

EXPOSURE DRAFT



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Taxation Administration (Community Charity) Guidelines 2024

I, Andrew Leigh, Assistant Minister for Competition, Charities and Treasury, make the following guidelines.

Dated 2024

Dr Andrew Leigh **[DRAFT ONLY—NOT FOR SIGNATURE]**
Assistant Minister for Competition, Charities and Treasury
Parliamentary Secretary to the Treasurer

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Part 1—Preliminary

1 Name

This instrument is the *Taxation Administration (Community Charity) Guidelines 2024*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Taxation Administration Act 1953*.

Note: Sections 426-118 and 426-185 in Schedule 1 to the Act provide that the Minister must, by legislative instrument, formulate guidelines setting out rules that community charities and their trustees or directors (as the case requires) must comply with if the charities are to be, or are to remain, endorsed as deductible gift recipients. The guidelines must also set out the amount, or how to work out the amount, of an administrative penalty in relation to non-compliant community charities.

4 Interpretation

- (1) Paragraph 13(1)(b) of the *Legislation Act 2003* has effect in relation to this instrument as if the reference in that paragraph to the enabling legislation was a reference to Schedule 1 to the Act.

Note 1: The effect of modifying paragraph 13(1)(b) of the *Legislation Act 2003* is that expressions have the same meaning in this instrument as in Schedule 1 to the Act as in force from time to time.

Note 2: Under section 3AA of the Act, an expression has the same meaning in Schedule 1 to the Act as in the ITAA 1997.

- (2) The interpretation rules in Division 950 of the ITAA 1997 also apply to this instrument.

Note 1: To find definitions of asterisked terms, see section 995-1 of the ITAA 1997. However, some defined terms may not be asterisked: see section 2-15 of the ITAA 1997.

Note 2: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

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Preliminary Part 1

Section 5

5 Definitions

In this instrument:

community charity means:

- (a) a *community charity trust; or
- (b) a *community charity corporation.

corporate director means a director of a *community charity corporation.

director, of a *community charity corporation, if the corporation has 2 or more directors, means all of those directors jointly, or any of them severally, as the case requires.

distribution has the meaning given by subsection 13(4).

governing rules has the same meaning as in the *Australian Charities and Not-for-profits Commission Act 2012*.

ITAA 1997 means the *Income Tax Assessment Act 1997*.

the Act means the *Taxation Administration Act 1953*.

trustee means:

- (a) a trustee of a *community charity trust; and
- (b) if the trust has 2 or more trustees—all of those trustees jointly, or any of them severally, as the case requires.

6 Penalties

If a person is liable to an administrative penalty under section 426-120 or 426-195 in Schedule 1 to the Act because of a contravention of a provision of this instrument, the amount of the administrative penalty is the penalty that this instrument sets out, or the penalty worked out in accordance with this instrument, in relation to that provision of this instrument.

Note 1: The Commissioner may remit all or part of an administrative penalty: see section 298-20 in Schedule 1 to the Act.

Note 2: An administrative penalty under section 426-120 or 426-195 in Schedule 1 to the Act cannot be reimbursed from the community charity: see subsections 426-120(4) and 426-195(3) in Schedule 1 to the Act.

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Rules for establishing and maintaining community charities as deductible gift recipients **Part 2**
General **Division 1**

Section 7

Part 2—Rules for establishing and maintaining community charities as deductible gift recipients

Division 1—General

7 Object of this Part

The object of this Part is to set minimum standards for the governance and conduct of a community charity and its trustee or corporate director.

8 General principles

A community charity must be established, maintained and wound up in accordance with each of the following principles:

- (a) it is a community charity;
- (b) it is philanthropic in character;
- (c) it is a vehicle for philanthropy;
- (d) it meets both of the following:
 - (i) it seeks to comply with all relevant laws and obligations;
 - (ii) it is open, transparent and accountable to the public (through the Commissioner of Taxation, and, as a *registered charity, to the Commissioner of the Australian Charities and Not-for-profits Commission).

Note: This section is not intended to affect any obligation to protect the confidentiality of a community charity's information under privacy, or secrecy and disclosure, laws.

