



Deductible gift recipient update

Harm prevention charities

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Supporting individual wellbeing and addressing behavioural and social issues are crucial for enabling people to thrive and actively participate in the community. This involves fostering social connections, providing support and addressing systemic challenges to create a more inclusive and resilient society.

Harm prevention charities therefore play a significant role in safeguarding vulnerable people and supporting individuals, their families and communities.

This article provides an overview of the updated deductible gift recipient (DGR¹) category of harm prevention charities, including the requirements and processes for registration and the types of activities these entities undertake.

What is DGR endorsement?

In general terms, organisations (or funds) with DGR endorsement are permitted to receive gifts of money or property from donors and issue a tax-deductible receipt. This allows a donor to claim certain donations as a deduction when lodging a personal income tax return, which can therefore help attract more donations. DGRs may also be eligible to receive funds from a number of philanthropic bodies (such as ancillary funds) which are restricted to only donating to certain types of DGRs².

What is a harm prevention charity?

A harm prevention charity is an institution which carries out activi-

ties to promote the prevention or control of behaviour that is harmful or abusive to human beings.

To be eligible for DGR endorsement as a harm prevention charity, the entity must:

- Have an active Australian Business Number (ABN).
- Have the characteristics of a harm prevention charity, namely:
 - Be an institution registered as a charity with the Australian Charities and Not-for-profits Commission (ACNC).
 - Have a principal activity which is the promotion of the prevention or the control of behaviour that is harmful or abusive to human beings.
 - Have a policy of not acting as a mere conduit for the donation of money or property to other organisations, bodies or persons.
 - Maintain a gift fund with an appropriate DGR winding-up and revocation clause, and
- Be located in Australia.

The ATO notes that while the organisation must be located and have its operations in Australia, beneficiaries may be in countries located overseas.

What is the principal activity of harm prevention charities?

An organisation qualifies as a harm prevention charity only if it meets the 'activity test'. That is, its principal activity must be 'the promotion of the prevention or the control of behaviour that is harmful or abusive to human beings'.

An organisation's principal activity is its main or dominant activity. A harm prevention charity may conduct other activities which are incidental, ancillary or secondary to its principal activity.

A variety of factors are taken into consideration when determining an organisation's principal activity, including the amount of time and resources allocated to that activity by the organisation.

Behaviour which is harmful or abusive to human beings is defined as one or more of the following:

- emotional abuse
- sexual abuse
- physical abuse
- suicide
- self-harm
- substance abuse
- harmful gambling.

Organisations whose principal activity addresses issues outside this list will not qualify. Likewise, organisations focused broadly on general wellbeing or non-specified harm prevention will be ineligible.

What activities may be undertaken by harm prevention charities?

The principal activity may promote either prevention or control (or both)—either is sufficient.

The terms 'promotion', 'prevention' and 'control' are not defined by the legislation, and they are interpreted to have their ordinary meaning.

Promotion includes advancement or encouragement where harm prevention charities can engage in activities which directly or indirectly prevent or control behaviour harmful or abusive to human beings. Indirect activities may include awareness-raising and research. In addition, an organisation does not have to demonstrate success in preventing or controlling harmful or abusive behaviour.

Prevention includes to keep from occurring or to hinder and 'control' includes to hold in check, to curb or restrain.

Control involves steps, measures, actions, activities, treatment and interventions to reduce a specified harmful or abusive behaviour.

There must be an evidence-based, rational or plausible link between the promotional activity and the prevention or the control of behaviour which is harmful or abusive to human beings.

Examples of eligible activities include:

- Providing information about the prevention or control to those involved with or affected by the relevant behaviour and to the public.
- Researching how to detect, prevent or deal with the relevant behaviour.
- Counselling people who are affected by the behaviour, such as family members.
- Running courses and programs on how to avoid, overcome or recover from the behaviour.

- Training carers and professionals in ways of dealing with the relevant behaviour.
- Treating and caring for persons suffering from the behaviour.

Organisations whose principal activity is too remote from the prevention or control will not qualify as harm prevention charities, for example, providing:

- general craft, sport, music or other social activities
- general school education
- general employment programs
- road, pool or workplace safety, accident prevention or parenting programs
- financial support.

What changes have occurred to this DGR category?

Harm prevention charities have existed for some time and were introduced as a DGR category under the *Income Tax Assessment Act 1997* (Cth) in 2003.

Prior to 1 January 2024, eligible harm prevention charities could become DGR endorsed by being listed in the register of harm prevention charities maintained and administered by the Secretary of the Department of Social Services (DSS).

On 1 January 2024, the *Treasury Laws Amendment (Refining and Improving Our Tax System) Act 2023* (Cth) took effect. This transferred administrative responsibility for assessing and administering the DGR category of harm prevention charity from DSS to the Australian Taxation Office (ATO). This change means the register itself is no longer maintained by the DSS, and by extension, the term 'register of harm prevention charities' is no longer used.

In addition to the transfer, some of the associated eligibility criteria and ongoing requirements have also changed.

If an organisation operated a public fund endorsed as a harm prevention charity prior to 1 January 2024, it is now:

- **Endorsed as a whole**—treated as a wholly endorsed entity (rather than only the public fund being endorsed as a DGR).
- **Gift fund**—required to operate a 'gift fund' and is no longer required to establish and operate a 'public fund' (but must bear in mind the requirements in its governing document).
- **Reporting**—not required to provide statistical information about gifts made during an income year to the DSS, with the ACNC and ATO receiving the necessary information via other mechanisms, for example, reporting through the ACNC's Annual Information Statement process.
- **Winding-up**—required to ensure it has the requisite winding-up and DGR revocation provisions in its governing document (without an ongoing need to include a requirement that surplus funds be transferred to another charity on the register).



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The quote

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What is the process for DGR endorsement?

There are two ways to apply to be registered as a harm prevention charity:

- Via the ACNC—if the entity intends to or is in the process of applying for registration as a charity with the ACNC, it can use the ACNC's application form to apply to the ATO for DGR endorsement. That is, the ACNC will pass the application on directly to the ATO once complete, without the need for submission of two separate applications, or
- Via the ATO—if the entity has an ABN and is already a charity registered with the ACNC, it can apply directly to the ATO.

In either case, a separate schedule is required for harm prevention charities, which will need to be completed as part of the application.

Further information regarding the application process and requirements is available on the ATO web page, *Harm Prevention Charities*.

If you would like to find out more about DGR endorsement, establish a DGR-endorsed organisation or ensure you are currently compliant with your DGR requirements, please contact G+T's specialist Charities and Social Sector lawyers. **FS**

Notes

1. The full list of DRG categories is available on the ATO page: *DGR table – Deductible Gift Recipient categories*.
2. Refer to the article *Could your organisation be endorsed as a deductible gift recipient?* on the Gilbert & Tobin website, for further information on DGR endorsement, along with the requirements for endorsement and different application processes.