

Guide to deductible gift recipient status

A guide to applying for and maintaining deductible gift recipient endorsement

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**Part 1 – Introduction to
Deductible Gift
Recipient (DGR)
endorsement**

Introduction to Deductible Gift Recipient (DGR) endorsement

This section covers:

- ▶ What is DGR endorsement?
- ▶ Does your community organisation need DGR status?
- ▶ Which community organisations may be endorsed as DGRs?
- ▶ Is there another way of accessing DGR concessions?



Note

In December 2017, the [Government announced proposed changes to Deductible Gift Recipient \(DGR\) tax arrangements](#).

The start date for most of the reforms has been delayed from 1 July 2019. Amendments to the legislation must be made before the changes can come into effect. As at 1 October 2020, no legislation had been introduced into Parliament.

Under these proposed reforms it's expected that non-government DGRs will be required to register as charities with the Australian Charities and Not-for-profits Commission (**ACNC**) or to be operated by a registered charity. See the [ACNC website](#) for further information.

From 1 October 2020 a new category of DGR for community sheds was introduced. See the [Australian Tax Office \(ATO\) website](#) for more information.

Other changes expected include:

- doing away with certain public fund requirements for DGRs, and
- the transfer of the administration of the Register of Environmental Organisations, Register of Cultural Organisations, Register of Harm Prevention Charities and the Overseas Aid Gift Deductibility Scheme to the ACNC and ATO (and the end of duplicate reporting)

[Subscribe](#) to our monthly newsletter for updates about the DGR reforms.



Part 1 summary

This part of the guide explains what DGR status means, the basic details of eligibility for DGR status and how to make a decision about whether DGR status would benefit an organisation.

There are other tax concessions that not-for-profit organisations can consider applying for that are not discussed in this guide.

What is DGR status?

DGR is a special tax status that an organisation can seek from the Australian Tax Office (ATO). People who make gifts or donations to a DGR are able to 'deduct' those gifts from their own income for tax purposes, and DGRs may be eligible to receive funds from certain grant makers and philanthropic bodies that can only fund DGRs.

Does your community organisation need DGR status?

An organisation will benefit from being endorsed as a DGR if:

- it already receives gifts from the public
- it wants to start fundraising and receiving gifts from the public, or
- it wants to attract funds from the grant makers and philanthropic bodies that can only give funds to DGRs

DGR status is not always essential for not-for-profits to run successfully and not-for-profits can fundraise without being a DGR.

Which community organisations may be endorsed as DGRs?

To be endorsed as a DGR, an organisation must:

- be not-for-profit
- have an Australian Business Number (ABN)
- fall into a recognised general category of DGR (around 50 categories), which are described in the DGR Table in the Australian tax law. Most categories in the DGR Table have eligibility criteria that an organisation must meet in order to be endorsed by the ATO
- be 'in Australia'. An organisation applying for DGR status has to be established and operated in Australia
- have acceptable rules for transferring surplus gifts and deductible contributions if the organisation or fund is wound up or its DGR status is revoked (these are normally in the organisation's constitution)
- in some cases, set up a public fund, and
- in some cases, set up a gift fund

Many types of DGR require registration as a charity with the Australian Charities and Not-for-profits Commission (ACNC) before they can be endorsed as a DGR.

In some cases, pre-approval from another government department is required before the ATO will give DGR endorsement.

If an organisation meets the eligibility criteria, it will then need to apply to either the ATO or the ACNC, or to another relevant government department, depending on the DGR category, for DGR endorsement. When you are required to apply to the ACNC or another government department, your organisation's details will usually be passed on to the ATO without a separate application to the ATO being required.

Is there another way of accessing the benefits of DGR endorsement?

If your organisation as a whole is not eligible to be a DGR, certain activities of the organisation may be eligible for DGR endorsement. There are structuring options available for those activities which can benefit from DGR endorsement. However, these options come with extra administration (for example, your organisation may need to establish a gift fund to hold gifts and donations that are only applied to the particular eligible activities).



What is DGR endorsement?

DGR is a special federal tax status that an organisation can apply to the ATO to access.

If your organisation is endorsed as a DGR it can benefit from:

- people who make certain gifts or donations to your organisation being able to 'deduct' those gifts for their own income tax purposes (that is, the donor can claim the donation as a deduction when filing their personal income tax return), which then means people may be more willing to donate to your organisation, and
- being eligible to receive funds from certain grant makers and philanthropic bodies that are only able to give money to organisations that have DGR status.

In general, unless your organisation is endorsed as a DGR, people donating to your organisation can't claim their donation against their tax. DGR endorsed entities will often state in their materials that 'donations over \$2.00 are tax deductible'.

The legislation that sets out the requirements for DGR status is the *Income Tax Assessment Act 1997 (Cth)* (***Income Tax Act***).



Note

Not all kinds of payments or contributions to a DGR are tax deductible. For more information on what is tax deductible, see part 4 of this guide, which is about maintaining your DGR endorsement.



Tip

You can check if your organisation is already a DGR by:

- checking your organisation's listing on the [Australian Business Register](#) – this register sets out all tax concessions an organisation has been endorsed to access
- finding your organisation's listing on the [ACNC Register](#) – this register provides a link to the Australian Business Register, or
- phoning the ATO on 13 28 61



Caution

Applying for DGR endorsement is often complicated, and we recommend you seek help from a lawyer. It can save time and money down the track to get your advice on eligibility and your application right from the start.



Does my community organisation need DGR status?

Applying for DGR status can be a time consuming process. Before you go to the trouble of applying for endorsement as a DGR, it's worth considering whether DGR status will benefit your organisation.

Benefits of DGR endorsement

An organisation will benefit from being endorsed as a DGR if:

- it receives gifts from the public or wants to start fundraising and receiving gifts from the public as donors will receive a tax deduction for their gift, or
- it wants to attract (and is likely to be able to attract) funds from certain grant makers and philanthropic bodies that can only give to DGRs.



Note

It's also important to think about how your organisation plans to raise funds. If money paid to your organisation can't be classified as a 'gift' then the donor can't claim a tax deduction.

For more information about what is a gift, see part 4 of this guide.

For more information about fundraising generally go our [fundraising page](#).

DGR status is not always essential for not-for-profits to run successfully:

- Some state government, local government and philanthropic foundations provide funding to organisations without DGR status (check their grant guidelines).
- DGR is also not normally as important for seeking funding from corporate entities. Unlike donations from individuals, businesses that want to donate to a not-for-profit organisation may be able to claim their donation as a deduction from their tax under other provisions in the *Income Tax Act* (for example, as advertising expenses).

Obligations for DGR endorsed organisations

Before applying for DGR endorsement, your organisation should carefully consider the time and effort involved in making the application, and the conditions that are imposed on DGRs. DGR applications in some categories can take up to two years to process. There are also record-keeping and reporting requirements that come with being a DGR.

Is my organisation eligible for DGR endorsement?

DGR categories

To be endorsed as a DGR, an organisation must fall into one of the DGR categories specified in the *Income Tax Act*.

There are about 50 different DGR categories. Each category of DGR has certain criteria to be eligible. Some common categories for DGR endorsement are set out in part 2 of this guide.



Caution

Because technical language is required to establish the criteria of many DGR categories, it's a good idea for most organisations to seek professional legal or accounting advice before applying for DGR endorsement.

In some cases, if an organisation doesn't fit into one of the existing categories, but is otherwise deemed worthy of DGR status, it can apply to be listed by name in the *Income Tax Act* as a DGR.



It is difficult and time-consuming to get an organisation specifically listed because it requires Parliament to amend the Income Tax Act. This process can take a long time and there is no guarantee of success.

Organisations that are specifically listed in the *Income Tax Act* include the Australian Council of Social Service, Amnesty International Australia and Australian Sports Foundation Limited.

Other requirements

In general, before applying for DGR endorsement organisations should:

- have an Australian Business Number (ABN)
- meet the 'in Australia' requirements as defined in tax law (or have a fund, authority or institution operated in Australia)
- be a not-for-profit organisation (this will usually involve having appropriate not-for-profit and dissolution clauses in the organisation's governing documents, discussed further in part 3 of this guide), and
- have an appropriate winding up and revocation of endorsement clause in their governing documents (discussed further in part 3 of this guide)

There are **additional requirements for some categories** (see the summary table at the end of part 3 of this guide).