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Rules for establishing and maintaining community charities as deductible gift recipients **Part 2**
Establishing a community charity **Division 2**

Section 9

Division 2—Establishing a community charity

9 Purposes and objects of a community charity

- (1) A community charity that is a *community charity trust must be:
 - (a) established and maintained under a will or instrument of trust as a charity; and
 - (b) a *registered charity; and
 - (c) established and maintained in accordance with item 13.1.1 of the table in subsection 30-105(1), and section 30-110, of the ITAA 1997.
- (2) A community charity that is a *community charity corporation must be:
 - (a) operated as a charity; and
 - (b) a *registered charity; and
 - (c) operated in accordance with item 13.1.2 of the table in subsection 30-105(1), and section 30-110, of the ITAA 1997.
- (3) A community charity's governing rules must:
 - (a) include objects that clearly set out the purposes of the charity; and
 - (b) require that, on the charity winding up or ceasing to be a community charity, all of its net assets must be provided to a *deductible gift recipient in accordance with the purposes of the charity.

10 Operated only in Australia

- (1) A community charity must be established and operated only in Australia.
- (2) However, subsection (1) does *not* prevent a community charity from making a distribution to a *deductible gift recipient that operates outside Australia.

11 Trustees and corporate directors

- (1) The trustee or corporate director of a community charity must exercise the same degree of care, diligence and skill in relation to the community charity that a prudent individual would exercise in managing the affairs of others.
- (2) An individual must *not* be:
 - (a) a director of a trustee or a corporate director of a community charity; or
 - (b) a member of any other controlling body of the charity;if the individual has been convicted of a taxation offence (within the meaning of Part III of the Act) that is an indictable offence. If an existing director or member is convicted of such an offence, the individual must cease to be a director or member within 1 month after the conviction.

12 Liability of trustee or corporate director

The governing rules of a community charity must prohibit the charity from indemnifying:

- (a) the trustee or corporate director; or
 - (b) an employee, officer or *agent of the trustee or a *community charity corporation;
- for a loss or liability attributable to:

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Rules for establishing and maintaining community charities as deductible gift recipients **Part 2**

Establishing a community charity **Division 2**

Section 12

- (c) a deliberate act or omission known by the trustee, director, employee, officer or agent to be a breach that may result in loss or liability; or
- (d) dishonesty of the trustee, director, employee, officer or agent; or
- (e) gross negligence or recklessness of the trustee, director, employee, officer or agent.

Note: An administrative penalty under section 426-120 or 426-195 in Schedule 1 to the Act cannot be reimbursed from the charity: see subsections 426-120(4) and 426-195(3) in Schedule 1 to the Act.

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Rules for establishing and maintaining community charities as deductible gift recipients **Part 2**

Operation of a community charity **Division 3**

Section 13

Division 3—Operation of a community charity

13 Minimum annual distribution

- (1) During each *financial year, a community charity must make distributions of amounts that are in total equal to at least 4 per cent (the *minimum annual distribution rate*) of the *market value of the charity's net assets (as at the end of the previous financial year) in accordance with this section.

Note 1: While net assets are used to determine the charity's minimum distribution, the total distribution that must be made is *not* net of any amount (for example, the amount of expenses of the charity).

Note 2: The minimum annual distribution rate, for a financial year, may be lowered under subsections (3) and (8).

Penalty: 30 penalty units if the shortfall is greater than \$1,000.

- (2) Further to subsection (1), a community charity must distribute at least \$8,800 (or the remainder of the charity's assets or income if that is worth less than \$8,800) during a *financial year if any expenses of the charity in relation to that financial year are paid directly or indirectly from the charity's assets or income.

Note: This means that if the charity's expenses are met from outside the charity, its minimum annual distribution is the amount calculated under subsection (1). If any of the charity's expenses are paid out of the charity's assets or income, its minimum distribution is \$8,800 or the amount calculated under subsection (1), whichever is greater.

- (3) However, no distribution is required during the *financial year in which a community charity is established.

- (4) A *distribution* by a community charity is:

- (a) the provision of money, property or benefits to an eligible *deductible gift recipient in the direct course or furtherance of a purpose of the charity as covered by subsection 30-110(3) of the ITAA 1997; or
- (b) expenditure incurred by the charity in the direct course or furtherance of a purpose of the charity as covered by subsection 30-110(4) or (5) of the ITAA 1997.

Note: Expenditure incurred by a community charity under paragraph (4)(b) includes providing money to entities that are *not* deductible gift recipients, where expenditure of that money by the other entity will further a purpose of the community charity.

