
TREASURY LAWS AMENDMENT (2020 MEASURES NO. 2) BILL 2020

EXPOSURE DRAFT EXPLANATORY MATERIALS

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Glossary

The following abbreviations and acronyms are used throughout this explanatory memorandum.

<i>Abbreviation</i>	<i>Definition</i>
DGR	Deductible Gift Recipient
ITAA 1997	<i>Income Tax Assessment Act 1997</i>

Chapter 1

Deductible gift recipient status for Community Sheds

Outline of chapter

1.1 Schedule 1 of the Bill amends the ITAA 1997 to introduce a new general category of DGR for community sheds. The new DGR category will apply to public institutions that are registered charities and satisfy the definition of a community shed.

- 1.2 To be a community shed a public institution must:
- have the dominant purposes of advancing mental health and preventing or relieving social isolation;
 - primarily advance these purposes through providing a physical location at which individuals are supported to work on projects and undertake other activities in the company of others; and
 - have open membership to members of the public.

1.3 All legislative references in this Chapter are to the ITAA 1997, unless otherwise stated.

Context of amendments

1.4 As part of the 2019-20 Budget, the Government announced that it will establish a new DGR general category to enable Men’s Sheds and Women’s Sheds to access the DGR concession. This Schedule implements the announced measure.

1.5 The income tax law allows income tax deductions for taxpayers who make gifts of \$2 or more to a DGR. To be a DGR, an organisation must be endorsed within one of the general categories set out in Division 30 or be specifically listed by name in that Division.

Comparison of key features of new law and current law

<i>New law</i>	<i>Current law</i>
Public institutions that are registered charities and satisfy the definition of	No equivalent.

<i>New law</i>	<i>Current law</i>
<p>a community shed are eligible to access DGR status.</p> <p>An institution will be a community shed if it:</p> <ul style="list-style-type: none"> • has the dominant purposes of advancing mental health and preventing or relieving social isolation; • primarily advances these purposes through providing a physical location and supporting individuals to work on projects or undertake other activities in the company of others at that location; and • either: <ul style="list-style-type: none"> – has completely open membership, or – has membership open to all persons of a particular sex or with indigenous heritage or both. <p>Gifts of \$2 or more made by taxpayers to an eligible community shed that has received DGR status are tax deductible.</p>	

Detailed explanation of new law

1.6 Schedule 1 of the Bill amends the ITAA 1997 to introduce a new general category of DGR for community sheds. The new DGR category is available to public institutions that are registered charities and satisfy the definition of a community shed.

1.7 All legislative references in this Chapter are to the ITAA 1997, unless otherwise stated.

Public institution

1.8 To be eligible to be a DGR under the new category, an entity must be a public institution.

1.9 An institution is an organisation with a structure distinct from other organisations or entities that undertake activities on its own behalf. It is distinct from a fund that is a mere repository of moneys with no activities of its own.

1.10 For an institution to be a public institution it must be open to the public (or a sufficient section of the community) and not be carried on for private profit or gain.

Charity registration

1.11 To be eligible to be a DGR under the amendments, an entity must also be registered as a charity under the *Australian Charities and Not-for-profits Commission Act 2012*.

1.12 This requires, among other things, that all of the purposes of the institution are charitable and that it must not operate for the profit of its members.

1.13 This requirement ensures community sheds are subject to appropriate regulatory oversight, consistent with other DGRs.

Community sheds

1.14 Finally, an entity must meet the definition of a community shed. A community shed is an institution that:

- has the dominant purposes of advancing mental health and preventing or relieving social isolation;
- primarily advances these purposes through providing a physical location at which individuals are supported to work on projects or undertake other activities in the company of others; and
- either:
 - has completely open membership, or
 - has membership that is open to all persons of a particular sex or with indigenous heritage or both.

Dominant purposes of advancing mental health and preventing and relieving social isolation

1.15 Community sheds include diverse organisations such as Men’s Sheds and Women’s Sheds which undertake a range of activities, such as sharing hobbies and interests or participating in community projects.

1.16 However, the distinguishing factor between a community shed and other community organisations is that the activities of a community shed support the dominant purposes of advancing mental health and preventing or alleviating social isolation.

1.17 Only organisations with these dominant purposes are eligible to be a DGR as a result of the amendments.

Physical location and support

1.18 Community sheds are also distinguished from other institutions that may have similar purposes by the specific means by which they advance these purposes – the provision of a physical space in which individuals are supported in pursuing activities or undertaking projects in the company of others.

1.19 Given this, the institution’s activities must take place in a physical location to be eligible to be a DGR as a result of the amendments. However, that physical location is not required to be fixed or permanent. The physical location is also not required to be a structure and may be outdoors.

1.20 It is also not sufficient that the institution only provide a physical location without further support or encouragement. Rather the institution must additionally support and encourage the use of the location, through facilitating work on activities or projects at the location, as this is a key part of how it achieves its dominant purposes.

1.21 A community shed could demonstrate it is supporting its purpose of advancing mental health by providing a physical location where members have access to information and other resources to inform their understanding of mental health issues. A community shed is not expected to provide professional mental health services.

1.22 Likewise, a community shed would usually give effect to its purpose of preventing or relieving social isolation by providing a welcoming environment for members from across the community (noting permitted restrictions discussed below) and supporting social connections amongst members.

Open membership

1.23 Finally, community sheds must, broadly, be open to the community to join and generally not impose criteria restricting membership based on matters such as age, race or background.

1.24 However, two restrictions are permitted.

1.25 The first relates to criteria restricting membership to individuals of one gender. This restriction recognises that some of the individuals who are most likely to benefit from the work of community sheds in addressing social isolation are most likely to be comfortable in a space with the company of others of the same gender.

1.26 Similarly, the second restriction, relating to criteria restricting membership to individuals with indigenous heritage, recognises the special cultural position of Australia’s indigenous people and the benefits community sheds can provide in giving a space for cultural traditions to be shared.

Consequential amendments

1.27 Consequential amendments are made to the index in section 30-315 of Division 30 to reflect the new category of DGR.

Application and transitional provisions

1.28 The amendments made by Schedule 1 commence on the first day of the first quarterly period following Royal Assent.

1.29 The amendments apply to gifts and contributions made on or after 1 July 2020.