



Ancillary fund return instructions 2016

Ancillary funds that are not a registered as a charity with the Australian Charities and Not-for-profits Commission (ACNC), including funds that were formerly prescribed private funds, should complete the Ancillary fund return 2016.

Last updated 13 February 2019

Only ancillary funds that are not registered as a charity with the Australian Charities and Not-for-profits Commission (ACNC) should complete the *Ancillary fund return 2016* (NAT 73640)

About these instructions

These instructions will help you complete the *Ancillary fund return 2016* (NAT 73640).

When we refer to the ancillary fund guidelines, we are referring to the *Public ancillary fund guidelines 2011* as amended for public ancillary funds (public AFs) and the *Private ancillary fund guidelines 2009* as amended for private ancillary funds (private AFs).

When we refer to a 'fund' in these instructions, we are referring to an ancillary fund.

When we refer to 'you' in these instructions, we are referring to you as the trustee of the ancillary fund.

These instructions are not a guide to law on ancillary funds. They sometimes refer you to a guideline that specifically addresses an item in the return you are completing – this does not mean the guideline is

all you need to consider regarding that item, or the operation of the fund.

Note: Do not send the audit report and financial statements with the return unless you need to do so because of particular circumstances, such as winding up the fund or ceasing to be an ancillary fund.

Penalties may be imposed for giving false or misleading information – penalties may also be imposed for non-compliance with the ancillary fund guidelines.

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Introduction

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For an ancillary fund to be entitled to endorsement as a deductible gift recipient (DGR), **section 30-125 Entitlement to endorsement** in the *Income Tax Assessment Act 1997* (ITAA 1997) requires that the fund and the trustees comply with the rules in the private AF guidelines or public AF guidelines (whichever is applicable).



Private ancillary fund guidelines 2009

The *Private ancillary fund guidelines 2009* (private AF guidelines), a legislative instrument formulated by the minister, took effect on 1 October 2009. These guidelines were amended on 5 May 2016.

The amended private AF guidelines set out the rules private AFs and the trustees must comply with if the funds are to be, or are to remain, endorsed as a DGR. They also set out the amount of the administrative penalty, or how to work out the amount of the administrative penalty.

The rules supplement or extend those in tax law and address such issues as distribution, valuation, accounts and documents that a trustee may have to provide to us.

See also:

- [Private ancillary fund guidelines 2009](#) 
- [Federal Register of Legislative Instruments](#) 

Public ancillary fund guidelines 2011

The *Public ancillary fund guidelines 2011* (public AF guidelines), a legislative instrument formulated by the minister, took effect on 1 January 2012. These guidelines were amended on 5 May 2016.

The amended public AF guidelines set out the rules public AFs and the trustees must comply with if the funds are to be, or are to remain, endorsed as a DGR. They also set out the amount of the administrative penalty, or how to work out the amount of the administrative penalty.

The rules supplement or extend those in tax law and address such issues as distribution, valuation, accounts and documents that a trustee may have to provide to us.

See also:

- [Public AF guidelines 2011](#) 
- [Federal Register of Legislative Instruments](#) 

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Completing and lodging the return

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Download the [Ancillary fund return 2016 \(PDF, 292kb\)](#)  (NAT 73640).

Read these instructions on how to complete the return form:

- You can type directly into the form, or you can print the form and write the information.
- If typing, check you can save a copy of the completed form to your computer. Enter text into the first field, save and close the file, then re-open it to check the text you entered is displayed.
- If you can't save the form, print a completed copy before you close it.
- Print an additional completed copy for your records.
- If writing, print neatly in BLOCK LETTERS using black pen.
- Place **X** in **all** applicable boxes.
- Insert whole dollars only, do not show cents.
- Print and sign the form.

If you need to lodge an amendment, write to the Australian Taxation Office (ATO) with details of the changes. Do not lodge another form.

Relevant period

An entity's income year for the purposes of tax law is usually the period of 12 months ending on 30 June each year.

If you do not write any dates in this field, then your organisation will be treated as having a 1 July to 30 June income year.

An entity that wishes to adopt a substituted accounting period (SAP) can only do so with the Commissioner of Taxation's approval.