Example 1: A community charity that has a purpose of providing benevolent relief (consistent with item 4.1.1 of the table in subsection 30-45(1) of the ITAA 1997) makes a distribution by funding an entity, that is *not* a deductible gift recipient, to provide transport services to people with disabilities.

Example 2: A community charity that has a purpose of relieving the necessitous circumstances of one or more individuals in Australia (consistent with item 4.1.3 of the table in subsection 30-45(1) of the ITAA 1997) makes a distribution by providing new clothes, furniture and food to families who are in necessitous circumstances following destruction of, or damage to, their homes in a bushfire.

- (5) If a community charity makes a distribution of property or benefits, the *market value of the property or benefits provided is to be used in determining whether the charity has complied with subsection (1).

Note: The Commissioner may approve safe harbour valuation methodologies to assist community charities in calculating the market value of a benefit—see Subdivision 960-S of the ITAA 1997.

Example 1: If a community charity makes a distribution consisting of a gift of land to a public benevolent institution, it would use the market value of the land in calculating how much it has distributed.

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Example 2: If a community charity grants a lease of office space to an eligible deductible gift recipient at a discount to the market price, the charity is providing a benefit the market value of which is used in calculating how much it has distributed. The charity may determine the market value as an amount equal to the discount.

Example 3: If a community charity invests in a social impact bond that is issued by an eligible deductible gift recipient and has a return that is less than the market rate of return on a similar corporate bond issue, the charity is providing a benefit the market value of which is used in calculating how much it has distributed. The charity may determine the market value as an amount equal to the interest saved in the financial year by the deductible gift recipient from issuing the bond at a discounted rate of return.

Example 4: If a community charity lends money to an eligible deductible gift recipient at a discount to the interest rate which would be charged on a comparable loan sourced from a financial institution at arm's length, the charity is providing the borrower with a benefit equal to the market value of the interest forgone in the financial year by the lender because the borrower was not charged an arm's length rate of interest.

Example 5: If a community charity guarantees a loan provided by a financial institution to an eligible deductible gift recipient, the charity is providing a benefit the market value of which is used in calculating how much it has distributed. The charity may determine market value as an amount equal to the discount to the interest rate which would otherwise be charged on a comparable arm's length unsecured loan sourced from that financial institution.

Example 6: Continuing example 5, if the deductible gift recipient defaults on the loan and the charity is called on under the guarantee to make a payment to the financial institution on behalf of the deductible gift recipient, the payment is also a distribution (being the provision of money, property or benefits).

- (6) If the Commissioner requests a community charity to rectify a shortfall in the distribution for a *financial year, the charity must comply with the request within 60 days.

Penalty: 10 per cent of the shortfall as at the end of the 60 days reduced, but *not* below nil, by any penalty under subsection (1).

- (7) A distribution made to rectify a contravention of subsection (1) does *not* count towards compliance with that subsection for a later year in which the rectification occurs.

Accessing a lower minimum distribution rate for a financial year

- (8) Upon application, in the *approved form, the Commissioner may reduce (but *not* to zero) the minimum annual distribution rate for a community charity for a *financial year. The reduction may be subject to any conditions the Commissioner thinks fit.
- (9) The Commissioner may reduce the minimum annual distribution rate only if the Commissioner is satisfied that there are circumstances that warrant the Commissioner reducing the rate, having regard to the matters listed in subsection (11).
- (10) The Commissioner may reduce the minimum annual distribution rate at any time, including after the relevant *financial year has ended.
- (11) In determining whether, and by how much, to reduce the rate, the Commissioner must have regard to:
- (a) the purposes of the community charity; and
 - (b) the general market conditions in Australia; and
 - (c) the past, current and expected levels of returns from the charity's investments; and
 - (d) the long-term impact on the assets of the charity from *not* reducing the rate for a *financial year; and

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Operation of a community charity **Division 3**

Section 14

- (e) the level of distributions made by the charity in previous financial years; and
- (f) the investment and distribution strategy of the charity; and
- (g) the size of the charity; and
- (h) the compliance history of the charity and its trustee or corporate director (as the case requires); and
- (i) the fees and expenses of the charity; and
- (j) the terms and other circumstances relating to any gift to the charity under a will; and
- (k) any other matter the Commissioner considers relevant.

Note: Having regard to general market conditions in Australia could include reviewing the Reserve Bank of Australia's target for the cash rate (which is the overnight money market interest rate), the base interest rate, current returns of other community charities (year on year), and the performance of approved stock exchanges. It could also include examining changes in conditions over time.

