoing or one-off benefit payments to students to cover school fees, textbooks and other related educational expenses such as uniforms, travel, boarding or living costs.

A prize, in the context of a scholarship fund, is an award of money or property to students usually conferred for reasons of merit (such as academic achievement) but may be conferred for reasons of equity.

- [Australian citizens and permanent residents](#)
- [Open to at least 200,000 people](#)
- [Promoting the recipient's education](#)
 - [Approved Australian courses](#)
 - [Overseas study](#)
- [Merit or equity](#)

Australian citizens and permanent residents

To be eligible, the scholarship, bursary or prize must be awarded only to Australian citizens or permanent residents of Australia.

Must be open to at least 200,000 people

To be eligible, entry to the scholarship, bursary or prize must be open to individuals or groups of individuals in a region of at least 200,000 people.

While a scholarship, bursary or prize will normally be open to individuals, some may be open to groups of individuals - for example prizes for a championship school choir or debating team.

Matters that can be consistent with this requirement, even though they may have the effect of reducing the number of people who could qualify, include:

- the scholarship or bursary is for study at a particular school
- the scholarship or bursary is for study within a particular discipline

- there are merit or equity criteria.

However, an eligible scholarship, bursary or prize could not have any of the following limits on eligibility:

- open only to students at a particular school - even if the school's students come from throughout a state, a territory or a region of 200,000 people
- open only to employees of a particular employer
- open only to members of a particular society or association.

Promoting the recipient's education

To be eligible, the scholarship, bursary or prize must promote the recipient's education.

Approved Australian courses

Approved Australian courses are pre-school courses, primary courses, secondary courses and tertiary courses. They cover the approved curriculum and courses at Australian educational institutions that are approved or recognised by Australian educational authorities.

Examples of activities and awards where there would not be an approved Australian course include:

- courses run by professional associations that are not registered training organisations
- activities run by a school or college that are not directly related to an approved Australian course
- community service awards.

See also:

- [Goods and Services Tax Ruling GSTR 2000/30](#) - *Goods and services tax: supplies that are GST-free for preschool, primary and secondary education courses*
- [Goods and Services Tax Ruling GSTR 2001/1](#) - *Goods and services tax: supplies that are GST-free for tertiary education courses*
- *Student Assistance (Education Institutions and Courses) Amendment Determination 2011 (No. 2)* available at education.gov.au 

Overseas study

An eligible scholarship, bursary or prize can promote the recipient's education in educational institutions overseas, provided it is by way of study or a component of an approved Australian course.

While an exchange relationship between the Australian and overseas institutions is not essential, the approved Australian course must give credit for the overseas study.

For education in educational institutions overseas, an eligible scholarship, bursary or prize must promote the recipient's education by way of study of a component of an approved Australian course.

Merit or equity

To be eligible, the scholarship, bursary or prize must be awarded on merit or for reasons of equity.

The basis of merit can include non-academic criteria, where they are sufficiently connected with the educational objectives.

Examples where a non-academic criterion could be consistent with the academic criteria include:

- community service (for a secondary school scholarship)
- football skills (for a scholarship at a school where football is part of the curriculum)
- ability to perform in the career which will result from the particular course (for a tertiary course bursary).

Reasons of equity would cover students who are experiencing socio-economic disadvantage or hardship, or suffering disability. Other reasons may include special needs flowing from:

- age
- gender
- ethnicity or geographic location, depending on the particular education being promoted.

A scholarship, bursary or prize will not be eligible where the awarding is not truly on the basis of merit or equity. For example, the following eligibility criteria do not target on the basis of merit:

- current enrolment at a particular school or college

- membership of a club or association, including a professional association
- employment by a particular employer
- promising to become an employee of a particular employer
- membership of a religion
- race or ethnicity.

If the basis of merit or equity is unrelated to the education, the scholarship, bursary or prize is not eligible.

A requirement for a recipient to repay the scholarship, bursary or prize should be consistent with the education, merit or equity. For example, a bursary would not be eligible if repayment was required at the end of the course because the recipient did not take up employment with a particular employer.

QC 26415

School building funds

Explains the characteristics of a school building fund for endorsement as a deductible gift recipient.

Last updated 4 October 2024

Some school building funds may be eligible to be deductible gift recipients.

This information will help you to understand the characteristics needed for a school fund to be eligible. If you're eligible, you can [apply for DGR endorsement](#).