Depending on the category, an organisation may need to:

- apply to be on the relevant register (if the organisation is, for example, a harm prevention charity, cultural organisation, environmental organisation or overseas aid organisation)
- be a charity registered with the ACNC, or the fund, authority or institution that the organisation operates may need to be registered with the ACNC
- have set up a public fund (if required – see the summary table at the end of part 3 of this guide)
- have set up a gift fund (if required – note that if an organisation is seeking endorsement as a whole, it usually will not require a gift fund, but if a fund, authority or institution of the organisation is seeking endorsement, a gift fund will be required)

Is there another way to benefit from DGR endorsement?

If your organisation as a whole is not eligible to be a DGR, certain activities, if sufficiently isolated, may be eligible for DGR status. There are several options that can allow your organisation to benefit from DGR endorsement in relation to the particular eligible activities. These options are explained in more detail below, and include:

- setting up a fund, authority or institution to conduct the eligible activities operated by your organisation and itself is eligible for DGR endorsement
- setting up a new organisation that solely conducts your eligible activities and is eligible for DGR endorsement
- creating a project that is auspiced by another organisation that has DGR status, or
- asking an existing charitable foundation to establish a sub-fund or a special account to raise money, or give out grants, for a particular cause

Set up a fund, authority or institution

It may be worth considering establishing a fund, authority or institution that your organisation operates to deliver or fund your eligible activities. By siloing your eligible activities, the fund, authority or institution may be eligible for DGR endorsement even though your organisation as a whole is not.

Considering whether to set up a part of your organisation as a fund authority or institution, and deciding which of these is most suitable, is not straightforward and you will most likely require a lawyer's assistance.



Related Not-for-profit resources

If you are thinking about this option and need information about whether to separately incorporate the fund, authority or institution, visit our [getting started page](#).

Whether your organisation needs to set up a fund, authority or institution will depend on Income Tax Act requirements of that type of activity.

The Income Tax Act sets out what is required to obtain DGR endorsement under the different categories of eligibility and any attached conditions. For example, if your organisation is setting up as a public benevolent institution under item 4.1.1 of Section 30-45 of the *Income Tax Act*, it will need to set up as an institution, not a fund. The *Income Tax Act* doesn't define institution, fund or authority.

An institution carries out activities or provides services. However, what constitutes an institution will vary from case to case. In general, an institution will have structure, permanence and significant activities. A charitable institution is established and carried out to advance or promote the charitable purposes set out in its governing documents. Institutions don't have to be separately incorporated, but do need to meet certain criteria.

A fund mainly manages and holds property to distribute to entities that carry out charitable purposes, rather than carrying out the charitable purposes itself. Some funds can be endorsed for certain categories of DGR (for example, a school building fund or school library fund).

An authority is usually an Australian government agency or is set up to carry out functions of a public nature or those functions which are connected to or generally identified with functions of government.

Organisations that seek endorsement of a fund, authority or institution that they operate (rather than endorsement of the organisation as a whole) may need to set up a gift fund that receives donations related to the activities of the fund, authority or institution (unless they have another fund set up already for another DGR that they operate).

Set up a separate organisation

If your organisation as a whole is not eligible for DGR endorsement, you could consider setting up a separate organisation to conduct the parts of your organisation's activities that could attract DGR endorsement.

For example, many religious groups set up separate incorporated bodies to conduct their charitable activities that meet requirements for DGR endorsement, such as welfare activities.

Your organisation should seek legal advice about this option. While setting up a separate entity to carry out your specific activities can be an effective way to become eligible for DGR status, your organisation will need to manage the additional governance and reporting requirements of a second entity.

There may also be taxation implications for an entity that transfers assets to a new not-for-profit entity. While most states and territories provide duty (stamp duty) relief for not-for-profits, this is not always the case. It is therefore a good idea to get legal advice before agreeing to this option.

Auspicing

Another option is to ask a community organisation that already has DGR endorsement to 'auspice' a specific project that your organisation wants to run. This means that the organisation agrees to apply for funding for your project, or to accept donations in relation to your project, that will be carried out by you under the auspice of the organisation with DGR endorsement. The success of this approach will depend on whether you can find a suitable organisation to auspice your project, as well as making sure an appropriate relationship is set up with the auspisor (which may include a formal agreement).

It may be difficult to find an organisation which has an appropriate DGR endorsement that is willing and able to auspice your organisation. Your project will need to fit into the category of their endorsement and be consistent with that organisation's purposes. If an organisation with DGR endorsement enters into an auspice agreement that breaches the tax law and ATO requirements for tax deductible donations, such as operating outside its purposes or powers, it could lose its own endorsement.



Being auspiced means that your organisation may lose some of its independence because the auspicing organisation will administer project funding and place requirements on your project. These requirements may include payment of an administrative fee to the auspicing organisation.

Auspicing of arts projects, one-off events and smaller projects are common.



Caution

Auspicing organisations often charge administrative fees for processing donations.



Related Not-for-profit resources

If your organisation is considering auspicing a project, you can find more information on our [auspicing webpage](#).

Charitable foundations and trusts

If your organisation would like to start a fundraising entity or grant making foundation to support a particular cause, you can ask an existing charitable foundation to set up a sub-fund for your organisation. Some existing foundations will allow you to establish named sub-funds or special accounts, and will manage the administration for you.



Related Not-for-profit resources

For more information, see our fact sheet on fundraising foundations and charitable trusts on our [legal structure webpage](#).



Part 2 – Common categories of DGR endorsement

Common categories of DGR endorsement

This section covers:

- ▶ overview of common categories of DGR endorsement
 - ▶ other categories of DGR endorsement
 - ▶ what if our organisation fits into a number of categories?
 - ▶ what proportion of our activities or purposes need to be directly related to the DGR category?
 - ▶ types of organisations with difficulty getting DGR endorsement.
-

Part 2 summary

Overview of common categories of DGR endorsement

Of the approximately 50 DGR categories, this guide sets out details of 7 of the most common categories:

- public benevolent institutions, health promotion charities, harm prevention charities, animal welfare charities, arts or cultural organisations environmental organisations, and overseas aid funds

Other categories

This section also outlines DGR categories of specialised public funds including scholarship funds, school building funds, necessitous circumstances funds, Australian disaster relief funds, and public ancillary funds

What if our organisation fits into a number of categories?

This section discusses what you should do if your organisation fits into a number of categories.

What proportion of our activities or purposes need to be directly related to the DGR category?

This section considers how much of your organisation's time must be devoted to activities that are relevant to its DGR category and provides examples of the types of activities your organisation may engage in.

Types of organisations with difficulty getting DGR endorsement

Some types of organisations often have difficulty getting DGR endorsement including advocacy organisations, neighbourhood houses and community centres, sports clubs and associations, peak bodies, and cultural or social associations



Overview of common categories for DGR endorsement

Generally, to be endorsed as a DGR, your organisation (or a fund, authority or institution operated by your organisation) must fall within one of the recognised categories for endorsement.

There are many categories – this part provides a brief overview of 7 common categories of DGR endorsement:

- public benevolent institutions – institutions that provide relief to those suffering or in distress (such as sickness, disability, destitution, suffering, misfortune or helplessness)
- health promotion charities – charities whose principal activity is to promote the prevention or the control of diseases in humans
- harm prevention charities – charities that work towards preventing harm (one or more of emotional abuse, sexual abuse, physical abuse, suicide, self-harm, substance abuse or harmful gambling)
- animal welfare charities – charities that provide care or rehabilitation to certain animals
- arts or cultural organisations – organisations whose principal purpose is the promotion of cultural forms, including literature, visual arts, music, performing arts, arts or languages of Indigenous persons, crafts, design, film, video, radio, community arts, television and movable cultural heritage
- environmental organisations – organisations whose principal purpose is the protection and enhancement of the natural environment or a significant aspect of it, or research or education about the environment or a significant aspect of it, and
- overseas aid organisations – organisations that provide relief assistance in recognised developing countries

Other categories include certain educational activities, public libraries and museums, emergency services, approved research institutes and other types of international relief (for example, disaster relief in developed countries).