- (12) A community charity that is dissatisfied with a decision of the Commissioner covered by subsection (13) may object against the decision in the manner set out in Part IVC of the Act.
- (13) This subsection covers each of the following decisions of the Commissioner:
 - (a) a decision *not* to reduce the annual distribution rate under subsection (8) (after receiving an application as described in that subsection);
 - (b) a decision *not* to reduce the annual distribution rate under subsection (8) to the extent requested in an application (as described in that subsection);
 - (c) a decision to impose a condition on access to a reduced annual distribution rate under subsection (8).

14 Valuations

- (1) The *market value of a community charity's assets (other than land) must be estimated at least annually.

Note: See section 2B of the *Acts Interpretation Act 1901* for the meaning of "land".

- (2) The *market value of land must be estimated at intervals of no more than 3 *financial years. Except as otherwise provided by this section, each estimate of the market value of land is to be used until a new estimate is obtained.
- (3) Subject to subsections (4) and (7), the charity may itself estimate the *market value or arrange for a qualified valuer or another appropriate entity to make an estimate.

Note 1: It is not intended that making or arranging for an estimate of market value be onerous or expensive. However, it may be prudent for the charity to consider using a qualified valuer if the value of an asset represents a significant proportion of the charity's value or if the nature of the asset means that a valuation is likely to be difficult or complex.

Note 2: The charity may ask the Commissioner to undertake a valuation. The Commissioner may charge the trustee for undertaking a valuation: see section 359-40 in Schedule 1 to the Act.

- (4) However, the *market value of land must be estimated by a qualified valuer or by the Commissioner.
- (5) An estimate must be of the *market value as at the end of the relevant *financial year.

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Operation of a community charity **Division 3**

Section 15

- (6) An estimate must be conducted within 2 months before or after the end of the relevant *financial year for each asset, unless to do so would be unnecessarily onerous and expensive. All estimates must be completed no later than before the charity is required to give to the Commissioner its *income tax return for the relevant *financial year.

Note: A community charity is required to lodge an income tax return even if it is exempt from income tax. The Commissioner will approve an appropriate income tax return form for community charities.

- (7) If the Commissioner considers an estimate of the *market value of any asset to be unreasonable, the Commissioner may request the charity to arrange for another estimate to be obtained in the manner the Commissioner stipulates. The charity must comply with the request.

Note: The Commissioner may seek the charity's agreement to undertake the valuation or the charity may ask the Commissioner to undertake the valuation. Where the Commissioner undertakes a valuation, the Commissioner may charge the charity for undertaking that valuation: see section 359-40 in Schedule 1 to the Act.

- (8) Whoever makes the estimate must base it on reasonably objective and supportable data. The methodology and data used for an estimate must be documented in the charity's records. Where an estimate is obtained from a qualified valuer, the trustee or director must also obtain from the valuer a written estimate which also sets out the valuation methodology and refers to any supporting materials used in making the estimate.

15 Keeping accounts

- (1) A community charity must keep, or cause to be kept, proper accounts in respect of all of the charity's receipts and payments and all financial dealings connected with the charity, and must retain those accounts for at least 5 years after the completion of the transactions or acts to which they relate.

Note: See also Subdivision 382-B in Schedule 1 to the Act for rules about recordkeeping obligations of deductible gift recipients.

Penalty: 10 penalty units.

- (2) The charity must make the accounts available to the Commissioner on request.

Penalty: 10 penalty units.

16 Financial reports

- (1) A community charity must prepare, or cause to be prepared, a financial report showing the charity's financial position for each *financial year. The financial report must be prepared in accordance with this section.

Penalty: 10 penalty units.

- (2) The financial report must be prepared in accordance with the *accounting standards.

Note: If a community charity is required to prepare, and does prepare, a financial report in accordance with Subdivision 60-C of the *Australian Charities and Not-for-profits Commission Act 2012*, it will have satisfied this section.

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Section 17

- (3) All transactions (other than gifts of money) between a community charity and a founder of the charity, a *relative of the founder, a donor to the charity, a *relative of the donor, a trustee or corporate director of the charity, an officer, *agent, *member or employee of a trustee or a *community charity corporation, or an *associate of any of these entities, must be disclosed in the financial report.
- (4) The financial report must be prepared before the charity is required to give to the Commissioner the charity's *income tax return for the relevant *financial year.
- (5) The charity must make the financial report available to the Commissioner on request, unless the financial report has already been given to the Commissioner of the Australian Charities and Not-for-profits Commission.

