



Community Charity Deductible Gift Recipient Framework

Q&A Factsheet

This factsheet provides questions and answers about the new community charity deductible gift recipient (DGR) framework in subdivision 30-B of the *Income Tax Assessment Act 1997* (ITAA 1997). It also provides further information on the draft ministerial guidelines that Treasury has released for consultation which sets out the proposed rules community charities must follow under this framework.

General information on the DGR endorsement process is available on the ATO website. The ATO will publish specific information about the community charity category when the government has finalised the ministerial guidelines.

Treasury will also separately publish information on how an organisation may seek to become a community charity DGR.

Eligibility to be a community charity

1. How can a community charity be eligible for DGR endorsement?

A community charity is a trust, a constitutional corporation or a body corporate that:

- has been named in a ministerial declaration, and
- agrees to comply with the ministerial guidelines.

If the above is met and the community charity is registered as a charity with the Australian Charities and Not-for-profits Commission (ACNC), it will be eligible for DGR endorsement by the Australian Taxation Office (ATO).

2. What is a ministerial declaration?

A ministerial declaration is a legislative instrument that specifically names a trust or incorporated entity and provides an eligibility pathway for DGR endorsement from the ATO.

This framework will initially only apply to a small number of named community charities, specifically 28 organisations affiliated with Community Foundations Australia. Additional organisations could be brought within scope in the future.

Purposes of a community charity

3. What are the permitted purposes of community charities?

The ministerial guidelines require a community charity's governing rules to clearly set out the purposes of the charity. These purposes must be consistent with section 30-110 of the ITAA 1997 which requires a community charity to have the purpose of:

- providing money, property or benefits to entities that have DGR status (other than ancillary funds and other community charities), including entities listed by name in the tax law as DGRs, or
- engaging in a principal activity or pursuing a principal purpose under one or more of the DGR general categories.

This framework integrates with the current DGR general categories in the ITAA 1997, allowing for community charities to operate across multiple DGR general categories. If additional general categories are created, a community charity will also be able to have purposes consistent with those categories.

4. What is the principal purpose or activity of a general DGR category?

In most cases, the principal purpose or activity of a DGR general category is set out in the description of the category in Subdivision 30-B of the ITAA 1997. For example:

- an environmental organisation has a principal purpose of either the protection and enhancement of the natural environment or the provision of information or education, or the carrying on of research about the natural environment, and
- a harm prevention charity has a principal activity of the promotion of the prevention or the control of behaviour that is harmful or abusive to human beings.

The tax law describes some DGR categories as an institution, such as public library or public art gallery. The [ATO website](#) provides further guidance on the purposes and activities of these institutions. In some small instances, the common law or another piece of legislation may need to be referred to, such as in determining the purposes and activities of a public hospital or university.

5. Where a DGR general category has specific requirements or special conditions, does a community charity need to meet all those same requirements?

Community charities are required to meet any requirements or special conditions that are tied directly, or act as a precondition, to the principal activity or principal purpose in the DGR general categories. For example, a declaration of an event as a disaster must be made under section 30-45A of the ITAA 1997 for a community charity to make distributions for the purpose of providing relief to people in Australia in distress as a result of a disaster (item 4.1.5, s 30-45 of the ITAA 1997). Where a disaster is not declared, provision of relief might be covered by another DGR category.

However, there may be additional requirements or special conditions that are not applicable to the specific purpose or activity and instead apply to the DGR category as a whole. For example, a community charity would not be required to be registered as a 'public benevolent institution' with the ACNC to pursue the purpose of providing benevolent relief understood at common law (e.g. relief of poverty or destitution).

6. Can a community charity have the same purposes as DGRs listed by name?

Community charities are not permitted to undertake the same purposes or activities as entities that are specifically mentioned by name in the ITAA 1997 if those purposes or activities fall outside of the DGR general categories.

7. Does a community charity need to pursue the purposes and activities of all the general DGR categories?

A community charity may choose which activities or purposes it wishes to pursue that are consistent with the DGR general categories – it is not required to pursue all of them.

Operating a community charity

8. Will a community charity's own activities contribute to the minimum distribution requirement?

During each financial year, apart from the year it is established, a community charity must distribute at least 4% of the market value of its net assets (as at the end of the previous financial year).

Expenditure by a community charity for its own permissible activities, including by providing money to entities that are not DGRs, contributes to this minimum distribution requirement.

9. Why does a community charity need to make an annual minimum distribution?

The minimum annual distribution requirement balances the aim of supporting community charities to create long term community endowments with that of ensuring deductible gifts are applied for charitable purposes.

The distribution requirement also ensures that a community charity applies its assets to its purposes if it no longer receives donations.

There may be circumstances where a community charity wishes to make a distribution below the minimum rate, and may request the ATO's approval to make a lower distribution. For example, a charity may seek to build its asset value to support a large project in a future year. The ministerial guidelines set out the matters the ATO must consider when deciding to approve a request.

10. Can a community charity give money to an entity that is not a DGR?

Yes, a community charity can give money to an entity that is not a DGR. It should ensure the other entity uses the money in a way that is consistent with the purposes of the community charity. Failure to do so may mean the community charity might be working outside of the permissible DGR purposes.

Example: Funding provided to non-DGR entities

Rehabilitation of degraded land enhances the natural environment and is consistent with the purposes of the environmental organisation category. A community charity may have a purpose of pursuing such an activity.

If the community charity sought to provide a grant to a farmer to restore habitat for an endangered animal on part of the farmer's land, the community charity should have a process that ensures the farmer does not use the money for purposes other than rehabilitation. It should also ensure that the grant is consistent with the charitable purpose of

the community charity and that the farmer does not receive any material private benefit from the grant.

11. Why does a community charity need an investment strategy?

The investment strategy requirement enables the trustees or directors of a community charity to show how they will manage the assets of the charity consistently with its character as a community endowment.

It also seeks to ensure the charity can meet the minimum annual distribution requirement. The distribution requirement is based on the value of the charity's assets which may include unrealised gains and investments in comparatively illiquid assets. An investment strategy will consider the liquidity needs of the community charity.

However, the requirement is not prescriptive. Community charities may design the investment strategy to suit their individual needs and aims.

12. Can a community charity undertake commercial activities?

Like other charities registered with the ACNC, a community charity can undertake commercial activities where the activity contributes towards its charitable purpose. Further guidance is available at the ACNC website.

13. Can a community charity be a sub-structure of another entity?

A community charity cannot be a sub-structure of another entity because the law only allows the ATO to endorse an entire entity as a DGR under the community charity category.

Reporting

14. Will financial reports made to the ACNC meet the reporting requirements to the ATO under the ministerial guidelines?

Community charities must register with the ACNC as a requirement of endorsement as a DGR. This means they may need to provide an annual information statement and, depending on size, financial statements to the ACNC. The government's intent is to minimise the reporting burden on charities.

The financial reporting requirements in the guidelines are consistent with the financial reporting obligations medium and large charities have to the ACNC. They are also consistent with the requirements on a small charity that voluntarily provides financial statements to the ACNC. A financial report given to the ACNC that meets the ACNC's requirements will meet the requirements of the guidelines. A community charity does not need to provide the report separately to the ATO.

15. Does the community charity DGR framework require lodgement of an income tax return?

The DGR framework for community charities does not require community charities to lodge an income tax return, however the ATO may request community charities to provide this. This is similar to the requirement for private and public ancillary funds.

This might be, for example, so that a community charity may show it has met the minimum annual distribution requirement and other matters relevant to the charity's endorsement as a DGR. Where possible, the ACNC will collect this information through the annual information statement to minimise reporting burden.