Working Through The Complexities Of Eligibility

What we know from the LLEAP Research

Our research in LLEAP tells us that about two-thirds of the philanthropic organisations that we surveyed require their potential recipients to meet certain tax eligibility requirements, most commonly ‘Tax Concession Charity’ status (TCC) and/or ‘Deductible Gift Recipient’ status (DGR). However, the research also tells us that from a school perspective…

- A key barrier to accessing philanthropic support is that schools often don’t know whether they have the right eligibility status; tax eligibility requirements can be complex and understanding them takes time and resources that many schools just don’t have.

We also know that Australian Taxation Office approved funds, such as Building, Library or Scholarship Funds, can provide pathways for philanthropic giving to schools. Again, however, we know that:

- Approximately a third of surveyed schools have no such fund set up; others simply did not know whether they had such a fund.

Understanding eligibility requirements … Where do I start?

1. Check out the definition of philanthropic terms that we added to the LLEAP website via: http://www.acer.edu.au/documents/LLEAP_2013_TermsPhilanthropy.pdf. This will give you a brief outline about what we mean when we talk about philanthropy and such things as DGR. Definitions are also provided by the Australian Taxation Office (ATO) via: https://www.ato.gov.au/Non-profit/NP/List-of-definitions---Tax-basics-for-non-profit-organisations/

2. Go to the ATO website and look through the section of ‘Gifts and Fundraising’ http://www.ato.gov.au/Non-profit/Gifts-and-fundraising/. This provides an overview about what not-for-profit organisations (which includes schools) should consider when conducting fundraising activities, particularly any concessions available to them such as entitlement to receive tax-deductible gifts.

- If you’re not sure about your organisation’s tax eligibility status, you can do a search via the Australian Governments’ ABN Lookup service: http://www.abn.business.gov.au/. Simply type in your organisation’s name in the search field and all the associated tax status details will be provided.
Why would I want to set up a building, library or scholarship fund?

As already mentioned, one of the most common requirements for eligibility to philanthropic funding is DGR and there are pathways for schools to obtain this status for specific fundraising purposes.

As outlined on the ATO website, to qualify as a DGR your organisation must be endorsed by the ATO; there are two types of DGR endorsement:

- ‘where an organisation as a whole is endorsed as a DGR - in which case gifts to the entire organisation may be tax deductible’ *(note: schools are not commonly endorsed under this category)*.

- ‘where an organisation is endorsed as a DGR for the operation of a fund, authority or institution that it owns or includes - in which case only gifts to this part of the organisation may be tax deductible’ *(this includes Building, Library and Scholarship Funds, for which schools may be endorsed if they meet the requirements)*.
Setting up a Building Fund

There are a number of steps to take in setting up your fund (these are summarised below for simplicity, but you must ensure that you explore full details via the ATO site. You can also access the ATO’s GiftPack, which is designed to help you work out whether your organisation can receive tax deductible gifts, via: [http://www.ato.gov.au/Non-profit/Guides/In-detail/Guides---booklets/Gifts---fundraising/GiftPack/](http://www.ato.gov.au/Non-profit/Guides/In-detail/Guides---booklets/Gifts---fundraising/GiftPack/):

**Step 1**

**Are you eligible to apply?** – The ATO states that before an organisation can apply for endorsement, it must have an Australian Business Number (ABN), or, if your organisation is a charity, you must also be registered with the Australian Charities and Not-for-profits Commission (ACNC) to apply for endorsement to access charity tax concessions.

**Step 2**

**Check that you are setting up the right fund for your needs**

- A building fund is what it says: a fund set up to raise money for building. This might include a new sports facility or a performing arts space. So, it is important to remember that a school may have set up an ATO approved Building Fund, but donations via this fund can only be used for the purpose for which the fund was established (i.e. you can’t accept a $50k contribution through the Building Fund and then use it to create a literacy program).

**How does ATO define ‘building’?** – According to the ATO states, a building can be one or multiple buildings, a part of a building or additions to a building. The building needs to be used as part of delivering the curriculum for the school. A Building Fund will **NOT** cover:

- construction of non-school building like a wing of a building designed to be used as a church;
- furniture and equipment, unless they are actual fixtures of the building;
- maintenance costs that relate to the non-school use of a building, like the costs of hiring a cleaner to clean school buildings following weddings unless the fund is fully and promptly reimbursed;
- running expenses of the school that don’t relate to buildings such as water, gas, electricity, sewerage, contents insurance, teaching staff salaries or the general upkeep of furnishings;
- costs of maintaining facilities which are not buildings including sports fields, sports equipment, playgrounds, landscaping and open-air car parks.

The specifics of setting up a Fund – The ATO states that a Fund must:

• be a Public Fund – that is, a fund that the public will contribute to and the fund must be administered by members of an organisation that have a degree of responsibility to the community as a whole;

• have clearly set out objectives that reflect the purpose of the Fund;

• have a separate bank account and clear accounting procedures and gifts to this Fund must be kept separate from any other funds;

• the Fund must operate on a non-profit basis, that is, money must not be distributed to members;

• a fund may have its own rules or constitution, or they may be part of the governing documents of your organisation or of the fund, authority or institution.

Instructions and the application form – Go to the Instructions for endorsement as DGR page on the ATO website via http://www.ato.gov.au/Forms/Endorsement-as-a-deductible-gift-recipient/ to read the instructions and access the application form.

More information? – The ATO provides further information, including a contact phone number via: http://www.ato.gov.au/Forms/Endorsement-as-a-deductible-gift-recipient/?page=10#More_information
Setting up a Library or Scholarship Fund

To set up either of these funds, Steps 1, 3, 4 and 5 above still apply. In addition, you’ll need to be clear about the purpose of your fund and how that is defined:

Are you eligible to apply? – See above

**Step 1**

Check that you are setting up the right fund for your needs:

- To be eligible, a Scholarship Fund must be a public fund (see Step 3) for scholarships, bursaries or prizes that are:
  - awarded only to Australian citizens or permanent residents of Australia;
  - open to individuals or groups of individuals throughout at least a state, a territory or a region of at least 200,000 people;
  - promotes the recipients’ education in approved Australian courses, and/or at educational institutions overseas by way of study of a component of an approved Australian course;
  - awarded on merit or for reasons of equity.

- To be eligible, a Library Fund must be a public fund (see Step 3) and for a library defined as follows:
  - includes books, journals, magazines, videos, DVDs and other electronic access.
  - Expenditure from an approved library fund can be applied for the purchase of reference material, furnishings, equipment.
  - It cannot be used for building costs.

**Steps 3, 4, 5**

The specific, instructions, application and more information – as above for the Building Fund.