



To be able to claim a tax deduction for a donation or gift to an organisation, the receiver of that donation must be endorsed as a “deductible gift recipient” (DGR). If you want to make sure, this can be checked on the ABN Look-up web page (www.abn.business.gov.au/DgrListing.aspx).

But while this is the main condition imposed on claiming a deduction for donations, it is not the only factor the ATO considers. Also relevant is the nature of the donation (whether money or property, which includes financial assets such as shares), and that it is a voluntary transfer of assets from donor to recipient, performed as an act of “disinterested generosity”.

This last point is important, as the ATO stipulates that there should be no “material benefit” or advantage arising for the giver through the action of the gift or donation. The outcome is that if a donating taxpayer receives something in exchange for their donation (such as a bandana or a pen) the rules state that they cannot claim for the donation in their tax return — even if the receiving organisation is a DGR.

Relevant material benefits and advantages listed by the ATO include:

- raffle or art union tickets
- items such as chocolates and pens
- the cost of attending fundraising dinners, even if the cost exceeds the value of the dinner
- membership fees
- payments to school building funds made, for example, as an alternative to an increase in school fees
- payments where you have an understanding with the recipient that the payments will be used to provide a benefit to you.

Note however that the ATO recognises that a donor being given a lapel sticker to acknowledge their gift, or being mentioned by name in an organisation’s newsletter for the same reason, is not deemed to be an “advantage”, and will not deny a deduction. Where the donor is a corporate entity however, acknowledgement, especially for example by way of signage, may constitute a benefit, and render the donation ineligible for deduction.

There may be a case however to treat the contribution as a business expense, or even as a “sponsorship supply”, depending on circumstances.

It should be emphasised that the voluntary nature of giving is central to the tax deductibility of donations. By way of example, there was a mining company in Western Australia that was given the alternative of either paying a royalty to the government or an equivalent amount to a DGR resident in WA. The mining company made a donation to the WA State Library Board. The ATO

denied the company’s claim for a deduction, mainly because the miner had no choice about making a payment, only about which entity this payment went to, and it was deemed in the subsequent court case that it was not sufficient that one of these choices was a DGR.

A deduction for a gift or donation cannot add to or create a tax loss. However, a donating taxpayer can choose to spread the tax deduction for a donation over a period of up to five financial years, by using the “Election to spread gift deduction” form (ask us if you require this form).