Related resources

See the [ATO website for a full list of categories](#)

Tip



If your organisation is going to apply for DGR endorsement, you will need to provide copies of your organisation's constituent documents (rules or constitution) to either or both of the ACNC and the ATO.

The ACNC and the ATO will look carefully at your organisation's objects clause (or statement of purposes) to check that it reflects the criteria of the particular DGR category your organisation is applying for. You may, therefore, need to get legal help to refine your purposes for DGR endorsement. For more information see part 3 of this guide.



Note

Use the checklist below to help you work out if your organisation fits into one of these common DGR categories. When considering DGR categories, it is important to consider your organisation's overall principal purposes. Your activities must support those purposes.

This not an exhaustive list of the categories of DGR – you should always check [the ATO website](#) for further information about other categories.



Public benevolent institution

Does your organisation provide welfare services to people (or fundraise with the purpose or object of providing welfare services to people)?

If YES – your organisation may be eligible for DGR endorsement as a public benevolent institution.

A public benevolent institution (**PBI**) is a registered charity with the dominant purpose of providing benevolent relief to people in need. Benevolent relief includes the relief of poverty, sickness, destitution or helplessness.

Institution

A PBI must be an institution. An institution is an establishment, organisation or association that exists to promote the charitable purposes and intentions of its founders.

To be an institution, your charity must not be merely a fund. It must do more than just distribute funds to other organisations or individuals, or simply make property available for others (as a fund may do). It must have its own activities, engage others to undertake activities on its behalf, or be part of a relationship of collaboration (such as being part of a structure of organisations) that is organised and conducted for or promotes benevolent relief.

Start-up organisations will often face difficulty demonstrating that they provide the necessary benevolent relief. The ACNC needs to be satisfied that your organisation has concrete plans to bring its purposes into being. The more detailed the information you can provide to the ACNC that demonstrates your plans, the more likely your organisation is to be an 'institution'.



Note

If you want to register a new organisation as a PBI, you will need to demonstrate to the ACNC that you have concrete plans to operate within one year of establishment. You can do this by including the following information to the ACNC with your registration application:

- operational, strategic or business plans that outline what you propose to do, the resources you require, how you will obtain those resources, the personnel you will engage, your financial projections and any third parties that may be involved, and
- evidence of agreements with other organisations that set out how you intend to work with the other organisations to provide benevolent relief

Benevolent relief to people in need

The relief must be provided to people who are in need and the relief must be specifically targeted to those people (the relief should not be directed toward the broader community).

Therefore, organisations that provide general advice, information or services to the whole or part of a community are unlikely to be considered PBIs (the relief they are providing is not specifically targeted at a specific group of people in need). Organisations whose activities are aimed at preventing poverty or suffering, rather than relieving the suffering are also unlikely to qualify as a PBI.

Activities must be aimed at relieving the actual needs of a class of disadvantaged people, and services need to be available to the public or a section of the public, based on need.



Examples

Examples of organisations that are likely to be considered PBIs (because the relief they are providing is benevolent and is targeted toward a particular group of people in need) include:

- a community organisation established to run a shelter for people experiencing homelessness
- a community legal centre
- a not-for-profit drug and alcohol residential rehabilitation centre, and
- a local 'meals on wheels' service

Examples of organisations that are not likely to be considered PBIs (either because they are not providing benevolent relief, or that relief is not targeted toward a particular group of people in need) include:

- community associations (unless the association is providing relief that is targeted at a particular disadvantaged community)
- educational bodies (unless advancing education is incidental to a main benevolent purpose or is targeted only to those in need), and
- youth or social clubs (unless their main purpose is benevolent)

The PBI must either directly provide benevolent relief, or the PBI's activities must result in benevolent relief being provided by another organisation. If the benevolent relief is provided by another organisation, the PBI must demonstrate that:

- there is a clear way to deliver the benevolent relief for which the funds are raised by the PBI, and
- there is a relationship of collaboration (through planning and management of funds) and a common benevolent purpose between the organisation raising the funds and the organisation delivering the services providing relief.



Related resources

For more information see the [ACNC's fact sheet 'What is a public benevolent institution?'](#) and the [ACNC Commissioner's Interpretation Statement: Public Benevolent Institutions](#), which provides guidance on the meaning and scope of a PBI and examples of how the law will be applied by the ACNC.

Health promotion charity

Is your organisation's principal activity promoting the prevention or control of disease in human beings?

If YES – your organisation may be eligible for DGR endorsement as a health promotion charity.

A health promotion charity is a charity registered with the ACNC whose principal activity is to promote the prevention or the control of diseases in human beings. Disease is given a broad meaning, and includes physical and mental illness. But a disease means something more than a health condition or symptom. Your organisation must specify which disease or diseases it will be concerned with preventing or controlling as it's generally not enough just to promote 'health' or 'wellbeing'.

Your organisation may be considered to be a health promotion charity if its principal activity is one of the following:

- providing relevant information to sufferers of a disease, health professionals, carers and the public, or



- researching how to detect, prevent, treat or cure diseases in people or developing or providing aids or equipment to sufferers of a disease



Examples

Organisations that have the following principal activities are likely to be considered health promotion charities:

- research into cancer treatment and care
- conducting diabetes awareness programs
- research into and development of products to assist in the prevention and treatment of heart diseases

Organisations whose principal activity is accident prevention will not meet the definition of a health promotion charity.



Related resources

For more information see the [ACNC's fact sheet 'What is a health promotion charity?'](#) and the [ACNC Commissioner's Interpretation Statement: Health Promotion Charities](#) which provides a definition and criteria to distinguish a health promotion charity.

Harm prevention charity

Is your organisation trying to minimise or control abusive behaviours?

- If YES – your organisation may be eligible for DGR endorsement as a harm prevention charity.

A harm prevention charity is a registered charity whose principal activity is to promote the prevention or control of 'behaviour that is harmful or abusive to human beings'. Harmful or abusive behaviour is defined for those purposes to mean emotional abuse, sexual abuse, physical abuse, substance abuse, self-harm, suicide or harmful gambling. A harm prevention charity can provide direct support through counselling or workshops, or indirect support through community education and awareness-raising.

A harm prevention charity seeking DGR endorsement must be accepted for entry on the Register of Harm Prevention Charities before it can be endorsed as a DGR by the ATO. The Register is maintained by the Department of Social Services.

Organisations seeking entry on the Register must be registered with the ACNC before applying to the Register of Harm Prevention Charities. You will need to make sure your organisation's constitution meets the requirements for registration by the Department of Social Services on the Register.

Harm prevention charities must maintain a public fund and complete an annual 'statistical return'.



Related resources

For more information see the [Register of Harm Prevention Charities Guidelines](#).



Examples

- an organisation established for suicide prevention
- an organisation founded to educate school students on the prevention of emotional abuse and physical abuse
- a charity that delivers education programs designed to prevent harmful gambling

For further examples see the [Register of Harm Prevention Charities Guidelines](#) and a list of current registered harm prevention charities on the [Department of Social Services website](#).

Animal welfare charity

Does your organisation provide direct care or rehabilitation for animals?

- If YES – your organisation may be eligible for DGR endorsement as an animal welfare charity.

An animal welfare charity is a charity registered with the ACNC whose principal activity is:

- providing short-term direct care to animals (not only native wildlife) that have been lost, mistreated or are without owners, or
- rehabilitating orphaned, sick or injured animals (not only native wildlife) that have been lost, mistreated or are without owners.

Note that organisations that only assist native wildlife may be eligible for DGR endorsement as an organisation on the Register of Environmental Organisations.



Examples

- an organisation established to find homes for greyhounds retired from the racing industry
- a service that rehabilitates injured domestic animals and native wildlife, and
- a shelter for dogs whose owners can no longer look after them

Register of cultural organisations

Does your organisation promote arts or culture (literature, visual arts, music, performing arts, arts or languages of Indigenous persons, crafts, design, film, video, radio, community arts, television and movable cultural heritage)?

- If YES – your organisation may be eligible for DGR endorsement as a cultural organisation on the Register of Cultural Organisations.

