

This fact sheet is designed to assist you in determining whether or not to establish a tax deductible fund to assist people in financial necessity

What is a Necessitous Circumstances Fund (“NCF”)?

- A type of Deductible Gift Recipient (“DGR”)
- A “public fund established and maintained for the relief of persons in Australia who are in necessitous circumstances” – Item 4.1.3 of s 30-45 of the ITAA 97
- A vehicle for assisting people in financial need in Australia.

What does “necessitous circumstances” mean?

- financial necessity
- some degree of poverty, though may be less than abject poverty or destitution
- where an individual does not have the resources to sustain a *modest standard of living* in the Australian community
- often receipt of income tested benefits from the government will provide an indication of necessitous circumstances
- it does not mean an inability to afford merely *desirable* advantages
- it does not mean the needs of the sick, incapacitated or elderly on their own

Can you give me some examples?

- A fund set up to pay for a carer and for modifications to the home of a teenager who is now a quadriplegic following an accident. Her parents cannot meet the costs.
- A fund established by colleagues of individuals whose homes were badly damaged in a bushfire. The fund is to be used for food, clothing, emergency shelter and urgent essential repairs.
- A community which sets up a fund to make interest-free loans to assist people on low incomes to purchase whitegoods, heating and medical appliances.
- A fund enabling a family to pay for a life-saving medical procedure overseas, where the family could not afford such treatment.

Is an NCF the right type of fund for me?

There are two other types of DGR funds which may be more appropriate if:

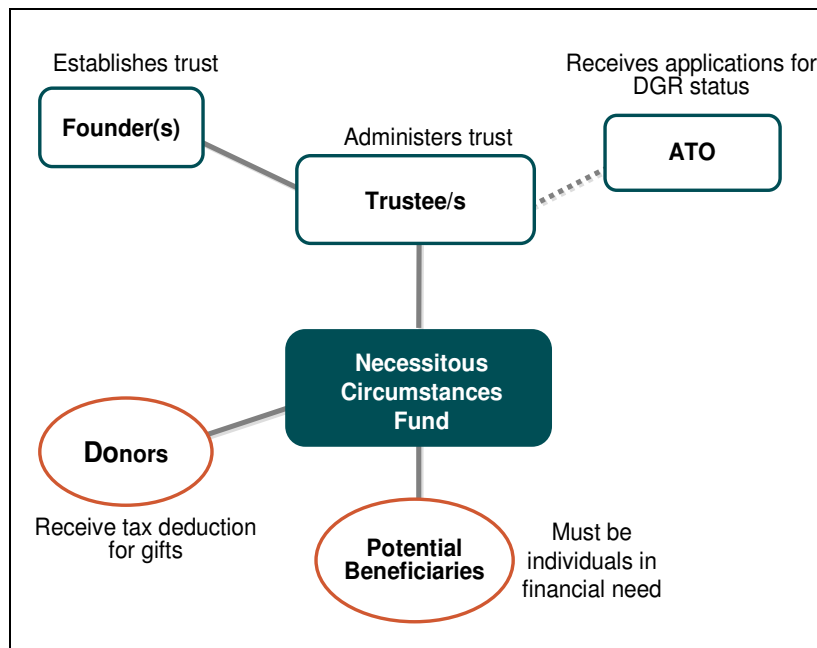
Not for Profit Fact Sheet

1. you want to do more than just distribute money or goods, and instead run programs to assist individuals in need.
2. you want to distribute to other organisations which assist people in financial necessity.

If this is the case, please talk to us and we will point you in the right direction.

Nuts and bolts

- An NCF is a trust fund and therefore is established by Trust Deed or by Will.
- An NCF must be a public fund and not private in nature – therefore:
 - (a) The founders must intend that the public contribute to it;
 - (b) The public, or a significant part of it, must in fact contribute; and
 - (c) The public, or those with a degree of public accountability, must participate in the administration of the trust.



To explore the establishment of an NCF, please contact Moores Legal. We would be happy to provide more detailed advice tailored to your circumstances and objectives, and assist with the establishment of a Necessitous Circumstances Fund.

Statement of Advice: This Fact Sheet is for general information only and should not be relied on as (or in substitution for) legal, personal financial or other professional advice.

© **MOORESLEGAL** March 2011

DISCLAIMER: This fact sheet is for general information and should not be regarded as being comprehensive or be relied on as (or in substitution for) legal advice.