Penalty: 10 penalty units.

17 Audits

- (1) In relation to each *financial year, a community charity must arrange for a registered company auditor (within the meaning of the *Corporations Act 2001*) to audit (in accordance with this section):
 - (a) the financial report of the charity; and
 - (b) compliance with this instrument by the charity and the trustee or corporate director.

Penalty: 10 penalty units.

- (2) Despite subsection (1), if the trustee of a community charity trust is the public trustee of a State or Territory, it may have the Auditor-General of that State or Territory undertake the audit.
- (3) Despite subsection (1) and unless the Commissioner, by written notice, provides otherwise in relation to a particular community charity, a charity that meets both of the following in respect of a *financial year:
 - (a) revenue of less than \$3 million;
 - (b) assets of less than \$3 million;may instead have its financial report, and compliance with this instrument, for that year reviewed rather than audited.
- (4) A reviewer must also be a registered company auditor (within the meaning of the *Corporations Act 2001*). However, an individual who is taken to be a registered company auditor under section 324BE of the *Corporations Act 2001* is also taken to be a registered company auditor for the purpose of this subsection.

Note Section 324BE has the effect of widening the class of individuals who can undertake a review to include all members of a professional accounting body.

- (5) The auditor or reviewer must undertake the audit or review, and provide the relevant community charity with a report, in accordance with the *auditing standards.
- (6) The audit or review must be finalised before the charity is required to give to the Commissioner the charity's *income tax return for the relevant *financial year.
- (7) The charity must make the report available to the Commissioner on request, unless the report has already been given to the Commissioner of the Australian Charities and Not-for-profits Commission.

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Penalty: 10 penalty units.

18 Investment strategy

- (1) A community charity must prepare and maintain a current investment strategy in accordance with this section.

Penalty: 10 penalty units.

- (2) An investment strategy must set out the investment objectives of the charity and detail the investment methods the charity will adopt to achieve those objectives.
- (3) An investment strategy must also reflect the purposes and circumstances of the charity and have particular regard to:
- (a) the risk involved in making, holding and realising, and the likely return from, the charity's investments, having regard to the charity's objects and its expected cash flow requirements (including distribution requirements); and
 - (b) the composition of the charity's investments as a whole, including the extent to which the investments are diverse or expose the charity to risks from inadequate diversification; and
 - (c) the liquidity of the charity's investments, having regard to its expected cash flow requirements (including distribution requirements); and
 - (d) the ability of the charity to discharge its existing and prospective liabilities; and
 - (e) the investment restrictions imposed by *Australian laws; and
 - (f) the status of the charity as a *registered charity; and
 - (g) material conflicts of interest (whether actual or perceived) in holding particular investments (including conflicts affecting individuals involved in the decision-making of the charity); and
 - (h) the terms and other circumstances relating to any gift to the charity under a will.
- (4) The charity must implement the investment strategy, and must ensure that all investment decisions are made in accordance with it.

Penalty: 15 penalty units.

- (5) The investment strategy (and a record of the associated decision-making processes) must be available in a written form so that the trustee or corporate director, an auditor, a reviewer or the Commissioner can determine whether the charity has complied with this instrument and other *Australian laws.

Penalty: 10 penalty units.

19 Investment limitations

- (1) A community charity's investments must be made and maintained on an *arm's length basis, unless another provision of this instrument allows otherwise.

Penalty: 30 penalty units.

- (2) The trustee or corporate director of a community charity must *not* give, or otherwise authorise the giving of, a security over, or in relation to, an asset of the charity.

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Rules for establishing and maintaining community charities as deductible gift recipients **Part 2**

Operation of a community charity **Division 3**

Section 20

Penalty: 30 penalty units.

- (3) However, subsection (2) does *not* apply to:
- (a) a financial instrument excluded by the Commissioner from that subsection in relation to the charity; or
 - (b) an agreement to guarantee the repayment of any money lent by an *arm's length creditor (including any related unpaid interest or fees) for the sole benefit of one or more *deductible gift recipients to which the charity may make a distribution.
- (4) A community charity:
- (a) must *not* acquire an asset (except by way of gift) from; and
 - (b) must *not* make a loan or provide any other kind of financial assistance to:
a founder of the charity, a *relative of the founder, a donor to the charity, a *relative of the donor, the trustee or corporate director of the charity, a director of the trustee, an officer, agent, *member or employee of a trustee or a *community charity corporation, or an *associate of any of those entities, except:
 - (c) by way of an *arm's length commercial transaction; or
 - (d) on terms each of which is more favourable to the charity than would otherwise be expected under an arm's length transaction.

