

Submission to the Deductible Gift Recipient (DGR) Registers Reform

16 Feb. 2023

The Association of Sculptors of Victoria has been registered with the Register of Cultural Organisations as a tax-deductible gift recipient for about 30 years. The Association has existed in various forms since 1932 and has always set out to promote sculpture and sculptors to the public.

When the new legislation came into effect, we became aware that we had to modify our constitution to make it comply with the new rules. We found that this could not be achieved because the Association conducts exhibitions at which our members' sculpture works are sold, and our sculptor members gain financial benefit from these sales.

We obtained expensive legal opinion which was that for a very large sum of money, the lawyers thought that it could be argued that this function fell within the framework of a charitable organisation.

We then obtained advice from the Minister for the Arts, Tony Burke, which was that we would need to set up a separate legal entity with the express purpose of receiving tax-deductible gifts. The basic function of selling our members' sculpture, from which they gained financial reward was incompatible with charitable status.

We successfully applied to the ATO for a 3-year extension of our DGR status to allow us to set this body up.

We have now become aware of the review of this system, and, upon reading the material available online, we are quite confused as to what the outcome of the review might be and how it would affect our situation.

There is repeated reference to the creation of a dedicated Gift Fund, but there is no clarity as to whether this refers to a separate legal entity or to a separate bank account with the sole purpose of receiving tax-deductible gifts, in the manner we have been doing for the last 30 years.

The Ministerial advice to set up a separate legal entity for the receipt of tax-deductible gifts seems like a bureaucratic solution to a bureaucratically created problem, with the net result that nothing will change. We will still be able to conduct selling exhibitions under our existing constitution and we will be able to receive tax-deductible gifts under the new entity. We suspect that our situation is a by-product of a set of changes designed to target much larger organisations which were abusing the charitable system.

We also understand that there is a considerable number of organisations, similar to ours, which are similarly affected. The result of the current legislation is that many small organisations, like ours, will have to go through lengthy, and probably expensive, legal consultations to achieve a result which is essentially the same as they have had up until now. There appears to be no official assistance or standard constitution available to create such a new entity.

We are asking that the review address this problem and try to find a solution to avoid this pointless work, worry and cost, which, in the end analysis, will not change anything.

If a separate category of small cultural organisations which could operate under conditions similar to the ROCO regime of the last 30 years, could be created, the existence of these organisations would be much simplified.

We have very limited finances which we do not want to waste on unnecessary legal manipulations. Our funds are entirely aimed at the promotion of sculpture. Running exhibitions is a core function of our organisation, like most visual arts organisations, which are for the benefit of the public and to enable sculptors to show their work to the public. Any financial gain by the sculptors goes to producing further sculpture or staying alive while they do that work. Having a visual arts organisation whose constitution prevents it from running exhibitions would be ridiculous.

We are an entirely voluntary organisation, with no paid members or office bearers. We pay no dividends or profit sharing to our members and all income to the Association goes towards the running of the Association's activities of exhibitions, prizes, meetings, newsletters and general expenses.

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