If your organisation has an approved SAP, you would have been sent a letter confirming your approved SAP.

Any SAP must be approved by the Commissioner prior to lodgment of the return.

Privacy

We are authorised by taxation law to collect the information on this form and disclose it to other government agencies. This includes the personal information of the person authorised to sign the declaration.

See also:

- [Our privacy policy](#)

Lodging the return

Send the completed return form by the lodgment due date to:

Australian Taxation Office
GPO Box 9845
[insert the name and postcode of your capital city]

For example;

Australian Taxation Office
GPO Box 9845
SYDNEY NSW 2001

Section A: Fund information

This section deals with identification of the fund.

1. Name of fund

Insert the name of the ancillary fund as it appears in the fund's trust deed – for example, John Brown Foundation (not the trustee of the John Brown Foundation).

2. Australian business number (ABN) of fund

Insert the ABN of the fund.

Make sure you use the ABN of the fund, not the ABN of the trustee of the trust.

Information is collected for the purposes of the *A New Tax System (Australian Business Number) Act 1999* and may be used to update your details on the Australian Business Register. See the privacy note at [Completing and lodging the return](#) for further information.

3. Address for notices

Insert the current postal address of the fund.

4. Email address

Insert the email address of the trustee.

Details of the trustee to whom notices should be sent

You must provide the details of the trustee to whom notices should be sent at **either**:

- **item 5 If the trustee is a constitutional corporation**
- **item 6 If the trustee is an individual.**

5. If the trustee is a constitutional corporation, insert details here

Insert the name of the constitutional corporation.

Insert the Australian Company Number, association number or incorporation number of the constitutional corporation.

Insert the tax file number (TFN) of the constitutional corporation.

Insert the phone number (including area code) of the constitutional corporation.

6. If the trustee is an individual, insert details here

Insert the title, surname or family name, and given names of the individual.

Insert the TFN of the individual.

We are authorised by the *Taxation Administration Act 1953* to collect your TFN. See the privacy note at [Completing and lodging the return](#) for further information.

Insert the phone number (including area code) of the individual.

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Section B: Donations received

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This section allows you to insert the donations received by the fund.

7. Donations received

Provide details about all donations received by the fund within the financial year.

A – Cash received

Insert the total cash received.

B – Value of shares in publicly listed entities received

Insert the total value of shares in publicly listed entities received.

C – Value of shares in unlisted entities received

Insert the total value of shares in unlisted entities received.

D – Combined value of collectibles, land, buildings and other property received

Insert the total value of collectibles land, buildings and other property received. Collectables include the following items:

- paintings, sculptures, drawings, engravings or photographs, reproductions of these items or property of a similar description or use
- jewellery
- antiques
- coins or medallions
- rare folios, manuscripts or books
- postage stamps or first day covers.

A collectable is also:

- an interest in any of the items listed above
- a debt that arises from any of those items
- an option or right to acquire any of those items.

E – Total value of donations received (total of labels A to D)

Insert the total value of donations received – that is, the total of labels A to D.

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Section C: Income

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This section allows you to insert income, expenses and net income of the trust.

Do not include an unrealised gain or an unrealised loss at **item 8 – Income** or **item 9 – Expenses**. These would be reflected in the estimated market value of the fund's assets.

8 Income

Include all the types of income derived by the trust.

Do not include donations at **item 8 – Income**. Include these amounts at **item 7 –Donations received**.

A – Gross income

Insert the total of gross income derived from money held in financial institutions including:

- bank interest
- franked dividends received from either public or private entities
- unfranked dividends received from either public or private entities
- any amounts received from us as a result of the fund applying for a refund of franking credits attached to dividends received **either**:
 - directly or indirectly as a shareholder
 - indirectly as a beneficiary of a trust.
- total of amounts received from the renting, leasing or hiring out of land, buildings or other property
- total of all distributions from a trust
- other gross income.

B – Net capital gain

Insert the amount of net capital gain.

This was previously called 'realised capital gain' in the information returns of former prescribed private funds.

You make a capital **gain** or **loss** when a capital gains tax (CGT) event takes place.