A cultural organisation (other than a public library, a public museum or public art gallery) seeking DGR status must first be registered on the Register of Cultural Organisations. This register is maintained by the [Department of Infrastructure, Transport, Regional Development and Communications](#).

Cultural organisations must establish a public fund and meet a range of other requirements concerning their constituent documents, reporting and use of funds. See the [Register of Cultural Organisations Guide](#) for further information.



Examples

- An organisation dedicated to directing the works of Shakespeare
- a community project that operates a youth orchestra
- a trust established to provide a fellowship program for emerging composers, and
- an organisation that provides guidance to aspiring poets

Environmental organisation

Is your organisation an environmental organisation?

If YES – your organisation may be eligible for DGR endorsement as an environmental organisation.

An environmental organisation is an organisation whose principal purpose is:

- the protection and enhancement of the natural environment or of a significant aspect of the natural environment, or
- the provision of information or education, or carrying on research about the natural environment or a significant aspect of the natural environment

An environmental organisation seeking DGR status must first be registered on the Register of Environmental Organisations. This Register is maintained by the Department of Agriculture, Water and the Environment.

Organisations on the Register of Environmental Organisations must establish a public fund and meet a range of other requirements concerning their constituent documents, reporting and use of funds. See the Register of [Environmental Organisations website](#) for further information.



Examples

- a fund established to promote rainforest conservation
- an organisation that provides education on climate change
- an organisation that promotes awareness of endangered species
- a foundation that works with volunteers to deliver a cleaner environment and community beautification, and
- an organisation that works to conserve native vegetation in a particular area in Australia

For further examples, see the [Register of Environmental Organisations' Guidelines and a list of current registered environmental organisations on the Department of Agriculture, Water and the Environment website](#).

Overseas Aid Fund

Does your organisation provide funds for the relief of people in developing countries?

If YES – your organisation may be eligible for DGR endorsement as an overseas aid fund.

An overseas aid fund is a charity whose main purpose is the relief of people in distress in countries that have been declared by the Minister for Foreign Affairs as 'developing'.

The 'in Australia' requirement for DGRs doesn't need to be satisfied for this category of DGR.



An overseas aid fund seeking DGR status must first be declared as an approved organisation under the Overseas Aid Gift Deduction Scheme. The Department of Foreign Affairs and Trade (**DFAT**) have responsibility for overseeing this process.

For more information see:

- [the Overseas Aid Gift Deduction Scheme \(OAGDS\) Guidelines on the Department of Foreign Affairs and Trade website](#)
- [the ATO's Overseas aid funds page](#)
- [a list of the approved developing countries on the Department of Foreign Affairs and Trade website](#)

Other categories

In addition to the 7 common DGR categories listed above, your organisation (or part of your organisation) may be eligible for endorsement in many other categories. Some of these categories are for the endorsement of public funds, including:

- **scholarship fund** – established and maintained solely for providing money for eligible scholarships, bursaries or prizes
- **approved research institute** – certain institutions, associations or organisations conducting scientific research which is, or may prove to be, of value to Australia
- **school building fund** – established and maintained solely for providing money for the purchase, construction or maintenance of a school or college building
- **necessitous circumstances fund** – established and maintained for the relief of people in Australia who are in 'necessitous' circumstances. Generally, this means that the fund distributes goods or money to people who don't have the financial resources for all necessities, not only for a bare existence, but for a modest standard of living in the Australian community (for example, for the benefit of children orphaned in a car accident, or to assist a person having very expensive medical treatment)
- **Australian disaster relief fund** – established and maintained solely to provide money for the relief of people who are in distress as a result of a disaster, and
- **Public ancillary funds (PuAFs)** – public funds which must be set up as a trust and which make distributions to other DGRs. PuAFs are complex to set up and administer, and your organisation should seek specific legal advice if it thinks establishing a PuAF is an option. Trustees of PuAFs must be 'constitutional corporations' (unless there is a sole trustee that is the Public Trustee or a state or territory or the trustees are prescribed by regulation). Incorporated associations will not always meet the definition of 'constitutional corporation'.



Tip

For a full list of all of the DGR categories, case studies of various types of organisations (and whether they meet the DGR category criteria), and category checklists refer to the [ATO's DGR page](#).

You may also wish to seek legal or accounting advice for more information about whether your organisation may be eligible for endorsement as a DGR.

Remember, if your organisation does not fit into a DGR category, there may be other options. See part 1 of this guide.

What proportion of our activities or purposes needs to be directly related to the DGR category?

Your organisation's principal activities must relate to the purposes for which the organisation has received DGR endorsement.

There must be a clear link between your principal activities and the DGR category. Your organisation may engage in other activities that do not directly further your charitable purpose, however, those activities must be incidental or ancillary to the principal purpose.



Types of organisations that may have difficulty getting DGR endorsement

A list of some types of organisations that may (but not always) have difficulty getting DGR endorsement follow.

Before applying for DGR endorsement, you should carefully consider your organisation's purposes and activities. You may need to speak to a lawyer or accountant for more information about your organisation's eligibility for endorsement as a DGR.

Advocacy organisations

Generally, if your organisation's principal purpose is advocacy, it may have difficulty getting DGR endorsement.

This is because advocacy is not a recognised category for DGR endorsement. Your organisation may be able to receive endorsement as a DGR if it falls into the category of a health promotion charity (see above) or harm prevention, because these categories allow relevant advocacy to be a principal purpose. Advocacy that is not the principal purpose of an organisation, that is advocacy which is incidental or ancillary to the principal purpose, is allowed in other DGR categories.

Neighbourhood houses and community centres

Neighbourhood Houses are sometimes eligible to be endorsed as DGRs under the Public Benevolent Institution (**PBI**) category. If a Neighbourhood House conducts direct welfare as a dominant activity, rather than preventative social inclusion and community development type activities, it may be eligible for endorsement as a PBI for the whole organisation. If not, there may be a particular program that fits into a DGR category that may be eligible (if appropriately isolated from the broader organisation).

Neighbourhood houses may have difficulty getting DGR endorsement if they conduct a range of activities, some eligible and others not.

The Australian Neighbourhood Houses & Centres Association (**ANHCA**) was successful in advocating for a specific listing as a DGR endorsed organisation. ANHCA may accept requests from neighbourhood houses to auspice particular DGR eligible activities - [contact the ANHCA for specific information](#).

Sports clubs and associations

Sports clubs and associations generally have difficulty getting DGR status. Because there is no general category for sports and recreation organisations, to get DGR endorsement, they generally must be listed by name in the tax law. For more information about this process, see part 3 of this guide.

Some organisations use sport as an activity to help them achieve their charitable purpose. For example, an organisation with the purpose of providing assistance to disadvantaged people in the community may run a youth soccer clinic for refugees and may be eligible for PBI endorsement. Where an organisation has a public benevolent purpose but carries out activities that are of a sporting nature in supporting that purpose, it may be eligible for DGR endorsement – you should get legal advice on this.

Peak bodies

Like neighbourhood houses, peak bodies may be eligible to be endorsed as DGRs under the PBI category if they conduct direct welfare as a dominant activity, rather than the sector development and advocacy activities that many peak bodies engage in.

It may also be possible to apply for DGR if the majority of a peak body's members are PBIs. However, a peak body would only be classed as a PBI in limited circumstances.

Cultural associations

Cultural associations, like specific ethnic associations or clubs, sometimes have difficulty getting DGR endorsement if they do not promote an aspect of their culture specifically (like literature, or film) that could be endorsed on another basis such as arts and cultural organisations.

They also sometimes have difficulty getting DGR endorsement as a PBI if welfare or other relief is not their principal purpose.



Part 3 – DGR preparation and application

DGR preparation and application

This section covers:

- ▶ preliminary requirements for all DGR applications
- ▶ how do we apply for DGR endorsement?
- ▶ getting legal advice
- ▶ applying to the ACNC or ATO for endorsement as a DGR, and
- ▶ what are our options if we are unsuccessful?

Part 3 summary

Once you have worked out that your organisation (or the fund, authority or institution your organisation operates) would benefit from DGR status, and may fit into one of the DGR categories, you will need to formally prepare for and apply for DGR endorsement.

