

Deductible Gift Recipient Status for The Headstone Project South Australia

1. The Headstone Project South Australia Headstone Project (SA) Inc (HPSA), ABN 94 156 501 044 is keen to diversify sources of funding to enable our growing operations and activities to continue.
2. We have been – unsuccessfully - applying to the Federal government (Treasury and/or the Australian Taxation Office) since February 2022 to facilitate seeking donations from corporations and the public to achieve that aim.
3. **DGR Background.** According to Treasury – <https://treasury.gov.au/policy-topics/taxation/dgr-specific-listing-applications#:~:text=Division%2030%20of%20the%20Income,name%20in%20the%20tax%20law>

“Entities endorsed as deductible gift recipients (DGR) are entitled to receive donations which are deductible from the donor’s income tax. Division 30 of the Income Tax Assessment Act 1997 determines which entities can gain DGR status.

There are two types of DGR:

those endorsed under the 52 categories set out in the tax law; or

those listed by name in the tax law.

4. **DGR Categories.** Subdivision 30-A – *Deductions for gifts or contributions of the Income Tax Act 1997* - <https://www.legislation.gov.au/C2004A05138/latest/text> - provides the following advice and guidance for the three categories for Defence-related entities and activities. The functions of the HPSA do not fit neatly into any of the three criteria specified. DGR recipients at *Subdivision 30-A – Deductions for gifts or contributions*

Subdivision 30-A—Deductions for gifts or contributions

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5. **Specific Recipient Listing.** As the activities and operations of the HPSA do not fit neatly into the above Defence categories, on 31 May 2023 the Project applied for Defence-Specific listing noting that our Headstone Project Tas) Inc colleagues have this approved listing, viz:

Defence—Specific		
Item	Fund, authority or institution	Special conditions
5.2.11	The RSL Foundation	the gift must be made after 20 September 2000
5.2.34	Melbourne Korean War Memorial Committee Incorporated	the gift must be made after 31 December 2017 and before 1 January 2020
5.2.35	The Headstone Project (Tas) Inc.	the gift must be made after 30 June 2019 and before 1 July 2025
5.2.36	Virtual War Memorial Limited	the gift must be made on or after 1 July 2021 and before 1 July 2026
5.2.37	Perth Korean War Memorial Committee Incorporated	the gift must be made after 30 June 2021 and before 1 July 2024

This application was refused by Assistant Minister Leigh on 13 December 2023 who advised us to apply under the general provisions described above. HPSA did that on 14 December 2023.

6. Following assistance from Senator David Fawcett’s office to hasten a response, Ian Gibson – one of our volunteers who has had carriage of the DGR matters for the Project – was contacted by an ATO officer who advised – unsurprisingly – that our application could be not be approved because our operations and activities do not neatly fall into any of the 52 categories set out in tax law. Which we knew would be the case. The ATO will formally advise us of this decision; that correspondence had not been received (as at Friday 12 April).

7. **Federal Assistance.** In addition to the assistance provided by Senator Fawcett’s office, Mr Tony Zappia MP, Federal member for Makin, wrote to Minister Leigh in August 2023. Mr Zappia’s office received a similarly worded document from Minister Leigh’s office to that received by the HPSA declining our request for specific Defence listing.

8. **The Way Ahead.** The ATO on 4 April advised Ian Gibson to wait until the Federal Government releases an endorsed Productivity Commission report into Philanthropy before determining what future action to take. A draft copy of this Report was released on 30 November 2023 and it is available here: <https://www.pc.gov.au/inquiries/current/philanthropy/draft>. Encouragingly for the HPSA, the draft Report notes on page 11 that:

'The deductible gift recipient system needs reform. The design of the tax deduction for giving for individuals provided by the Australian Government has two components – a tax incentive to encourage people to donate, and the system that determines which entities (charities and government entities that conduct charitable-like activities) in Australia can receive tax-deductible donations. People who give more than \$2 to an entity with deductible gift recipient (DGR) status and have taxable income can claim a 100% tax deduction for their donation. While all entities with DGR status must be based in Australia, most can provide support to people and communities overseas. Preliminary estimates by the Commission found that a deduction is likely to be an effective mechanism for encouraging donations of money and does not need to substantively change. This does not mean everyone who gives is motivated by a tax incentive. However, the arrangements that determine which entities can access DGR status are poorly designed, overly complex and have no coherent policy rationale. This creates inefficient, inconsistent and unfair outcomes for charities, donors and the community.'

The Headstone Project South Australia Incorporated

Contact for DGR matters: Ian Gibson

12 April 2024