

# Gift fund requirements for deductible gift recipients (DGRs)

Most entities wishing to receive income tax deductible gifts must now be endorsed as DGRs.

An organisation must have a gift fund to be endorsed as a DGR. It must maintain the gift fund after endorsement in order to keep DGR status.

Information about DGR endorsement is provided in the fact sheet *The endorsement process for deductible gift recipients (DGRs)*.

## What is a gift fund?

A gift fund is a separate fund that a DGR maintains to receive gifts of money and property made for its principal purpose (or the principal purpose of the fund, authority or institution for which the DGR is endorsed).

A gift fund can act as a conduit for passing on gifts to beneficiaries of the DGR or as a means of purchasing goods and services that the DGR uses in carrying out its principal purpose.

For example, the gift fund for a library might be used to buy library books or to organise fundraising activities.

The gift fund must:

- receive all gifts of money or property made for the principal purpose
- receive any money received because of such gifts
- not receive any other money or property, and
- be used only for the principal purpose of the DGR (or, where endorsement is in relation to a fund, authority or institution operated by the DGR, the use must be for the principal purpose of that fund, authority or institution).

For example, a gift fund for a school building fund could not be used to pay teachers' salaries.

## How do you set up a gift fund?

If an organisation seeks DGR endorsement in its own right, it must establish a gift fund for the organisation as a whole.

If an entity seeks endorsement for a fund, authority or institution it operates, it must establish the gift fund for that part of its organisation only.

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The legislation does not prescribe how a gift fund is to be constituted. It may be established under the DGR's constituent documents or it may have separate rules governing its operations.

A DGR with multiple endorsements must operate a gift fund for each fund, authority or institution for which it is endorsed. Each fund should be identifiable by its own name. For example, a school will need to maintain (and name) separate gift funds for its building fund and library fund.

A gift fund does not need to be a public fund (that is, a fund to which the public contributes and in whose administration the public participates). Nor will a public fund necessarily satisfy all the requirements for a gift fund.

## **How do you operate a gift fund?**

The money and property of the gift fund must be clearly separate from the entity's other money or property. Property items must be specifically identified.

## **What should a gift fund be used for?**

A gift fund must only be used for the principle purpose of the DGR or the fund, authority or institution it operates.

While a gift fund may invest in property, excessive accumulation of property or investment income may indicate that the gift fund is not being used only for the principal purpose.

Reasonable costs of managing a gift fund may be charged to the fund. These include costs such as:

- bank charges
- stationery expenses
- audit fees, and
- professional fees paid for running fundraising programs.

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

## **Which gifts go to the gift fund?**

The gift fund must receive all gifts made to a DGR for the principal purposes supporting endorsement. This includes gifts made under a will, gifts that are not tax deductible and distributions from charities and other DGRs. Gifts of property of negligible value (such as used clothes left in a drop-box) do not need to go through the gift fund.

Certain kinds of money and property must not go to the gift fund. This includes:

- income from sponsorship
- income from commercial activities, and
- proceeds from raffles, auctions or fundraising dinners.

## **Which other amounts go to the gift fund?**

Money received because of the gifts must be credited to the gift fund. This includes the following, where they are part of the gift fund:

- proceeds of the sale of gifted property (including items of negligible value), and
- investment returns (such as interest, dividends and rent) from gifted money and property.

### What requirements must be satisfied on winding up a gift fund?

On winding up its gift fund or on revocation of endorsement, a DGR is required to transfer surplus assets to another DGR. This requirement must be in a law, or in the governing documents of the DGR whose gift fund is being wound up.

A DGR may be endorsed for more than one fund, authority or institution. If a gift fund is wound up for one of the funds, authorities or institutions, the DGR may transfer surplus assets to one of its other gift funds.

### What are the consequences of not maintaining a gift fund?

If an entity does not maintain a gift fund, it loses its entitlement to be endorsed as a DGR. However, if the failure is merely operational and not intentional and is rectified in a short time, endorsement will not be withdrawn.

In other cases where a gift fund is not being maintained, the entity must notify the ATO so the endorsement can be revoked.

### Need more information?

- phoning the business Tax Reform Infoline on **13 24 78**
- downloading information from the website at **www.taxreform.ato.gov.au**
- obtaining *A Fax From Tax* on **13 28 60**
- phoning the TTY service on **1300 130 478** if you have a hearing or speech impairment, or
- writing to us at PO Box 9935 in your capital city.

Taxpayers who do not speak English and need help from the ATO can phone the Translating and Interpreting service on **13 14 50**.

### Guarantee

Businesses can rely on the information presented in this publication, which provides advice from the Commissioner of Taxation on the operation of the GST system.

Under the GST law, any written ruling or advice given or published by the Commissioner protects taxpayers who have followed the information provided. Rulings or advice can be issued in the form of fact sheets, information booklets, advice manuals and bulletins.

In the event that there is a change in the law or the Commissioner's position on a particular matter, you will be protected in respect of what you have done up to the date of that change. This means that if you have relied on a ruling which has later been changed and, in reliance on the earlier ruling, you have underpaid an amount of GST, you will not be liable for the shortfall prior to the later ruling. Similarly, you will not be liable to repay an amount overpaid by the Commissioner as a refund in these circumstances. Equally, no penalties or interest will apply.

You should take care to ensure that the information in this publication is the latest advice from the Tax Office. Where a change occurs, the Tax Office will be taking all steps to alert taxpayers to that change.

The information in this publication is intended to explain how the GST System will work. It may not apply fully to your circumstances. You can always get help from the Tax Office or consider using a professional tax practitioner.

The information in this publication is current at 6 July 2000.

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