



CHARITY REGISTRATION NOW A PRECONDITION FOR ELIGIBILITY FOR DEDUCTIBLE GIFT RECIPIENT (DGR) STATUS

From 14 December 2021, only registered charities, government agencies or organisations that are operated by a registered charity or government agency will be eligible to receive Deductible Gift Recipient (DGR) endorsement status.

DGR Status

Organisations with DGR status have a special tax status that enables donors to 'deduct' donations from their income taxes. Currently a donation must be above \$2 in order to be deductible. There are certain criteria that organisations must satisfy to be eligible for DGR endorsement status.

Recent Changes

From 14 December 2021, to be eligible for DGR endorsement status, an organisation must be:

1. A Registered Charity (i.e. registered as a charity with the Australian Charities and Not-for-profits Commission (**ACNC**));
2. An Australian Government Agency; or
3. Operated by a Registered Charity or an Australian Government Organisation.

From 14 December 2021, amendments to the *Income Tax Assessment Act 1997 (Cth) Treasury Laws Amendment (2021 Measures No. 2) Act 2021*, passed in September 2021 have resulted in the above eligibility criteria being extended to 11 additional, general DGR categories being:

1. public funds for hospitals (item 1.1.3);
2. public funds for public ambulance services (item 1.1.8);
3. public funds for religious instruction in government schools (item 2.1.8);



4. Roman Catholic public funds for religious instruction in government schools (item 2.1.9);
5. school building funds (item 2.1.10);
6. public funds for rural school hostel buildings (item 2.1.11);
7. approved research institutes (item 3.1.1);
8. necessitous circumstances funds (item 4.1.3);
9. REO funds – i.e., public funds on the Register of Environmental Organisations (item 6.1.1);
10. ROCO funds – i.e., public funds on the Register of Cultural Organisations (item 12.1.1);
and
11. fire and emergency services funds (item 12A.1.3).

Before the recent changes, organisations that fell within these categories were excluded from having to be a registered charity or Australian government agency to be eligible for DGR status.

Organisations with DGR endorsement status prior to 14 December 2021, which do not satisfy the new requirement, will likely need to take further action to ensure that they meet the new eligibility criteria to maintain their DGR endorsement status. See below.

Transitional Arrangements for compliance

There are some transitional arrangements which are intended to give existing DGRs time to satisfy the new criteria in order to maintain DGR endorsement status.

Existing DGRs to become Registered Charity by 13 December 2022

Non-government organisations who were previously endorsed under an updated general DGR category, or who had applied for DGR status before 14 December 2021 will automatically have until 14 December 2022 (12 months) to become a Registered Charity as required by the new criteria.

If a non-government organisation was previously endorsed under an updated general DGR category fails to comply with the new eligibility criteria by 14 December 2022, they will lose their DGR endorsement status, unless an *extended application date* has been granted by the Commissioner of Taxation.

Extended Application Dates

The Commissioner of Taxation has discretion to allow a further period of up to three-years (to 14 December 2025) for an existing DGR, affected by the new eligibility criteria, to comply with the new requirements. Organisations will need to submit applications to the Commissioner before 14 December 2022, through the prescribed form.



Applications will be assessed based on defined criteria set out in the *Treasury Laws Amendment (2021 Measures No. 2) Act 2021* including if the organisation has:

- applied for approval to comply by the extended application date before 14 December 2022;
- made material changes to its purpose or activities which affect its ongoing entitlement to DGR endorsement;
- previously been refused charity registration by the ACNC, or the organisation's charity registration was involuntarily revoked by the ACNC.

What do you need to do to comply?

Non-government organisations who were previously endorsed under an updated general DGR category should use the 12-month transitional period and review the terms of their Constitutions as soon as possible to ensure that they are entitled to charity status.

If any amendments are required so that the organisation is entitled to charity status, then these must be implemented before the organisation applies to become a Registered Charity.

If you are unsure how these changes apply to you, for further information or assistance contact Murfett Legal on [+61 8 9388 3100](tel:+61893883100).

Note: The above is a summary for general information purposes only. It is not intended to be comprehensive or constitute legal advice. You should seek formal legal or other professional advice in relation to your particular circumstances before relying on the content of this article.

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