The word 'school' in this section refers to either a school or college.

Characteristics of a school building fund

A school building fund has the following characteristics:

- It is a [public fund](#).

- It must be operated by or be
 - an [Australian government agency](#); or
 - a registered charity with the [Australian Charities and Not-for-profits Commission](#) [↗](#) (ACNC).
- It meets the key requirements of a school building fund which are
 - there must be a [school](#)
 - there must be a [building](#)
 - the [building must be used as a school by a qualifying body](#) – which is a government, a public authority or a non-profit society or association
 - the [fund](#) must be established and maintained solely to provide money for the acquisition, construction or maintenance of a building used, or to be used as a school.

You can use the [checklist](#) to work out if your fund has the characteristics of a school building fund.

Definition of a school

A school is a place where people come together to be instructed in an area of knowledge or activity. Schools are not limited to those focused on academic pursuits. They include, but are not limited to, recreational, technical, arts and agricultural schools.

A school must be an institution and have a real, separate, institutional existence. This may be within or part of another institution.

Factors that are not required but can help show there is a school, are:

- a set curriculum
- instruction or training by suitably qualified persons
- enrolment of students
- some form of assessment and correction
- the creation of a qualification or status that is recognised outside of the organisation.

Definition of a building

The term 'building' has its ordinary meaning and includes one building, a group of buildings, a part of a building or additions to a building.

A building should be a permanent structure, roofed and usually with walls and flooring that provides protection from the elements. Therefore, structures such as an outdoor swimming pool, sports oval or a tennis court are not buildings as they are not enclosed and do not provide protection against the elements.

A permanent structure, such as a covered outdoor learning area that does not have walls is capable of being a building if it is fixed to the ground and has a roof.

Fixtures are accepted as part of a building. They are affixed to a building and are unable to be detached without substantial damage to the item itself or that to which it is attached. Fixtures include ducted heating systems, fixed air conditioning systems and carpets permanently fixed to the floor.

Non-fixtures such as computers, furniture, training equipment and laboratory equipment do not form part of the building.

A building must be used as a school by a qualifying body

For a building to be characterised as a school building, a qualifying body needs to control the use of the building in its capacity as operator of the school. A qualifying body is a government, a public authority or a non-profit society or association.

While regard must be given to the actual use of the building, a building may be inferred not to be a school building where the school organisation cannot determine how the building is used.

The building must be used by a qualifying body for a purpose connected with the instruction provided by the school. A building is 'used as a school' as a matter of everyday language where its use for school purposes is substantial. However, a simple mathematical examination of the time the building is 'used as a school' is not conclusive.

The following factors must be considered in determining whether a building is 'used as a school':

- the overall purpose (or purposes) for which the building has been established and maintained
- the importance of each of the activities carried out to that purpose
- any connection that the non-school use has towards the school use
- the extent the school use and non-school use have contributed to that purpose.

If there is non-school use, whether the building is a school building will depend on how much it limits, detracts from or is incompatible with the instruction provided by the school.

The following factors are not determinative, but may indicate that a building is 'used as a school':

- amount of time the building is put to school use relative to time put to non-school use
- number of people involved in the school use relative to number of people involved in its non-school use
- physical area of the building put to school use relative to physical area put to non-school use
- extent to which the building has been adapted or modified to accommodate its school or non-school use.

Where a building's uses are incidental or ancillary to the provision of instruction in a school building, it may also be considered to be 'used as a school'.

Incidental or ancillary buildings include:

- school tuck-shops
- toilet blocks
- school assembly halls
- school administration office
- residential accommodation of a boarding school
- residential accommodation for teachers.

Any other use of the building must be either integral to its use as a school or be so minor or occasional that it does not interfere with its use as a school.

A multipurpose building is designed to be put to a variety of different uses. To be a school building, a multipurpose building must satisfy the same requirements to be characterised as a building 'used as a school'.

If it's characterised as a school building, the school building fund can use its funds to contribute towards the cost of any common area. For example, areas put to both school and non-school use such as a hallway or toilet blocks are considered a common area. However, if the common area has been adapted or designed specifically for non-school use, the school building fund cannot provide the money to pay the cost of the adaptation or design.

Use of the school building fund

A school building fund is solely for providing money to acquire, construct or maintain a building used, or to be used, as a school by a qualifying body. It cannot be used for any other purpose.