You make a capital **gain** if the proceeds exceed the cost base. You make a capital **loss** if the reduced cost base exceeds the capital proceeds.

Total capital gains and losses for the financial year are respectively added up and subtracted, and then any net capital losses from earlier years are also offset – this gives the net capital gain or loss for the income year. If the trust has a capital loss this is quarantined and then offset against capital gains in future years. A capital loss cannot be deducted against any form of income other than capital gain. There is no capital gain or loss unless they have been 'realised'.

See also:

- Capital gains tax

C – Total income (total of labels A to B)

Insert the total income – that is, the total of labels A to B.

9. Expenses

Include all expenses for operating the fund.

Do not include distributions at **item 9 – Expenses**. Include these amounts at **item 11 – Distributions made**.

Do not include a capital loss as an expense. It can only be offset against a capital gain. See the explanation under [B Net capital gain](#) **item 8**.

Trust law and the deeds that establish the majority of ancillary funds allow the trustee to pay the expenses of the fund. The guidelines allow the trustee to be reimbursed, on behalf of the fund, for reasonable expenses and be paid reasonable remuneration for services.

For more information, refer to private AF guidelines 42 and 43 and public AF guidelines 42 and 43.

D – Salary

Insert the total paid to employees of the fund including amounts paid as trustee remuneration. Do not include reimbursement of expenses of the trustees – this goes in **E – Other expenses**

E – Other expenses

Insert the total of all other expenses including

- rent paid
- total paid for management and administration – for example, government charges, insurance, bank, accounting, investment advisor and legal fees, and reimbursement of expenses of the trustees
- total of valuation fees paid for estimates of market value
- the total of audit fees paid.

F – Total expenses (total of labels D and E)

Insert the total expenses – that is, the total of labels D and E.

10 Net income

G – Net income (label C less label F)

Insert net income – that is, label C less label F.


Section D: Distributions made

This section allows you to insert the distributions made by the fund.

11 Distributions made

Insert distributions that were made in the current financial year. Where distributions were made to the same recipient, combine all distributions made to that recipient. If there is insufficient space, use an extra Section D page. Save a copy of extra pages for your own records.

List the names of the entities to which distributions were made, include their ABNs, and the breakdown of distributions into the amount of money or the value of property.

Ancillary funds distribute to DGRs that are covered by Item 1 of the table in section 30-15 of the ITAA 1997. [The Australian Business Register](#)  indicates whether an entity is an Item 1 DGR. A distribution includes the provision of money, property or benefits.

A – Name of recipient

Insert the name of the recipient of the distribution.

B – ABN of recipient

Insert the ABN of the recipient of the distribution.

C – Money distributed

Insert the amount of money distributed to the recipient.

D – Market value of property distributed

Insert the market value of property distributed to the recipient.

E – Total value of distributions made (total of all C and D amounts)

Insert the total value of distributions made – that is, the total of all amounts in labels C and D.

What is the minimum distribution allowed?



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What is the minimum distribution allowed?

Last updated 13 February 2019

Private ancillary funds

During each financial year, a private AF must distribute at least 5% of the market value of the fund's net assets as valued at the end of the previous financial year. The exception is if you have made a request for the Commissioner to reduce the minimum distribution for the year in question in accordance with AF guideline 19.7 and that request has been agreed to.

See also:

- **Application to reduce the minimum ancillary fund distribution rate**

If the fund provides property or benefits, the market value of the property or benefit is to be used in determining whether the fund has complied with the requirement to distribute.

While net assets are used to determine the fund's minimum distribution, the amount of the distribution itself is not the net of any amount – for example, expenses of the fund.

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:

- the 5% is less than \$11,000, **and**

- any of the expenses of the fund for that financial year are paid directly or indirectly from the fund's assets or income.

This means that if a fund's expenses are met from outside the fund, its minimum annual distribution is 5% of the market value of the fund's net assets. If a fund's expenses are paid out of the fund's assets or income, its minimum distribution is \$11,000, or 5%, whichever is greater.

No distribution is required during the financial year in which the fund is established.

For more information, refer to private AF guideline 19.

