



THOMSON REUTERS

Update Summary

PLEASE CIRCULATE IMMEDIATELY!

UPDATE 22

OCTOBER 2024

NOT-FOR-PROFIT BEST PRACTICE MANUAL

Material Code 43006072

Print Post Approved PP255003/07575

© Thomson Reuters (Professional) Australia Limited 2024

Looseleaf Support Service

You can now access the current list of page numbers at:

<http://www.thomsonreuters.com.au/support/product-support.aspx?id=/mediaTree/58599>. If you have any questions or comments, or to order missing pages, please contact Customer Care LTA ANZ on 1300 304 195

Fax: 1300 304 196 Email: Care.ANZ@thomsonreuters.com

UPDATED COMMENTARY

Not-for-Profit Best Practice Manual Update 2 of 2024

In this update, guest author Trevor Snape has updated federal tax implications for NFP's since his last review two years ago. The more critical updates are referred to below.

Self assessment

From 1 July 2023, non-charitable NFPs with an active Australian business number (ABN) are required to lodge an annual self-review return, to self-assess as eligible for income tax exemption. The first NFP self-review return must be lodged for the 2023–2024 income year. This measure was announced as part of the 2021–2022 Federal Budget. For NFPs with an income year ending 30 June, the 2023–2024 NFP self-review return is due between 1 July and 31 October 2024. The due date for NFPs with an approved substituted accounting period can be found on the ATO website (QC73184). See [5.1.103].

Sporting organisations

The ATO website (QC 46347) and Taxation Ruling TR 2022/2 Income tax: the games and sports exemption, provide extensive guidance and examples for this exemption. See [5.1.213].

Review and appeal of decisions

If, having been formally reviewed by the ATO, an application for endorsement is still refused, the organisation may:

- (a) seek a review of the decision by the Administrative Review Tribunal (which will be replaced by the Administrative Appeals Tribunal on 14 October 2024); or
- (b) appeal the decision to the Federal Court of Australia. See [5.1.406] and [5.1.606].

Deductible gift recipients – an overview

Non-government DGRs are required to be a registered charity, except for ancillary funds or DGRs that are specifically listed in the income tax legislation (primarily Div 30 of the ITAA 1997). See [5.1.601].

Eligibility and application for endorsement as a DGR

To be eligible for whole of organisation DGR endorsement under s 30-120 of the ITAA97, an organisation's governing rules (eg its constitution or trust deed) must, inter alia, require the organisation to give any surplus assets to another DGR on its winding up or the revocation of the organisation's endorsement (unless the organisation is established by an Act and the Act (or another Act) does not provide for the winding up or termination of the entity). See [5.1.602].

Categories of DGR

The list of the main whole of organisation endorsement categories and common funds for which an organisation is endorsed as a DGR to operate have been updated. See [5.1.603].

Transitional arrangements for harm prevention charities, environmental and cultural organisations

From 1 January 2024, the ATO took over responsibility for administering the DGR category for harm prevention charities, environmental organisations and cultural organisations. The ATO now assesses eligibility for endorsement. Transitional provisions apply to these charities and organisations. See [5.1.740].

Community charities

A community charity is a new category of DGR established by the *Treasury Laws Amendment (Support for Small Business and Charities and Other Measures) Act 2024* (Act No 52 of 2024), with effect from 29 June 2024.

The specified mandatory purposes for a community charity are:

- providing money, property or benefits to a DGR (other than a community charity) for any of the purposes for which the DGR may receive such gifts; and
- engaging in the principal activity of a DGR (other than a specifically listed DGR or a community charity) or pursuing the principal purpose of such a DGR. This requirement may be met by funding another organisation, whether or not it has DGR status, to assist the community charity to engage in its own activities or pursue its purposes. However, any such funding must be for a purpose consistent with a general DGR category.

Community charities may have an optional purpose of establishing one or more DGR entities, other than community charities.

Only 28 community foundations affiliated with the peak body Community Foundations Australia will be considered for declaration by the Minister in the first instance.

As at 1 September 2024, the community charity trust guidelines and the community charity corporation guidelines had not been published. See [5.1.752].