To determine the purpose of the fund, objective circumstances are considered, including the constituent documents of the fund and what the money is provided for. Expenditure on capital improvements and maintenance, as well as installing and maintaining fixtures, are accepted outlays of a school building fund.

Costs payable from a school building fund include:

- purchase of land to the extent that it reasonably relates to the area of land occupied by the school building
- building purchase and construction expenses
- incidental costs relating to planning, negotiating, financing and obtaining approvals for acquisition or construction
- fixtures including security related features such as security alarms and lighting and window and door security such as grilles
- initial repairs
- additions or extensions to the existing building such as an additional floor, room or permanent structure within the building and the replacement, removal or addition of walls, doors or windows
- lease payments that relate to the building or land occupied by the building

- conditions on construction imposed by a local governing body or public authority, to the extent they relate to the ability to construct the school building
- repairs, painting, plumbing and general maintenance of the school building, including costs of purchasing associated equipment
- cleaning expenses including cleaning the building's floor coverings, fixtures and windows
- building insurance, to the extent it relates to the building
- security monitoring costs that directly relate to the preservation or protection of a school building
- administration costs of establishing or promoting the fund, including bank fees, accounting and audit costs, fundraising expenses and reasonable remuneration for the fund's administrator and staff.

A school building fund cannot provide funds for:

- a non-school building
- the non-school use of a school building
- other facilities that are not buildings.

Costs that cannot be paid include:

- construction of non-school building like a wing of a building designed to be used as a church
- maintenance costs that relate to the non-school use of a building, like the costs of hiring a cleaner to clean school buildings following weddings unless the fund is fully and promptly reimbursed
- running expenses of the school that don't relate to buildings such as water, gas, electricity, sewerage, contents insurance, teaching staff salaries or the general upkeep of furnishings
- costs of maintaining facilities which are not buildings including sports fields, sports equipment, playgrounds, landscaping and open-air carparks.

A school building fund may invest or lend its money if this is a bona fide and temporary arrangement and will assist the fund to achieve its objects within a reasonable period. To be a bona fide arrangement, the investment or loan must be designed to make efficient use of the

money until such time as it is required for the acquisition, construction or maintenance of the building.

Taxation Ruling [TR 2013/2](#) *Income tax: school or college building funds* provides detailed guidance for organisations seeking additional information to determine whether their fund has the characteristics of a school building fund.

School building fund checklist

Use our checklist to work out if your fund has the characteristics of a school building fund.

- Your fund is a [public fund](#).
- Your fund's constituent or governing documents clearly show it was established solely to provide money for acquiring, constructing or maintaining a building used, or to be used, as a school.
- The building is used, or to be used, as a school by a government, public authority or non-profit society or association.
- Actual payments made by the fund are only for acquiring, constructing or maintaining the building, including acceptable administration costs of the fund.
- Your fund must be operated by or be an [Australian government agency](#) or registered with the [ACNC](#) .

If you have worked out that your fund is a school building fund, it also needs to meet other conditions for [DGR endorsement](#).

QC 16311

War memorial repair funds

The characteristics of a war memorial repair fund for endorsement as a deductible gift recipient.

Last updated 12 October 2016

Characteristics of a war memorial repair fund

A war memorial repair fund covers funds with the following characteristics:

- The fund is any of the following:
 - a charity registered with the Australian Charities and Not-for-profits Commission (ACNC)
 - an Australian government agency
 - operated by a registered charity or Australian government agency
- The fund is a public fund.
- The public fund is established and maintained solely for providing money to reconstruct or make critical repairs to a war memorial in Australia.
- The war memorial:
 - is situated in Australia
 - either commemorates events in a conflict in which Australia was involved or commemorates people (most of whom are Australian) who participated on Australia's behalf in a conflict
 - is a focus for public commemorations of those events or people
 - is solely or mainly used for those public commemorations.

Next steps:

- [Apply for DGR endorsement](#)
- Complete [War memorial repair fund - schedule for deductible gift recipient applicants](#) and submit to us with DGR endorsement application form

See also:

- Check your organisation's ACNC registration details at www.acnc.gov.au [↗](#)
- [Public fund](#)

What is a war memorial?

A war memorial is a monument or building commemorating those who died in a war.

