

Fundraising foundations and charitable trusts

Legal information for community organisations

This fact sheet covers:

- ▶ what is a foundation?
- ▶ are there alternatives to setting up a foundation?
- ▶ where can you find an existing foundation?



Disclaimer

This fact sheet provides general information about fundraising foundations. This information is a guide only and is not legal advice. If you or your organisation has a specific legal issue, you should seek legal advice before deciding what to do.

Please refer to [the full disclaimer](#) that applies to this fact sheet.



What is a foundation?

A foundation is generally understood to be **a type of charitable trust that distributes funds for charitable purposes**. Charitable purposes should be in accordance with section 12 of the [Charities Act 2013 \(Cth\)](#).



What is a trust?

A trust is a legal structure that holds and uses funds, property or other assets for its beneficiaries. Trusts are managed by trustees.

There are many different types of trusts and the laws that apply to trusts in Australia are complex, so it's important that you speak with a lawyer to understand the risks and obligations before setting up a trust.

If you want to start a fundraising entity or grant making foundation to support a particular cause or charity, you may consider setting up a charitable trust or a Public or Private Ancillary Fund (**PAF**).



What is a Public or Private Ancillary Fund?

A Public or Private Ancillary Funds is a specific type of trust regulated by the Australian Taxation Office (ATO) and endorsed as a deductible gift recipient (DGR).

Public or Private Ancillary Funds (PAF) are commonly used for philanthropic purposes.

Being endorsed as a deductible gift recipient means that donations made to these funds may be tax deductible, but there are strict rules around how these funds must operate.

Setting up a PAF can be a lengthy process, with the Australian Communities Foundation estimating it can take anywhere from 6 to 12 weeks, and a minimum initial donation ideally exceeds \$1,000,000.



Note on DGR

Your organisation will have to:

- meet various requirements to be endorsed (officially recognised) by the ATO as a DGR (a special tax status),
- if your organisation as a whole is not DGR eligible (but certain activities may qualify for DGR status), establish a separate entity that attracts DGR eligibility, and
- once endorsed, comply with ATO reporting requirements

For more information see our [DGR webpage and guide](#).



See the ATO website for more information:

- [Private Ancillary Funds](#)
- [Public Ancillary Funds](#)

Are there alternatives to setting up a foundation?

A simpler alternative to setting up your own structure is to find an existing foundation that you could contribute to in support of your cause.

Some existing foundations will allow you to establish named sub-funds or special accounts and will manage the administration for you. Through an existing foundation you can set up a fund in memory of a loved one, or in support of a particular charity or cause, without the cost and administrative difficulty of setting up your own PAF.

Where can you find an existing foundation?

Most trustee companies have Public Ancillary Funds.

There are also independent, community-owned foundations in Australia. Search the [Community Foundations Australia website](#) to find your nearest foundations.

Local foundations can respond to donors of all backgrounds. Two large foundations in Australia, the [Australian Communities Foundation](#) and the [Lord Mayor's Charitable Foundation](#), have a variety of giving options, including setting up named sub-funds.

There can be minimum requirements for setting up a named sub-fund (for example, the Australian Communities Foundation requires a minimum contribution of \$10,000). There may also be other local community foundations near you that offer the same possibilities.

**Note**

Not-for-profit Law generally can't assist individuals or organisations looking to establish a PAF or other form of charitable trust. If you think this might be a good option for you, you should seek independent legal advice.

**Note – fundraising laws**

When setting up a foundation which will conduct fundraising activities, you will have to comply with fundraising laws. These differ between state, territory and local governments.

For more information, see [our webpage on fundraising](#).



See the following resources published by Philanthropy Australia:

- [Community foundations](#), and
- [Ways to give](#)