

Policy

Tweed River Regional Art Gallery Deductible Gift Recipient (DGR) Fund

Version Draft

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Tweed River Regional Art Gallery Deductible Gift Recipient (DGR) Fund

Policy Objective

This Policy sets out the Australian Taxation Office (ATO) requirements for operation of a Deductible Gift Recipient (DGR) Fund by Tweed Shire Council as per the ATO's endorsement of the Tweed River Regional Art Gallery (TRAG) as a public art gallery under item 12.1.4 of section 30-100 of the Income Tax Assessment Act. The financial and operational procedures for administering the Tweed River Regional Art Gallery Gift Fund are set out in a separate document, the *Tweed River Regional Art Gallery Deductible Gift Recipient Fund Procedures*.

The areas covered by the Policy are:

- The basis for Australian Taxation Office endorsement of the Tweed River Regional Art Gallery as a deductible gift recipient (DGR)
- ATO Compliance and Reporting requirements for DGR institutions and Gift Funds
- Tweed Shire Council Tweed River Regional Art Gallery Gift Fund governance

Definitions

Deductible Gift Recipient (DGR) endorsement: endorsement by the ATO of a fund, authority or institution as eligible to receive income tax deductible gifts and contributions.

Gift Fund: Sub-section 30-125 (2) of the *Income Tax Assessment Act 1997* provides that an organisation which has DGR endorsement for an institution it operates must maintain a Gift Fund for the principal purpose of the institution.

Public Art Gallery: one of the categories of organisation recognised under the *Income Tax Assessment Act 1997* as eligible for endorsement as a DGR and defined as having the following characteristics: controlled by a government authority; makes its collections available to the public; is a building or place for the keeping, exhibition and study of objects of scientific, artistic or historical interest.

Tax deductible gifts and contributions: gifts and contributions defined by tax law as eligible for an income tax deduction by the donor upon donation to a DGR.

Policy Background

The Australian Taxation Office endorsed the Tweed River Regional Art Gallery as an institution operated by the Tweed Shire Council, as a Deductible Gift Recipient (DGR)

institution in July 2000. A recent review of Council policies identified the need to develop a Tweed River Regional Art Gallery Deductible Gift Fund Policy.

This endorsement requires Council to establish and operate a Tweed River Regional Art Gallery Gift Fund to which income tax deductible gifts and contributions can be made by donors.

This policy sets out the key factors influencing ATO endorsement, requirements for continuing compliance, and governance arrangements for the Tweed River Regional Art Gallery Gift Fund.

The procedures and processes for maintenance and administration of the Gift Fund are set out in a separate document, the *Tweed River Regional Art Gallery Deductible Gift Recipient (DGR) Fund Procedures*.

Policy

Tweed River Regional Art Gallery, deductible gift recipient (DGR) status

The Tweed River Regional Art Gallery's recognition by the Australian Taxation Office as a public art gallery for the purposes of endorsement as a DGR is based on it being an institution:

- which is owned or controlled by government;
- which makes its collection available to the public;
- who's constituent documents clearly show that it is set up to be an art gallery;
- which from its activities, is recognised as a art gallery; and
- whose activities are consistent with being an art gallery.¹

The Tweed River Regional Art Gallery's DGR status is further dependent on the requirements of Sub-section 30-125 (2) of the *Income Tax Assessment Act 1997*. This requires that Council maintain a Gift Fund for the Tweed River Regional Art Gallery which has the following characteristics:

- it is a fund;
- it is maintained for the principal purpose of the institution (Art Gallery);
- all gifts, and deductible contributions, of money or property for that purpose are made to it;
- any money received by the entity, because of such gifts, or deductible contributions, is credited to it;
- the fund does not receive any other money or property;
- the fund is used only for the principal purpose of the institution (Art Gallery)
- the entity is required by a law, its constitution documents or governing rules to transfer any surplus assets of the gift fund to another gift deductible fund,

¹ Summarised from ATO information providing definition of public libraries, public museums and public art galleries for the purposes of DGR endorsement <http://www.ato.gov.au/nonprofit> accessed 31/5/2013

authority or institution when the institution is wound up or the DGR endorsement is revoked, whichever occurs first.

ATO compliance and reporting requirements for endorsed Deductible Gift Recipients and Gift Funds

Requirements that are incumbent upon organisations endorsed by the ATO as DGR institutions are set out in the *Tweed River Regional Art Gallery Deductible Gift Recipient (DGR) Fund Procedures*. These include requirements for:

- reporting
- self-review; and
- receipting of donations and gifts

Tweed Shire Council Tweed River Regional Art Gallery Gift Fund governance

Tweed Shire Council will:

- Establish and maintain a dedicated account called the Tweed River Regional Art Gallery Gift Fund in accordance with the relevant record keeping requirements of the Australian Taxation Office
- Ensure that all gifts and contributions to the Fund are receipted in accordance with relevant Australian Taxation Office requirements
- Provide reports to the Art Gallery Advisory Committee detailing gifts and contributions to, and expenditure from, the Gift Fund
- Ensure that contributions to the Fund and their accretions are used for the principal purpose of Tweed River Regional Art Gallery activities.
- Ensure that in all other respects, administration of the Tweed River Regional Art Gallery Gift Fund complies with Council finance and governance policies, protocols and procedures.
- Ensure that all gifts and contributions to the Gift Fund comply with the appropriate provisions of the *Income Tax Assessment Act 1997* and the rules governing tax deductible gifts and contributions.²

All fund raising and expenditure priorities for the Art Gallery, including those for the Tweed River Regional Art Gallery Gift Fund will be compliant with the Art Gallery Strategic Plan and the Art Gallery Accession and De-accession Protocol.

A subcommittee of the Art Gallery Advisory Committee will provide advice to Council in relation to the Tweed River Regional Art Gallery Gift Fund.

This subcommittee will be made up of the following members:

- Councillor or second nominated as Council representative on the Art Gallery Advisory Committee;
- Council management representative on the Art Gallery Advisory Committee;
- Art Gallery Director; and
- 2 additional representatives of the Art Gallery Advisory Committee nominated by Art Gallery Advisory Committee members

² <http://www.ato.gov.au/nonprofit> Making tax deductible gifts and contributions.

The functions and administration of the subcommittee are set out in the *Tweed River Regional Art Gallery Deductible Gift Recipient (DGR) Fund Procedures*.

Related Legislation

Income Tax Assessment Act 1997

Compliance

Annual self review of ongoing compliance with DGR status as recommended by the ATO.

Record keeping and Gift Fund administration in accordance with ATO requirements.

Review Period

This Policy will be reviewed in line with periodic reviews of the Art Gallery Strategic Plan, or as necessary to comply with Australian Taxation Office requirements.

Useful Links

[Tweed Shire Council website](#)

<http://www.ato.gov.au/nonprofit>

