# School building funds

Explains whether a fund can be endorsed as a school building fund and receive income tax deductible gifts

Certain organisations can receive income tax deductible gifts. They are called deductible gift recipients (DGRs). One category of DGR is 'school building funds'. A school building fund will have gift deductible status if:

- it has the characteristics of a school building fund, and
- it is endorsed by the Tax Office as a DGR.

## WHAT ARE THE CHARACTERISTICS OF A SCHOOL BUILDING FUND?

A school building fund has the following characteristics:

- the fund is a public fund
- the public fund is established and maintained solely for providing money for the acquisition, construction or maintenance of a building
- the building is used, or is to be used, as a school or college, and
- the building is used for that purpose by:
  - a government
  - a public authority, or
  - a non-profit society or association.

## WHAT IS A PUBLIC FUND?

A fund will be a public fund if the following requirements are satisfied:

- the objects of the fund clearly set out and reflect the purpose of the fund
- it is the intention of the promoters or founders that the public will contribute to the fund and they invite such contributions – the public or a significant part of it does, in fact, contribute to the fund
- the fund is administered or controlled by persons or institutions who, because of their tenure of some public office or their position in the community, have a degree of responsibility to the community as a whole (except where it is established and controlled by a governmental or quasi-governmental authority)
- the fund operates on a non-profit basis – that is, money must not be distributed to members of the managing committee or trustees of the fund except as reimbursement for out-of-pocket expenses incurred on behalf of the fund or as proper remuneration for administrative services
- gifts and deductible contributions made to the fund must be kept separate from any other funds of the sponsoring organisation (if there is one) – a separate bank account and clear accounting procedures are required, and
- should the fund be wound up, any surplus money or other assets must be transferred to some other gift deductible fund maintained by a DGR.

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## WHAT IS A SCHOOL OR COLLEGE?

A school or college provides organised instruction or training on a regular and continuing basis. The instruction is generally provided in class form.

It includes people assembling for regular study of some area of knowledge or activity and extends to religious as well as secular instruction.

Factors that are relevant in deciding whether there is a school or college include:

- courses provided
- subjects taught
- method of assessment used and certificates awarded
- teaching qualifications required of the instructors, and
- number of pupils.

If the dominant function is not instruction or training, it is not a school or college.

Bodies that have been accepted as schools or colleges include:

- Sunday schools
- adult religious education centres
- Bible study centres, and
- pre-school kindergartens that are not primarily for child-minding.

Bodies that are not schools or colleges include:

- yoga schools, riding schools, woodturning centres, dressmaking, ceramics and cookery workshops where the primary activity is associated with recreational pursuits, and
- child care centres.

## WHAT IS A BUILDING USED AS A SCHOOL OR COLLEGE?

The term ‘building’ includes one building, a group of buildings, a part of a building or additions to a building.

The building should be a permanent structure, usually with walls and a roof.

Buildings used as a school include:

- an indoor swimming pool (surrounded by walls and roof) being an integral part of a building that is used as a school or college, and
- school or college assembly halls.

Items that are not buildings include:

- tennis courts, playing fields, covered play areas, car parks and landscaping
- land acquired for the purpose of providing recreational space, such as a sports ground, and
- furniture, training equipment and computers, unless they form an integral part of the building – that is, fixtures.

Fixtures are accepted as part of a building. They are affixed to a building and are unable to be detached without substantial damage to the item itself or that to which it is attached.

Fixtures include ducted heating systems and fixed air conditioning systems.

The building or group of buildings must be used for a purpose that is connected with the curriculum of the school or college.

A multi-purpose building is taken to be used as a school or college if the primary and principal use of the building is as a school or college. More than 50 per cent of the time will satisfy this requirement.

### EXAMPLE

A building used as a school or college every weekday and a place of worship on Sundays will qualify as a school or college building. However, a hall used for religious instruction on Sundays only and for community and social activities on other days of the week would not be a school or college building.

## WHAT CAN A SCHOOL BUILDING FUND PAY FOR?

A school building fund is solely for providing money for acquiring, constructing or maintaining the school or college buildings. It cannot be used for any other purpose.

Expenditure on capital improvements and maintenance, as well as installing and maintaining fixtures, are accepted outlays of a school building fund.

