

This fact sheet is designed to assist churches in exploring avenues to achieve tax deductibility for donors

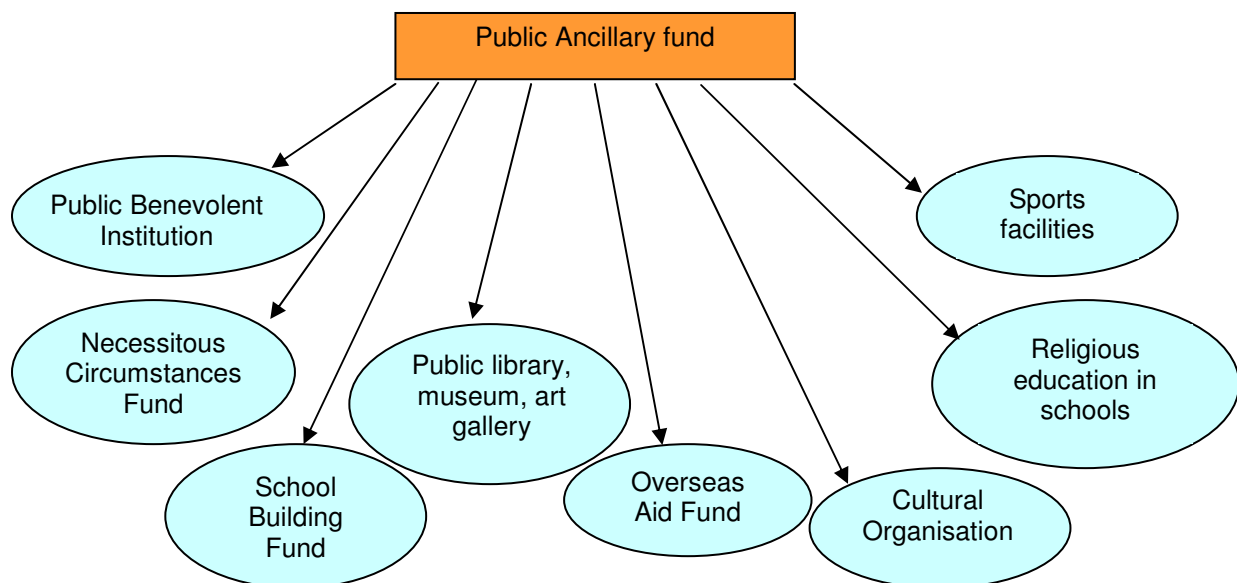
### Churches and Deductible Giving

Churches in Australia are generally exempt from income tax because they fall within the technical definition of charity which includes advancement of religion.

Churches are generally not Deductible Gift Recipients ("DGRs"). This means that individual donors cannot claim a deduction for their giving because giving to religious purposes is not tax deductible.

The tax legislation sets out a series of DGR categories. Churches may establish funds dedicated to one or more of these categories to offer tax deductibility for gifts to those purposes.

The diagram below shows the array of DGR funds churches typically establish, and an explanation of each follows.



- **Public Ancillary Fund** – A Public Ancillary Fund is only permitted to distribute funds to other DGRs. It functions as a conduit. Therefore it can be established to hold donations and then distribute it to other DGR funds of the church, or to unrelated DGRs such as an aid and development organisation.

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A Public Ancillary Fund can also act as a conduit to channel funds for overseas aid or mission endeavours. For more information, please refer to our Fact sheet entitled "Overseas Aid Funds" and particularly Option 4.

- **Public Benevolent Institution** ("PBI") - A PBI is a non-profit institution organised for the direct relief of poverty, sickness, suffering, distress, misfortune, disability or helplessness.

This fund is designed to establish programs which assist people in need. A PBI is a "doing" organisation. This is to be contrasted with direct giving to persons in financial need (see a *Necessitous Circumstances Fund*).

In addition to being a DGR, a PBI is income tax exempt and is eligible for a range of other tax concessions including fringe benefits tax exemptions.

### Examples:

- A counselling centre for disadvantaged people.
  - A food bank or soup van.
  - A ministry to provide school tutoring assistance in an indigenous community or amongst refugees and asylum seekers.
- **Necessitous Circumstances Fund** ("NCF") - The technical definition of an NCF is a fund established for the relief of persons in Australia who are in "necessitous circumstances". The term "necessitous circumstances" refers to financial necessity – not other forms of disadvantage.

### Examples:

- A church establishes a fund for a child who was rendered a paraplegic in an accident. Her parents are unable to meet the medical and other costs. Funds raised are to be used for modifications to the home and to engage a part-time carer.
  - A church establishes a fund to assist with the food, clothing and emergency shelter needs of victims of bushfires.
- **School Building Funds** - A School Building Fund can fund the acquisition, construction and maintenance of a building used by a school, such as where a church runs courses in life skills, theology or parenting. More details on this fund are set out in a separate Fact sheet.
  - **Public library, museum, art gallery** - A church may establish a public library fund, a public museum fund, a public art gallery fund, or a fund for any two or all three. The collection must be made available to the public. The fund may be government controlled. If it is not, it must be controlled by persons with a degree of responsibility in the community.

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### Examples:

- A library of theological books and other resources for reading, study and reference.
- A museum to house items of historical and cultural interest.
- An art gallery with works designed to stimulate creative pathways for faith.
- **Overseas Aid Fund** - There are a number of avenues by which a church can fund overseas aid and development. An Overseas Aid Fund cannot fund religious endeavours overseas such as missionary or church planting work. The mandate must be strictly aid and development. However a religiously-motivated organisation can be established to undertake aid and development. Please refer to our separate Fact sheet on Overseas Aid Funds.
- **Cultural Organisations** - Organisations which are on the Register of Cultural Organisations are also DGRs. Please refer to the Fact sheet headed "Cultural Organisations" for more information.
- **Sports Facilities** - A church wanting to build sporting facilities can liaise with the Australian Sports Foundation (ASF) to do so. The ASF is a DGR and hence can act as a conduit to receive funds and channel them into the building project.
- **Religious Education in Schools** - A church is also able to establish a public fund for the provision of religious instruction in government schools in Australia. The money received from individual donors is tax deductible.

The above categories are particularly relevant to individuals who give to a church. As an aside, individuals who have a discretionary trust can achieve a similar tax result by giving through the trust. For more information on this, please contact us.

To explore one or more of these funds further, 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 DGR 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.

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