Preliminary requirements for all DGR applications

Before applying for DGR endorsement your organisation must meet a number of preliminary requirements. These include having an Australian Business Number (ABN), operating 'in Australia', being a 'not-for-profit' organisation and having an appropriate winding up and revocation of endorsement clause in your constitution. Depending on the DGR category, your organisation may have to set up a public fund or a gift fund. There may be additional requirements specific to a certain category of endorsement. This section includes a table summarising requirements for endorsement for the common categories.

How do we apply for DGR endorsement?

The process for DGR endorsement depends on the DGR category your organisation is applying for. This section outlines some of the requirements common to several categories including applying to be on a Departmental Register, applying to the ACNC to be a registered charity (if required) and applying to the ATO for endorsement as a DGR.

Applying to the ACNC or ATO for endorsement as a DGR

We provide a brief outline of how you should apply to the ACNC or ATO (or another government department, where relevant) for endorsement and set out your options if you are unsuccessful.

Getting legal advice

We recommend your organisation gets professional legal or accounting advice before applying for DGR endorsement.



Outline of preparation and application process

Preliminary matters

In general, before you apply for DGR endorsement there are some requirements that all organisations will need to meet. You should check that your organisation:

- has an Australian Business Number (ABN)
- is 'in Australia' – a legal test about where your organisation operates (or the fund, authority or institution your organisation operates)
- is a not-for-profit organisation (this will usually involve having appropriate not-for-profit and dissolution clauses in your organisation's governing documents, discussed further below), and
- has an appropriate winding up and revocation of endorsement clause in your organisation's governing documents (discussed further below)



Tip

There are also more specific requirements for each different category.

Read the summary table at the end of this part of the guide to identify the requirements that apply to your category before continuing reading.

Depending on the category of DGR endorsement that your organisation is applying for, your organisation may need to:

- apply to be on the relevant register (if your organisation is, for example, a harm prevention charity, cultural organisation, environmental organisation or overseas aid organisation)
- be a charity registered with the ACNC
- set up a public fund, or
set up a gift fund (note that an organisation seeking endorsement as a whole will not require a gift fund, but if a fund, authority or institution of the organisation is seeking endorsement, a gift fund will be required).

Do we apply to the ACNC or the ATO or to another government department?

If your organisation is required to be a charity to be endorsed as a DGR but is not a charity at the time of applying for DGR endorsement, it can normally make one application to the ACNC for both registration as a charity and DGR endorsement at the same time.

For most categories, once the ACNC has registered the charity, it passes the application for DGR endorsement on to the ATO or, in some cases, another relevant government department for processing.

In some cases, applications for DGR endorsement are made straight to the ATO, for example:

- where an organisation is already registered as a charity, or
- where an organisation is not required to be registered with the ACNC to be endorsed as a DGR.

In some cases, applications are made to another government department. For example, if you are seeking endorsement under one of the DGR categories that require you to apply to a relevant register (this includes harm prevention charities, cultural organisations, environmental organisations and overseas aid organisations), you may need to apply to the department that looks after that particular register first.

If you are unsure about which regulator to apply to, discuss this with your lawyer or accountant, or call the ACNC.



Meeting baseline requirements for all DGR applications

An organisation applying to be endorsed as a DGR must:

- have an ABN
- fall into a DGR category stipulated in the tax law
- operate 'in Australia'
- be not-for-profit
- have a winding up or revocation of endorsement clause
- set up a public fund (if required), and
- set up a gift fund (if required)

The applicant must have an Australian business number (ABN)

To check whether you have an ABN, or for more information on how to apply for an ABN, go to the [Australian Business Register](#).

The applicant must fall into a stipulated DGR category

DGR categories are discussed in part 2 of this guide.

The applicant must operate 'in Australia'

Your organisation (or the fund, authority or institution your organisation operates that is seeking DGR endorsement) must be established and operated in Australia.

Most organisations don't have to be pursuing their objects in Australia in order to meet this test (there are some exceptions to this general rule). For more information on this test, [go to the ATO website](#)).



Examples

The 'in Australia' condition is met in this example:

An institution is set up in Australia and registered with the ACNC as a charity whose main purpose is for the relief of poverty. The institution is a registered public benevolent institution. The institution's controlling board, its donors, and most of its assets are in Australia. All of the money raised by the institution is sent to beneficiaries overseas.

The institution is established and operates in Australia. The institution is not required to have its purposes and beneficiaries in Australia. It meets the 'in Australia' condition.

The 'in Australia' condition is NOT met in this example:

A public fund is set up in an overseas country. Its controlling board, its donors, and most of its assets are in the overseas country. The fund sends money to Australia to help people who are in necessitous circumstances.

Although the public fund's purposes and beneficiaries are in Australia, the fund is not established and operated in Australia. It does not meet the 'in Australia' condition. It can't be endorsed as a DGR.

The applicant must be a not-for-profit organisation

A not-for-profit organisation doesn't operate for the profit or gain of its individual members, whether these gains would have been direct or indirect. This applies both while the organisation is operating and when it winds up.

Note that being a not-for-profit organisation does not mean you can't make a profit. A not-for-profit organisation can still make a profit, but this profit must be used to carry out its purposes and must not be distributed to owners, members or other private people.

The ATO requires organisations applying for DGR endorsement to have particular clauses in their governing documents, which demonstrate that they are not-for-profit. These clauses must prevent the distribution of profits or assets to individual members, both while operating and winding up.

The ATO will generally require two particular clauses that are commonly referred to as a 'not for profit clause' and a 'winding up clause'. Your organisation's actions must be consistent with these clauses.



Related Not-for-profit resources

For general information about what being 'not-for-profit' means, see our fact sheet [What does not-for-profit mean?](#)

Not-for-profit clause

You will need to include a clause in your governing document that states your organisation is not-for-profit. While various wording can be used, the clause below has been published on the ATO's website as an acceptable example.



Example of a not-for-profit clause

The assets and income of the organisation shall be applied solely to further its objects and no portion shall be distributed directly or indirectly to the members of the organisation except as genuine compensation for services rendered or expenses incurred on behalf of the organisation.

Winding-up clause

You will need to include a clause that states, on the winding up of the organisation (that is, when it ceases to operate), any remaining property will be distributed to another organisation or fund which is also not-for-profit and has similar purposes.



Example of a winding up clause

In the event of the organisation being dissolved, the amount that remains after such dissolution and the satisfaction of all debts and liabilities shall be transferred to another organisation with similar purposes which is not carried on for the profit or gain of its individual members.

For some DGR categories, the transfer will need to be made to an organisation endorsed in the same DGR category.

If the organisation is a charity, the winding-up clause should also state that the assets will be transferred to another charity.

The applicant must have an appropriate revocation of endorsement clause

The ATO requires most that organisations applying for DGR endorsement have an appropriate revocation clause in their governing documents. The revocation clause must set out that, if your DGR status is revoked, any remaining gifts, deductible contributions and money received will be transferred to another DGR.



As noted above, DGRs are required to have a winding up clause for not-for-profit status, and it is common for one clause to cover both winding up and revocation of endorsement.

While various wording can be used, the following example is an acceptable winding-up and revocation clause (whether your organisation, or a fund, institution or authority that your organisation operates is endorsed as a DGR).



Example of a winding up or revocation clause

If the [fund, institution or authority/organisation] is wound up or its endorsement as a deductible gift recipient is revoked (whichever occurs first), any surplus of the following assets shall be transferred to another organisation, fund, authority or institution with similar objects to which income tax deductible gifts can be made:

- *gifts of money or property for the principal purpose of the organisation*
- *contributions made in relation to an eligible fundraising event held for the principal purpose of the organisation, and*
- *money received by the organisation because of such gifts and contributions*

Note - If the organisation is a charity registered with the ACNC, the revocation clause must further provide that any surplus assets can only be transferred to another organisation which is also charitable at law.

For further information on acceptable revocation of endorsement clauses for organisations with DGR see the [ATO's webpage on winding up and revocation](#).

The applicant may need to set up a public fund

Your organisation may be required to set up a public fund (see the summary table at the end of this part of the guide for common categories requiring a public fund). In addition, if your organisation is listed in the Income Tax Act by name, it will generally require a public fund.