Costs payable from a school building fund include:

- purchase of land for which there are definite plans to construct a building to be used as a school or college
- construction or purchase expenses and associated financing costs
- painting and general maintenance of school buildings, and building insurance
- expenditure on carpets that are fixed to the floor of the school building, and
- administration costs of the fund, including bank fees, accounting costs and fundraising expenses.

Costs that cannot be paid by a school building fund include running expenses of the school, paying teachers, buying furniture and materials, buying land to be used for buildings which are not to be used in connection with the curriculum or are for providing recreational space, and maintaining sports grounds and car parks.

A school building fund may invest or lend its money if this is a bona fide and temporary arrangement and is consistent with achieving the fund’s objects with all reasonable speed.

## IS YOUR FUND A SCHOOL BUILDING FUND?

Use the following checklist to work out if your fund has the characteristics of a school building fund.

### CHECKLIST

| | Yes | No |
|---|---|---|
| Is your fund a public fund? | ☐ | ☐ |
| Do the fund's constituent or governing documents clearly show it was established solely to provide money for acquiring, constructing or maintaining a building used, or to be used, as a school or college? | ☐ | ☐ |
| Is the building used, or to be used, as a school or college by a government, public authority or non-profit body? | ☐ | ☐ |
| Are the actual payments made by the fund only for acquiring, constructing or maintaining the building (including fixtures and the fund's administration costs)? | ☐ | ☐ |

If your fund meets these characteristics it will need to apply to the Tax Office for endorsement as a DGR.

## WHAT IS DGR ENDORSEMENT?

DGR endorsement is the approval process for organisations that want to be endorsed by the Tax Office as DGRs. All DGRs must be endorsed by the Tax Office, unless they are listed by name in the tax law.

There are two types of DGR endorsement:

- where an organisation is endorsed as a whole, and
- where an organisation is endorsed for the operation of a fund, authority or institution that it owns or includes.

If an organisation is endorsed as a DGR as a whole, gifts to the whole organisation will be tax deductible. Alternatively, if an organisation is endorsed for a fund, authority or institution it operates, only gifts to that part of the organisation are tax deductible.

### EXAMPLE

XYZ Primary School is endorsed as a DGR for its school building fund. The fund is operated to provide funds to build and maintain a new library for the school. A parent of a child that attends the school gives $1,000 to the school to assist with the construction of the library. The gift is not tax deductible.

To be tax deductible, the parent would need to give the money specifically to the school building fund to assist with the construction of the library.

## WHAT ARE THE REQUIREMENTS FOR DGR ENDORSEMENT?

To be endorsed as a DGR, an organisation or a fund, authority or institution it operates must fall within a DGR category and be in Australia. The organisation must also:

- have an Australian business number (ABN)
- have acceptable rules for winding up and revocation
- satisfy the gift fund requirements (if applying for a fund, authority or institution that it operates), and
- apply to the Tax Office for endorsement as a DGR.

For more information, refer to our fact sheets:

- *The endorsement process for deductible gift recipients* (NAT 3193), and
- *Gift fund requirements* (NAT 3194).

## WHAT IS A GIFT?

Gifts have the following characteristics:

- there is a transfer of money or property
- the transfer is made voluntarily
- the transfer arises by way of benefaction
- the transfer proceeds from detached and disinterested generosity, and
- no material benefit or advantage is received by the donor.

For a school building fund, material benefits to the donor would include:

- a reduction in school fees
- no longer having to pay a building levy
- the grant of scholarships to nominated students
- raffle tickets, and
- tickets to functions.

Items of insubstantial value such as plastic lapel pins or bumper stickers would not be a material benefit. Mere public recognition such as donors' names on honour boards, in school newspapers, or on bricks or pavers would not be material benefits unless they amounted to advertising.

## WHAT TYPES OF GIFTS CAN BE TAX DEDUCTIBLE?

Only certain types of gifts are tax deductible. The types are:

- **$2 or more** – money
- **property > $5,000** – property valued by the Tax Office at more than $5,000
- **property < 12 months** – property purchased during the 12 months before the gift was made
- **shares ≤ $5,000** – listed shares valued at $5,000 or less, and acquired at least 12 months before the gift was made, and
- **trading stock** – trading stock disposed of outside the ordinary course of business.

> Refer to the 'Gift types' chapter of *GiftPack* (NAT 3132).