Public ancillary funds

During each financial year, a public AF must distribute at least 4% of the market value of the fund's net assets as valued at the end of the previous financial year. The exception is if you have made a request for the Commissioner to reduce the minimum distribution for the year in question in accordance with AF guideline 19.7 and that request has been agreed to.

See also:

- **Application to reduce the minimum ancillary fund distribution rate**

If the fund provides property or benefits, the market value of the property or benefit is to be used in determining whether the fund has complied with the requirement to distribute.

While net assets are used to determine the fund's minimum distribution, the amount of the distribution itself is not net of any amount – for example, expenses of the fund.

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:

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

This means that if a fund's expenses are met from outside the fund, its minimum annual distribution is 4% of the market value of the fund's net assets. If a fund's expenses are paid out of the fund's assets or income, its minimum distribution is \$8,800, or 4%, whichever is greater.

No distribution is required during the financial year in which the fund is established or during the next four financial years.

While the guidelines do not set a minimum annual distribution for the first four financial years, the trustee should consider making an appropriate distribution each year in accordance with the purpose of the fund.

For more information, refer to public AF guideline 19.

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Section E: Market value of the fund's net assets at the end of the financial year

Last updated 13 February 2019

12 Assets

The market value of the fund's assets must be estimated in accordance with the ancillary fund guidelines and any other directions from us.

Estimates must be completed before the fund is required to lodge their return for the relevant financial year.

For land and buildings, the estimates must have been made within the last three financial years. For assets other than land and buildings, estimates must be as at 30 June 2016.

We consider that where there are circumstances that make the value apparent – for example, all assets of the company are in cash or listed shares – the trustee may use the market value established by the account balance for cash or the listed price of the shares.

However, we also consider that estimating the market value of shares in a private company is likely to be difficult or complex, and so must be estimated by a certified and independent valuer or by the ATO.

Estimates of the market value of assets that are land, including buildings, must be made by a certified and independent valuer or by the ATO.

For more information, refer to private AF guidelines 20 to 23 and public AF guidelines 20 to 23.

To obtain a valuation from the ATO phone **1300 130 248**

Insert the market value of shares and equities that are held within Australia and traded on Australian stock exchanges.

This category relates to shares, equities and similar financial contracts that are traded on Australian stock exchanges, excluding debt securities. Show investments in listed trusts here.

C – Market value of shares in an unlisted entity

Insert the market value of shares that the ancillary fund held within Australia that are not listed on Australian stock exchanges.

This category refers to shares, equities and similar financial contracts that are not listed on Australian stock exchanges but are located in Australia. Show investments in unlisted trusts here.

D – Loans

Insert the amount that the fund has loaned that has not been repaid.

E – Market value of land, buildings and any other assets

Insert the market value of land, buildings and any other assets.

F – Total market value of the fund's gross assets at the end of the financial year (labels A to E)

Insert the total market value of the fund's gross assets at the end of the financial year – that is, the total of labels A to E.

13 Liabilities

G – Borrowings

Insert the amount the fund has borrowed and not repaid.

The ancillary fund guidelines allow the trustee to borrow money or maintain an existing borrowing of money only in certain circumstances. The total borrowing is limited to 10% of the market value of the fund's assets and the period of the borrowing is also limited.

For more information, refer to private AF guidelines 33 and public AF guideline 33.

H – Other liabilities

Insert the amount – that is, the total of other liabilities that are not borrowings.

Other liabilities may include those for accrued leave or rent that would usually be evidenced in writing – for example, accrued leave would be recorded in the accounts or ledgers and an agreement to pay rent would have an executed lease of premises.

I – Total liabilities at the end of the financial year (totals of labels G to H)

Insert the total amount of liabilities at the end of the financial year – that is, the total of labels G to H.

14 Market value of the fund's net assets

Under the ancillary fund distribution rules, the trustee will use the market value of the fund's net assets at the end of the financial year to calculate what must be distributed in the next financial year.

J – Market value of the fund's net assets at the end of the financial year (label F less label I)

Insert the market value of the fund's net assets at the end of the financial year – that is, label F less label I.