You may need the help of a lawyer to set up a public fund. A public fund may be established as a separate entity, for example under an instrument of trust, or as part of an organisation (the fund can be set up in the organisation's constituent documents). The fund's purposes should align with the relevant DGR category. Public funds must be administered by a controlling body (like a committee) and meet other certain requirements. A separate bank account and clear accounting procedures are required for public funds.



Related resources

The requirements for setting up and running public funds are set out on the [ATO's webpage on public funds](#).



Tip

If a public fund is required, that fund must have its own rules and objects. These can be set out in a separate founding document or incorporated into the governing documents of the organisation.

The organisation's governing documents must authorise the establishment of a fund in, for example, the objects clause. For more information, see [Taxation Ruling TR 95/27](#).



Note

A public fund has different requirements to a gift fund.

However, the public fund itself may be the gift fund (in which case, there would be no need for a separate gift fund) if the public fund only receives gifts or deductible contributions and has appropriate winding-up and revocation of endorsement rules.

The relevant administering government departments provide guidance on setting up a public fund for environmental organisations, harm prevention charities, cultural organisations and overseas aid funds available from. These are noted in the summary table at the end of this part of the guide.

The applicant may need to set up a gift fund

A gift fund is a fund set up to hold tax deductible contributions of money or property.

The money and property can only be distributed for the purposes for which the fund was established (which are usually approved by the ATO as part of getting DGR endorsement). A gift fund must only hold money which has been donated, and donated money should not be mixed with other money. Your organisation does not have to set up a separate bank account for the gift fund, but it may wish to do so to ensure donated money doesn't mix with other money of your organisation.

The gift fund may have its own rules or constitution, or the gift fund rules may be part of the governing documents of your organisation (your constitution may have a clause that sets up the gift fund). These rules or governing documents should provide evidence of the gift fund's existence, name, purpose and operations. The fund must operate in accordance with the rules set out in the governing documents.

If your organisation is required to have multiple gift funds because it has multiple funds, authorities or institutions each endorsed separately for DGR, it can maintain one gift fund that services each of the endorsed funds, authorities or institutions.

If an organisation maintains a gift fund for a fund, institution or authority that is endorsed as a DGR, the gift fund's governing documents (or the clauses within the organisation's constitution that set up and deal with the gift fund) must require the transfer of any surplus funds of the gift fund to another gift deductible fund, authority or institution when its fund, authority or institution is wound up or on revocation of DGR endorsement, whichever occurs first.



Example gift fund winding-up or revocation of endorsement clause

If [name of gift fund] is wound up or its endorsement as a deductible gift recipient is revoked (whichever occurs first), any surplus of the following assets shall be transferred to another organisation, fund, authority or institution to which income tax deductible gifts can be made:

- *gifts of money or property for the principal purpose of the organisation*
- *contributions made in relation to an eligible fundraising event held for the principal purpose of the organisation, and*
- *money received by the organisation because of such gifts and contributions*



Related resources

The requirements for setting up and running gift funds are set out on the [ATO's webpage on gift funds](#).

How do we apply for DGR endorsement?

The application process for DGR endorsement varies, depending on the DGR category your organisation is applying for, and for some categories, whether your organisation is already registered as a charity. Read the Table below for further details for common categories.



Caution

You need to carefully check the eligibility requirements for the category of endorsement you are applying for. **It can cause delays if you apply in the wrong category.**

For example:

- if an organisation must be registered as a charity for the category that it is applying for, it can submit its DGR application with its charity application to the ACNC (on the same form) and the ACNC will pass on the DGR information to the ATO. If the organisation is already registered with the ACNC when it decides to apply for DGR endorsement, it can apply directly to the ATO
- for some categories, organisations will first need to apply to a relevant department for listing on a departmental register (using their form and providing supporting documentation). The department will then pass the application to the ATO to finalise endorsement as a DGR. See below for more information.



Related resources

For more information see the [ATO's DGR webpage](#).



Tip

Before you apply, check the requirements of the registers, the ACNC and the ATO because you might need to make changes to your organisation's structure and activities. You will need to follow the procedures in your constituent documents to make these changes.

Many organisations need to amend their governing documents to meet the requirements for DGR endorsement. For more information, read our [resource on constitutions](#).

Apply to the ACNC to be a registered charity (if required)

For some categories of DGR, your organisation (or the fund, institution or authority that your organisation operates) will need to be registered as a charity with the ACNC before it can be endorsed as a DGR (see the summary table at the end of this part of the guide). This is because the tax law requires that - in order to meet the requirements of the category - the organisation must be a 'registered charity.'



However, the ACNC application form asks whether your organisation wishes to apply for tax concessions or DGR status and gives you the opportunity to upload your DGR application. This is to streamline the application process. To be eligible to be registered with the ACNC your organisation must:

- be a charity (meaning it must be a not-for-profit, have a charitable purpose and be for the public benefit)
- have an Australian Business Number (ABN), and
- comply with the governance standards and external conduct standards (if relevant).



Related resources

For more information on the requirements to register as a charity, go to the ACNC's webpage '[Applying for charity registration](#)'.



Related Not-for-profit resources

For more information on tax concessions that may be available, see our fact sheets on [fringe benefits concessions](#), [goods and services tax](#) and [income tax concessions](#).

Apply to be on a departmental register (if required)

There are four DGR categories that require you to become an 'approved organisation' or be entered on a 'Departmental Register'.



Note

Please note the warning at the beginning of this guide – it's expected that DGR arrangements for the registers will change significantly from 1 July 2020, with responsibility for these DGRs transferring to the ACNC and ATO.

Currently, departmental registers and application processes apply to:

- harm prevention charities (Department of Social Services)
- cultural organisations (Department of Infrastructure, Transport, Regional Development and Communications, Office of the Arts)
- environmental organisations (Department of Agriculture, Water and the Environment), and
- overseas aid organisations (Department of Foreign Affairs and Trade)

Each register has its own requirements.

Applications can also be made to the Department of Social Services for DGR endorsement for:

- public funds for an approved marriage guidance organisation, and
- public funds for the provision of family counselling or family dispute resolution.



Tip

When you apply to the department responsible for administering the departmental register, you will usually be given the option of completing your DGR endorsement form at the same time (with the exception of overseas aid organisations).

If your application to become an 'approved organisation' is successful, most departments will pass on your DGR endorsement form to the ATO so you don't need to apply separately to the ATO. Overseas aid organisations are the exception to this rule.

Overseas aid organisations will be informed by the Department of Foreign Affairs and Trade whether their application to become an 'approved organisation' is successful. If you are successful, you will then need to apply directly to the ATO for DGR endorsement.

Getting legal advice

For many organisations, it will be a good idea to get professional legal or financial advice before applying for DGR endorsement.

To apply for DGR endorsement you will need to provide copies of your organisation's governing documents (rules or constitution). The ACNC or ATO will:

- consider your organisation's objects clause (or statement of purposes) to assess whether it reflects the criteria of the particular DGR category your organisation is applying for, and
- look for appropriate non-profit, winding-up, revocation and other clauses that may be required (for example, for public funds or gift funds)

Because the language required in clauses to meet many category requirements is technical, you should get a lawyers' help to draft (or re-draft) your organisation's governing documents. You may also need help setting up a public fund or gift fund (with separate accounting procedures, if required).

Applying to the ATO or ACNC

The information below is a general outline.



Related resources

For more detailed information, and the relevant application form, go to the [ATO's Application for endorsement as a deductible gift recipient page](#).

If your organisation is applying to be registered as a charity with the ACNC, it can also seek tax concessions or DGR status in its ACNC application.

The ACNC assesses applications for PBIs and health promotion charities, and you will be asked for further information to establish that your organisation is eligible.

If your organisation is not required to be a charity for the category of DGR endorsement being sought, or is already registered as a charity, it will be required to apply for DGR endorsement directly to the ATO (or in certain cases to another government department which will pass your information to the ATO for DGR endorsement).