Penalty: 30 penalty units.

- (5) The trustee or corporate director must keep the assets of the community charity separate from all other assets.

Penalty: 30 penalty units.

- (6) However, subsection (5) does *not* prevent a licensed trustee company (within the meaning of the *Corporations Act 2001*) or the public trustee of a State or Territory from operating common *community charity trusts for investment purposes.
- (7) A community charity may only acquire an asset that is a *collectable (or would be a collectable but for the asset *not* being used or kept mainly for an entity's personal use or enjoyment):
- (a) by way of gift; or
 - (b) if the acquisition is in the direct course or furtherance of a purpose of the charity as covered by paragraph 30-110(3)(c) or subsection 30-110(4) of the ITAA 1997.

Penalty: 30 penalty units.

- (8) If the charity acquires an asset mentioned in subsection (7) by way of gift, unless the asset is used or kept mainly for a purpose or activity of a fund, authority or institution mentioned in the table in subsection 30-100(1) of the ITAA 1997 (cultural organisations), the charity must sell or distribute the asset within 12 months after acquiring it.

Penalty: 30 penalty units.

20 Uncommercial transactions and benefits to founders and donors

- (1) A community charity must ensure the charity does *not* enter into any transaction that is uncommercial when entered into, unless the transaction is in the direct course or

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Rules for establishing and maintaining community charities as deductible gift recipients **Part 2**
Operation of a community charity **Division 3**

Section 21

furtherance of a purpose of the charity as covered by paragraph 30-110(3)(c) or subsection 30-110(4) of the ITAA 1997.

Penalty: 30 penalty units.

- (2) However, subsection (1) does *not* prevent the charity from entering into an uncommercial transaction on terms each of which is more favourable to the charity than would otherwise be expected under an *arm's length transaction.
- (3) A community charity must ensure the charity does *not* provide any benefit (except as set out in section 21), directly or indirectly, to:
 - (a) the trustee; or
 - (b) a *member, director, employee, *agent or officer of a trustee or a *community charity corporation; or
 - (c) a donor to the charity; or
 - (d) a founder of the charity; or
 - (e) a *relative of an individual covered by paragraph (c) or (d); or
 - (f) an *associate of any of those entities (other than an eligible *deductible gift recipient or a *registered charity).

Penalty: An amount equal to the amount or value of the benefit provided.

21 Fees and expenses

A community charity may apply income or capital of the charity:

- (a) to pay or reimburse the trustee or corporate director of the charity, or an employee of the charity, for reasonable expenses incurred on behalf of the charity; and
- (b) to pay fair and reasonable remuneration to an employee of the charity; and
- (c) to pay fair and reasonable remuneration for the trustee or director's services in administering the charity.

22 Receipts for donations

A community charity must:

- (a) issue a receipt for every gift it receives; and
- (b) include on the receipt the name and *ABN of the charity, the name of the donor, and a statement that the receipt is for a gift received by the charity.

23 Compliance with all relevant laws

A community charity and its trustee or corporate director (as the case requires) must comply with all relevant *Australian laws, all legally binding directions given to the charity, trustee or director by the Commissioner, and all the requirements contained in this instrument.

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Rules for establishing and maintaining community charities as deductible gift recipients **Part 2**

Winding up, or ceasing to be, a community charity **Division 4**

Section 24

Division 4—Winding up, or ceasing to be, a community charity

24 Winding up, or ceasing to be, a community charity

If a community charity is wound up, or ceases to be a community charity, all of its net assets must be provided to a *deductible gift recipient in accordance with the purposes of the charity.

Note: See also subsection 9(2) of this instrument.

25 Portability

With the agreement of the Commissioner, a community charity may transfer assets to another community charity if:

- (a) the first-mentioned charity transfers all of its net assets to the second-mentioned charity; and
- (b) the first-mentioned charity has already complied with section 13 for that *financial year (about minimum annual distributions); and
- (c) none of the assets of the first-mentioned charity have been received from another community charity during the 2 previous financial years.