Section F: Information relating to entitlement to endorsement

This section allows the trustee to advise us on some governance issues.

Insert **X** in the **Yes** or **No** box, where applicable.

All ancillary funds must complete all questions.

A – Have the fund's financial statements been audited or reviewed?

Each financial year the trustee must arrange for an auditor or reviewer to audit the financial statements of the fund.

An ancillary fund with revenue and assets of less than \$1 million in a particular financial year may have its financial statements reviewed rather than audited, unless:

- the Commissioner advises otherwise
- your trust deed requires an audit.

A reviewer must meet the requirements provided in private AF guideline 28.1A.1 or public AF guideline 28.2.1. An auditor must meet the requirements provided in private AF guideline 28.1 or public AF guideline 28.1.

The audit or review must be finalised before the fund is required to lodge the return.

For more information, refer to private AF guidelines 26, 27 and 28 and public AF guidelines 26, 27 and 28.

B – Has the Commissioner been advised of any changes to the fund's governing rules?

The trustee must let us know within 21 days of any change in the fund's deed or will, using the approved form:

- Notification of change to the governing rules of an endorsed private ancillary fund (NAT 73402)
- Notification of change to the governing rules of an endorsed public ancillary fund (NAT 74034)

For more information, refer to private AF guideline 17 and public AF guideline 17.

C – Has the fund entered into a financial dealing with a person or entity associated with the founder or trustees of the fund?

Dealings (except by way of gift), with a founder donor, trustee, director, officer, agent, member or employee of the trustee, or an associate of these entities must be at arm's length or on terms more favourable to the fund than would otherwise be expected under an arm's length transaction.

For more information, refer to private AF guideline 36 and public AF guideline 36.

D – Has the fund's auditor or reviewer confirmed compliance with the AF guidelines relating to the relevant reporting period?

Each financial year the trustee must arrange for an auditor or reviewer to audit compliance with the guidelines by the fund and the trustee.

An ancillary fund with revenue and assets of less than \$1 million in a particular financial year may have its compliance with the guidelines reviewed rather than audited, unless:

- the Commissioner advises otherwise
- your trust deed requires an audit.

The reviewer must meet the requirements provided in private AF guideline 28.1A1.1 or public AF guideline 28.2.1.

The audit or review must be finalised before the date the fund is required to lodge the return.

For more information, refer to private AF guidelines 28, 29 and 48 and public AF guidelines 28, 29 and 47.

E – Does the fund maintain a current written investment strategy?

An AF trustee must prepare and maintain a current investment strategy for the fund that sets out the investment objectives of the fund and details the investment methods the trustee will adopt to achieve those objectives.

The investment strategy (and a record of the associated decision-making processes) must be available in a written form so that the trustee, an auditor, a reviewer, or the Commissioner can determine whether the fund has complied with the AF Guidelines.

For more information, refer to private AF guideline 30, 31 and 32 and public AF guideline 30, 31 and 32.

F – Did the fund wind up or cease to be a public or private AF?

If the AF was wound up or ceased to be a public or a private AF during the financial year, it must include the audit or review report when it lodges the ancillary fund return 2016.

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Section G: Declarations

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Penalties may be imposed for giving false or misleading information. In addition, penalties may be imposed for non-compliance with the *Private ancillary fund guidelines* or *Public ancillary fund guidelines*.

See the privacy note at [Completing and lodging the return](#) for further information.

Declaration

This declaration must be signed by a trustee or director or public officer authorised to sign on behalf of the trustee.

Insert the name of the authorised person signing on behalf of the trustee.

Insert the position the authorised person holds in relation to the trustee.

The authorised person must sign and date the form on the same day.

Tax agent's declaration

This declaration must be signed by the tax agent if they prepared the return.

- insert a contact name for the tax agent
- insert the tax agent's phone number (including area code)
- insert the tax agent's reference number
- if applicable, insert the tax agent's client reference for the trustee
- the tax agent must sign and date the form on the same day.

If the tax agent is a partnership or a company, this declaration must be signed by a person authorised by that partnership or company to sign on its behalf. Also insert that person's name at this item.

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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