To apply for DGR status, your organisation must:

- meet the baseline criteria set out and explained above, and
- complete the [ATO's Application for Endorsement as a DGR form](#) and the appropriate schedule (if any)

DGR categories that require a schedule to be completed include:

- animal welfare charity



- Australian disaster relief fund
- charitable services institution
- developed country disaster relief fund
- fire and emergency services fund
- private ancillary fund
- public ancillary fund
- scholarship fund, and
- war memorial repair fund

The schedules ask you to provide additional information, which may include details of the organisation's:

- objects
- website
- principal activity (and its other activities)
- winding up and revocation clauses (where they are found in its governing documents) registration with the ACNC
- public fund, and
- board member details

The body to which you are making your application may ask for additional information in assessing your eligibility.



Tip

To optimise your organisation's chances of getting DGR status, your responses to the schedules in the application should be as detailed as possible. Read the schedules carefully before deciding which category is appropriate for your organisation, to make sure you can address each of the ATO's requirements. You should also consider getting help from a lawyer.

What are our options if we are unsuccessful?

If your application for endorsement as a DGR is refused, the ATO will give you an explanation of its decision. You have a right to ask the ATO for a review of the decision by lodging an objection to the ATO's refusal.

This objection must be:

- in writing, signed and dated
- lodged within 60 days of the date of notice of the decision (though you might be granted an extension in some cases)
- addressed to the ATO, and
- explain the reasons for your objection

The ATO will then report the outcome of their review to you with reasons for the decision. If you are still dissatisfied with the ATO's decision, you have a right to apply to the Administrative Appeals Tribunal for a review of the ATO's decision, or you can appeal to the Federal Court of Australia (a very expensive option).

A similar procedure for review applies to decisions by the ACNC to refuse registration as a charity, which also applies to an application for registration as a PBI or health promotion charity.

If, after a refusal, you wish to make another application for endorsement, you will need to show the ATO that your organisation has made relevant changes (to your constituent documents or your operations) in an effort to comply with the proposed DGR category. You must show that the changes mean your organisation now complies with the criteria for the category of DGR for which you are applying to receive endorsement.



The length of time since the previous application is also relevant, as your organisation will need to demonstrate it has properly implemented relevant changes before reapplying.

Summary table of DGR endorsement requirements for seven common categories

| Category | Public fund or gift fund requirement? | Is there a special register? | Is ACNC registration required? |
|--------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Public Benevolent Institution (PBI) | No public fund is required Organisations are endorsed in the PBI category as a whole and don't have to maintain a gift fund | No | Yes The organisation must be a registered with the ACNC as a charity |
| Health Promotion Charity | No public fund is required. Health promotion charities are endorsed as a whole and don't have to maintain a gift fund | No | Yes The organisation must be a registered with the ACNC as a charity |
| Harm prevention charity | Yes A harm prevention charity must establish and maintain a public fund | Yes Both the charity and its public fund must be listed on the Register of Harm Prevention Charities, maintained by the Department of Social Services | Yes Either the public fund or the organisation managing the public fund must be registered with the ACNC as a charity |
| Animal welfare charity | No public fund is required An animal welfare charity that is endorsed as a whole is not required to maintain a gift fund | No | Yes The organisation must be a registered with the ACNC as a charity |
| Cultural organisation | A cultural organisation must maintain a public fund that is listed on the Register of Cultural Organisations or be a public library, museum or art gallery | Yes A cultural organisation must be on the Register of Cultural Organisations, maintained by the Department of Infrastructure, Transport, Regional Development and Communications | Maybe Non-government public libraries, museums and art galleries must be registered as charities or run by a registered charity Cultural organisations on the Register of Cultural Organisations do not require ACNC registration, although from 1 July 2020 non-government DGRs will need to register as charities. |
| Environmental organisation | An environmental organisation must have a public fund | Yes The organisation and its public fund must be on the Register of Environmental Organisations, maintained by the Department of Agriculture, Water and the Environment. | No However, note that many environmental organisations would be eligible to be a charity |



| Category | Public fund or gift fund requirement? | Is there a special register? | Is ACNC registration required? |
|-------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|
| | | | From 1 July 2020 non-government DGRs will need to register as charities |
| Approved research institutes | No public fund is required An approved research institute that is endorsed as a whole is not required to maintain a gift fund | No | Yes, unless the research institute is not a charity |
| Overseas aid organisations | The overseas aid organisation must establish and maintain a 'developing country relief fund' (a public fund). | Yes The organisation must be admitted by the Department of Foreign Affairs and Trade as an approved organisation under the Overseas Aid Gift Deduction Scheme | Yes The public fund or the organisation operating the public fund must be registered as a charity with the ACNC |



Part 4 – Maintaining a DGR endorsement



Maintaining a DGR endorsement

This section covers:

- ▶ self-review
 - ▶ notification, and
 - ▶ administering deductible gifts
-

Part 4 summary

Once your organisation achieves DGR endorsement, it must meet ongoing requirements. Failure to do so may lead to revocation of DGR endorsement, and in some rare cases to prosecution. This part of the guide covers the ongoing requirements for endorsement.

Self-review

The ATO recommends that your organisation reviews its activities regularly (for example, annually) as well as when major structural changes occur, to make sure it still meets its DGR requirements.

Notification

Organisations are required to tell the ATO if they are no longer entitled to DGR endorsement.

Administering deductible gifts

A donor can only claim a tax deduction if there is a tax deductible gift. Your organisation must keep certain records of tax deductible donations it has received and comply with certain procedures.

Self-review

Once your organisation is DGR endorsed, it must continue to meet the requirements for the category of DGR in which it was endorsed.

The ATO recommends that your organisation reviews its activities regularly (at least annually) as well as when major structural changes occur within the organisation, to make sure it continues to meet its DGR endorsement requirements. [The ATO has worksheets to help with the review.](#)

You should review your organisation's activities regularly to make sure that it's still operating for its principal purposes and complies with the not-for-profit requirements. This will be particularly relevant when you are starting new projects, to make sure they are in line with your DGR endorsement.

Principle purpose requirement

If your organisation is endorsed as a DGR, it should be particularly careful if it's:

- considering starting completely new programs or services that are outside its usual field of work
- auspicing another organisation, or
- making other changes to its purposes, structure, types of activities or the location of its activities (for example, starting activities overseas)

These types of changes may mean that your organisation no longer meets the 'dominant or principal purpose' requirements that apply to DGR categories or the 'in Australia' requirement.



Example - auspicing an organisation that does not have DGR status

A common scenario is where a not-for-profit organisation with DGR status (ABC Inc) is approached by another not-for-profit organisation (XYZ Inc) to auspice its project because XYZ Inc doesn't have DGR status. This might mean that ABC Inc receives funding from donors interested in XYZ's project and then contracts XYZ Inc to deliver the project.

Auspicing arrangements should be approached with caution, as they may put the auspicing organisation's DGR status at risk. Fundraising money can only be passed through a DGR if the project being funded falls into that organisation's purposes and aligns with its DGR endorsement. To consider whether the auspicing proposal is appropriate, organisations should ask themselves whether the project is something the organisation would otherwise be willing and able to do itself.

Organisations should also check that auspicing is consistent with their rules and governing documents. Some rules contain provisions preventing auspicing arrangements with (or funding) other organisations.

Peak bodies with DGR status may be able to operate funds which distribute money to not-for-profit organisations without DGR status if it's part of their objectives to operate such a fund and the ATO has approved this.

It's important to understand specific details about how an auspiced organisation proposes to use DGR funds. The ATO conducts audits and would check that an auspicing arrangement is:

- consistent with your organisation's objectives, and
- within the endorsement criteria for your organisation's DGR category (for example, public benevolent institution)

We recommend that organisations agreeing to an auspicing arrangement sign an agreement that sets out the respective rights and responsibilities of each party, as well as who has control and ownership of any funds or property and who has responsibility for delivering the project.

For more information see our fact sheet on [auspicing](#).

Not-for-profit requirement

As discussed in part 3 of this guide, a not-for-profit organisation is allowed to make a profit, as long as the profit is directed back into the organisation and used to further the organisation's mission and objects. Profits can't be distributed to the organisation's directors or members.

As long as your organisation complies with the not-for-profit and objects or purposes clauses (and any other relevant clauses) in its governing documents, it will meet this not-for-profit obligation.