## CLAIMING TAX DEDUCTIONS FOR GIFTS

Deductions for gifts are claimed by the person or organisation that makes the gift (the donor). A donor can be an individual, company, trust or other type of taxpayer.

To be tax deductible a gift must:

- be made to a DGR
- really be a gift
- be a gift of money or a certain type of property, and
- comply with any relevant gift conditions.

The amount of the deduction depends on the type of gift. For gifts of money, it is the amount of the gift. For gifts of shares ≤ $5,000, there are different valuation rules. For gifts of property, there are various valuation rules.

A deduction for a gift cannot add to or create a tax loss for the donor. However, donors can elect to spread deductions for certain gifts over a period of up to five years.

Donors need to keep records of their deductible gifts. When property has been gifted, additional details may need to be recorded. This will help donors when they prepare tax returns and in case claims are checked by us.

> The requirements for claiming deductible gifts and other income tax consequences for donors are explained in the 'Donors and gifts' chapter of *GiftPack* (NAT 3132).

## WHAT INFORMATION MUST BE INCLUDED ON RECEIPTS FOR GIFTS?

Receipts for gifts must state the name of the fund, authority or institution to which the gift has been made, the DGR's ABN (if any – some DGRs listed by name might not have an ABN) and the fact that the receipt is for a gift.

### EXAMPLE

> The ZXC School is an endorsed DGR for the school building fund it operates. The fund's name is the ZXC School Building Fund. For gifts to the fund, the receipt must show:
>
> - 'ZXC School Building Fund'
> - the ABN of ZXC School, and
> - that the receipt is for a gift.

## DOES DGR ENDORSEMENT AFFECT INCOME TAX EXEMPTION?

DGR endorsement is separate from income tax exemption. Endorsement as a DGR does not entitle an organisation to income tax exemption.

The income tax law provides that only certain types of non-profit organisations are exempt from income tax. If a non-profit organisation does not fall within one of the types of exempt entity, it cannot be exempt.

> *Income tax guide for non-profit organisations* (NAT 7967) explains how to work out if your organisation is exempt from income tax.

## MORE INFORMATION

To obtain copies of our publications:

- visit our website at **www.ato.gov.au/nonprofit**
- phone **1300 720 092** and quote the NAT number (which is a unique national identifying number we give each of our publications – for example, NAT 3132)
- write to us at **GPO Box 9990 in your capital city**, or
- obtain a fax by phoning **13 28 60**.

To speak to staff trained to deal with non-profit enquiries, phone our information line on **1300 130 248**.

If you do not speak English and need help from the Tax Office, phone the Translating and Interpreting Service on **13 14 50**.

If you have a hearing or speech impairment and have access to appropriate TTY or modem equipment, phone **13 36 77**. If you have a speech impairment and do not have access to TTY or modem equipment, phone the Speech to Speech Relay Service on **1300 555 727**.

## WHAT TO READ NEXT

- *GiftPack* (NAT 3132)
- Taxation Ruling TR 96/8 Income tax: school and college building funds
- Taxation Ruling TR 95/27 Income tax: public funds, and
- Taxation Ruling TR 2005/13 Income tax: tax deductible gifts – what is a gift.

## OUR COMMITMENT TO YOU

We are committed to providing you with advice and information you can rely on.

We make every effort to ensure that our advice and information is correct. If you follow advice in this publication and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we must still apply the law correctly. If that means you owe us money, we must ask you to pay it. However, we will not charge you a penalty or interest if you acted reasonably and in good faith.

If you make an honest mistake when you try to follow our advice and you owe us money as a result, we will not charge you a penalty. However, we will ask you to pay the money, and we may also charge you interest.

If correcting the mistake means we owe you money, we will pay it to you. We will also pay you any interest you are entitled to.

You are protected under GST law if you have acted on any GST advice in this publication. If you have relied on GST advice in this publication and that advice later changes, you will not have to pay any extra GST for the period up to the date of the change. Similarly, you will not have to pay any penalty or interest.

If you feel this publication does not fully cover your circumstances, please seek help from the Tax Office or a professional adviser.

**The information in this publication is current at January 2008.** We regularly revise our publications to take account of any changes to the law, so make sure that you have the latest information. If you are unsure, you can check for a more recent version on our website at **www.ato.gov.au** or contact us.



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