

Fundraising foundations heading that runs over two lines

Legal information for community organisations

This fact sheet covers:

- what is a foundation?
- how do I set up a foundation?
- are there alternatives to setting up a foundation? and
- where can I find an existing foundation?

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

You may be looking to set up a foundation or trust because you may have (or wish to raise) funds that you would like to distribute for a particular charitable purpose or cause.

What is a foundation?

There is no legal definition of the term 'foundation', but it is generally understood to be a type of charitable trust that distributes funds for charitable purposes. A charitable trust is a legal structure that is set up to hold funds and distribute those funds in line with the rules of the trust. They are managed by trustees. There are complex laws that apply to trusts in Australia.

What is Public or Private Ancillary Fund?

Public or Private Ancillary Funds are types of foundations that are endorsed as deductible gift recipients (DGRs). This means that donations made to these funds may be tax deductible. There are various requirements that apply to these funds, including ATO reporting requirements. In addition, these funds can only provide grants other DGRs. If you want to give money to charities that do not have DGR status, these types of foundations will not be suitable for you.

How do I set up a foundation?

While setting up your own foundation may be appealing, the process is very complex. If you want a general overview of what is involved, go to [Philanthropy Australia](#) (who publish information about PAFs and other charitable trusts, and also run workshops and seminars).

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 I find an existing foundation?

Most trustee companies have Public Ancillary Funds, for example the [Trust Company Foundation](#). The [Financial Services Council](#) provides contact details for all of the Public Trustees and most of the private trustee companies. Many of them will allow you to set up a named or unnamed sub-fund or management accounts to distribute your funds.

There are also [38 independent, community-owned foundations](#) in Australia. Local foundations can respond to donors of all wealth levels. Two of the larger foundations, the [Australian Communities Foundation](#) and [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 \$20,000). There may also be another local community foundations near where you live that offer you the same possibilities.

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, then you should seek independent legal advice.

Resources

Philanthropy Australia

✔ [A guide to giving for Australians](#)

This freely downloadable guide provides useful information on how to locate or establish a charitable trust or foundation.

✔ [Public Ancillary Funds Trustee Handbook](#)

A plain English introductory guide to the role and duties of the trustee and trustee directors of public ancillary funds.

✔ [Private Ancillary Funds Trustee Handbook](#)

A plain English introductory guide to the role and duties of the trustee and trustee directors of private ancillary funds.

Australian Taxation Office

✔ [Private ancillary funds](#)

Information from the ATO on the tax treatment of private ancillary funds.

✔ [Private ancillary funds - frequently asked questions](#)

Frequently asked questions in relation to the establishment and maintenance of private ancillary funds.

✔ [Private ancillary fund model trust deed](#)

This model trust deed can be used to establish an acceptable form of trust for private ancillary funds.

✔ [Public ancillary funds](#)

Information from the ATO on the tax treatment of public ancillary funds.

✔ [Public ancillary fund model trust deed](#)

This model trust deed can be used to establish an acceptable form of trust for public ancillary fund.

Victorian Department of Human Services (DHS)

✔ [Community foundations](#)

DHS has produced a number of videos on community foundations, including an introduction, fundraising, grant recipients, grantmaking, structure and funds development.

A Not-for-profit Law Information Hub resource. Access more resources at www.nfplaw.org.au

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