War memorial structures include statues, honour rolls, decorative gates, ornamental bridges and fountains, monuments and obelisks.

Trees may be considered war memorials where it can be demonstrated that they are the memorial and not the memorial surrounds.

Example

The Campville Memorial consists of a water fountain at the entrance to community parkland. The water fountain is inscribed with a dedication to the Australian soldiers who fought in World War I and is the focus of community commemorations. The water fountain is a war memorial.

Eligible war memorials

Not all war memorials are eligible.

The war memorial must be in Australia. This includes memorials in Australia's external territories and territorial seas. It does not extend to memorials in foreign countries.

The war memorial must commemorate events or people in relation to a conflict in which Australia was involved. This includes, but is not limited to, the world wars, and the Korean and Vietnam wars.

The events that are commemorated must be events in the conflict. However, it is not necessary that the events mainly involved Australians. For example, a war memorial for the Battle of the Coral Sea could qualify.

If the war memorial commemorates people, most of them must be Australians participating in the conflict on Australia's behalf. This can extend to non-combatants, including nurses and merchant mariners.

A memorial mainly for people other than Australians is not eligible.

The war memorial must be a focus for public commemoration. Examples include ANZAC day services, wreath laying ceremonies and Remembrance Day services.

War memorials that are not accessible to the general public (for example, a family's memorial for a deceased son), or that are for the exclusive use of members of a particular association or group, do not satisfy this requirement. Also, structures operated for commercial purposes are not eligible.

The war memorial must be used solely or mainly for public commemorations. This means that amenities such as community memorial halls, churches, swimming pools, club buildings, hospitals and sports grounds are not eligible, even if they are named as a memorial or contain a plaque.

If an amenity includes an eligible war memorial (such as a statue in a botanical gardens or an honour board in a community hall), it is only the memorial and not the amenity that qualifies.

Reconstruction or critical repair

A war memorial repair fund can provide its money only to reconstruct or make critical repairs to the eligible war memorial. The need for the reconstruction or critical repair must be significant. For example, if:

- a failure to repair the damage could significantly endanger public safety
- a failure to repair the damage could significantly compromise the structural integrity of the memorial
- the memorial is so badly damaged that it cannot be repaired.

Example

The Brownville Memorial bridge is a small ornamental bridge, which spans an artificial stream in the town's memorial gardens. The bridge was built in remembrance of the defence force personnel lost in the Vietnam War and is only used for commemoration activities. A part of the bridge's supporting structure sustained severe damage from a lightning strike. The bridge is now unsafe to cross and is a risk to public safety. The memorial is in need of critical repair.

While the need for reconstruction or critical repair might arise from events such as fire, vandalism, flooding or earthquake, it might also

arise from the memorial falling into disrepair over time.

Examples that would not amount to reconstruction or critical repair include:

- maintenance
- routine repairs
- repairs that are desirable but not essential
- construction of a new memorial
- improvements to an existing memorial
- extension or expansion of a memorial.

Example

In situations where there is doubt about whether planned works qualify as reconstruction or critical repair; the professional advice provided by a builder, engineer or architect may assist.

If work being done on a war memorial includes work that is not reconstruction or critical repair (such as extensions), the fund can only provide money for the reconstruction or critical repair (not the extensions).

Checklist

Use the following checklist to work out if your fund is a war memorial repair fund.

- Is your fund a registered charity or an Australian government agency?
- Is your fund a public fund?
- Is your fund established and maintained solely to provide money for critical repair and reconstruction of a war memorial?
- Is the war memorial located in Australia?
- Does the war memorial commemorate events in a conflict in which Australia was involved, or commemorate people (most of whom are Australian) who participated on Australia's behalf in a conflict?

- Is the war memorial a focus for public commemorations of these events or people?
- Is the war memorial used solely or mainly for public commemorations?

Time limits for tax deductible gifts

A war memorial repair fund is entitled to receive tax deductible gifts for two years beginning on the day the fund, or the entity endorsed for the operation of the fund, is endorsed as a DGR.

QC 26451

Our commitment to you

We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

If you follow our information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we will take that into account when determining what action, if any, we should take.

Some of the information on this website applies to a specific financial year. This is clearly marked. Make sure you have the information for the right year before making decisions based on that information.

If you feel that our information does not fully cover your circumstances, or you are unsure how it applies to you, contact us or seek professional advice.

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