Notification

Organisations must tell the ATO if they are no longer entitled to DGR endorsement.

The ATO explains the notification process on the [Review your DGR endorsement page of its website](#) and provides worksheets to help organisations make sure they are still entitled to endorsement.

The ATO has the power to review your organisation's activities at any time and revoke its DGR status if it believes that your organisation no longer meets the DGR requirements.

An organisation registered with the ACNC must notify the ACNC of any changes to its rules or constitution. In some cases, depending on the organisation type, it may also be required to notify a relevant authority. For example, in the case of a Victorian incorporated association, the organisation will also be required to notify Consumer Affairs Victoria.



Note

It is important that organisations are aware of this notification requirement, as in some circumstances failing to notify or delay in notifying can result in the organisation being fined.

Administering deductible gifts

When a donation is made to your organisation, 3 steps should be followed:

Is the donation or contribution a tax-deductible gift?

The first thing to consider is whether a donation or contribution satisfies the ATO's definition of a tax deductible 'gift'. If the payment is not a gift, it doesn't attract a DGR tax deduction.

Is a donation or contribution a tax deductible 'gift'?

- the gift must really be a gift (that means, no material benefit is received in return for the gift)
- the gift must be of money or property that is covered by one of the gift types, and
- any gift conditions must be satisfied

To be a gift:

- the donation must be given voluntarily
- the donor (person or organisation giving the gift) must not receive a benefit in return for the gift. Immaterial benefits will not disqualify a gift from being tax deductible.

A benefit will not be material if it:

- has no link with a gift
- is insignificant in relation to the value of the gift
- only constitutes advertising for the DGR
- can't be put to use and is not marketable
- doesn't create any rights, privileges or entitlements
- merely accounts for the use of funds, or
- is mere public recognition of the giver's generosity



- the organisation receiving the gift should be advantaged by that gift. This means there should be no material obligations or other conditions that the organisation must meet in order to receive the gift. The organisation should not be contractually required to use the payment in a specific way.

For more information on what is a gift, see the [ATO's webpage on Taxation Ruling 2005/13](#).



Example

A donor wants to donate funds for something specific - for example, to pay the venue hire cost for an event your organisation is holding. The donor proposes that you pay the invoice and then the donor will donate that amount to your organisation (like a reimbursement).

In a situation like this, you need to be very cautious. The money may not be viewed as a gift because of the conditions attached. In this scenario, there is also a risk that the donor does not donate the money pledged (and you may have already paid the venue hire). It's preferable for the donor to give the money to your organisation upfront as a gift. If the donor is a business, another option is for the donor to sponsor the event and claim the sponsorship as a business deduction (the sponsor organisation should get specific legal advice on how to treat the sponsorship for tax purposes).

Does the donation or contribution fall into one of the ATO's 'gift types'?

For a gift to be tax deductible, it must fall into one of the [ATO 'gift types' listed on its website](#). Money is a common gift, however some other gifts can include trading stock, property or artwork. If a gift is not money, your organisation will need to check that it's a gift that is tax-deductible and also work out how to value the gift for the purposes of issuing a receipt.

Are any gift conditions satisfied?

For some DGRs, gift conditions restrict:

- when a DGR can receive tax deductible gifts and contributions, and
- how a DGR uses the tax deductible gifts and contributions it receives



Tip

If you have read the ATO's guide to 'gift types' and are not sure if your situation is covered, you can call the ATO's not-for-profit help line on 1300 130 248.



Example

The provision of a service or resource doesn't fall within any category of 'gift' recognised by the ATO as it is not 'property' or 'money'. Therefore even though the service is provided at a discounted rate it is likely to be viewed by the ATO as a non-deductible gift.

Furthermore, to be a real gift, the donor must not receive a benefit or an advantage of a material nature by way of return. In this case, the giver may still be regarded as having received a material benefit even though the value of the benefit to the donor is less than the value of the property transferred. As the company has received some money for its services, it has not made a real gift. Such a donation is not tax deductible.



Deductible contributions

In limited circumstances, certain contributions (which are not classified as gifts) made to a DGR by an individual taxpayer may be tax deductible. These include contributions of money made at eligible fundraising events, and certain contributions of property and shares. Both the DGR endorsed organisation and the individual taxpayer should seek their own advice. Further information can be found on [the ATO website](#).

Issue the donor with a receipt

DGR endorsed organisations are not required to issue receipts for tax deductible gifts, but issuing receipts help donors with the preparation of their tax returns.

If a DGR endorsed organisation issues a receipt for a 'gift' or a 'deductible contribution', it must include certain information, (such as the name of the DGR endorsed organisation and its ABN). This information is set out in the ['Receipts' section of the ATO's website](#). Note that different requirements apply to receipts for gifts and receipts for contributions. Failure to include the required information could lead to a revocation of DGR endorsement.

If the gift is property (and not money), the receipt should only include a description of the goods, not a value. The amount claimed by the donor, if any, is determined by the donor or the ATO. It's best to leave it to them to assign a value. You can write the value assigned by the donor on a receipt, but you should make it clear that the value has not been assigned by your organisation. If a donor wants your organisation to assign a value, you will need to get professional advice (unless the donor is gifting listed shares which you can assign a value to as of a particular time).

From time to time organisations should also check for any updates which may be required on your donation form (for example, details of a public fund set up to receive tax deductible donations). Details on receipts that are automatically issued by banks to donors should be checked with the requirements for receipts discussed above.

Maintain a record of the donation

A DGR endorsed organisation must keep records that explain all transactions relevant to its DGR status.

The ATO requires an organisation's DGR records to show:

- all gifts, and deductible contributions, of money or property made to it for that purpose, and
- money received because of such gifts or deductible contributions (for example, if the gift money is invested to earn interest).

Note that the ATO requires a DGR endorsed organisation to keep adequate accounting and other records. If the DGR endorsed organisation is a charity, the ACNC imposes additional record keeping requirements.

Use of gift fund money

For more information about when DGR endorsed organisations are required to have a gift fund, see part 3 of this guide.

The ATO makes it clear that a gift fund must only be used for the principal purpose of your organisation (or the fund, authority or institution that it operates).



Examples

Acceptable uses of gift fund money, according to the ATO include:

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



Tip

If you have any doubt about whether a particular expense can be appropriately paid out of the public fund, you can call the ATO on 1300 130 248 and speak to someone who is experienced with not-for-profit groups.

You can also check [the DGR section of the ATO website](#), which includes information on what gift funds should be used for'.

Resources

Not-for-profit Law resources

- ▶ [Not-for-profit Law's resources on tax](#)
- ▶ [Not-for-profit Law's resources on insurance](#)
- ▶ [Not-for-profit Law's resources on reporting to government](#)
- ▶ [Not-for-profit Law's resources on fundraising and events](#)

Australian Charities and Not-for-profits Commission (ACNC)

- ▶ [Register my charity](#)

This page of the ACNC website features a checklist for starting a charity, and information on who can register, the benefits of registration, preparing to register and what to do once your charity is registered
Consumer Affairs Victoria – incorporated associations

Australian Taxation Office (ATO)

- ▶ [DGR endorsement](#)
- ▶ [Australian Business Register \(ABR\)](#)
- ▶ [Overseas aid funds and tax deductible gifts](#)
- ▶ [Taxation Rulings](#)

Department of Social Services

- ▶ [Register of Harm Prevention Charities](#)

Department of Infrastructure, Transport, Regional Development and Communications

- ▶ [Register of Cultural Organisations Guide](#)

This page includes information on the Register of Cultural Organisations Guidelines and a list of current registered cultural organisations.

Department of Agriculture, Water and the Environment

- ▶ [Register of Environmental Organisations](#)

This page contains information on the Register of Environmental Organisation Guidelines and a list of current registered environmental organisations

Department of Foreign Affairs and Trade



- ▶ [Overseas Aid Gift Deduction Scheme \(OAGDS\) Guidelines](#)

Legislation

- ▶ [Income Tax Assessment Act 1997 \(Cth\)](#)
- ▶ [Australian Charities and Not-for-profits Commission Act 2012 \(Cth\)](#)

