

Frequently asked questions – Gifting of property

1. What are the properties covered by the scope of the Treasurer's Direction (TD) – Gifting of property?

For the purpose of the TD – Gifting of property, property refers to all Northern Territory (NT) Government agency-owned or government business division (GBD)-owned assets, regardless of whether they have been capitalised or expensed.

A capitalised asset means the asset has been recognised in the agency's balance sheet and register of assets, in accordance with the TD A2.2 Property, plant and equipment.

Property is expensed if it does not meet the definition and recognition criteria of a property, plant and equipment in accordance with TD A2.2 Property, plant and equipment.

Following are examples of property items that are considered expenses:

- consumable item which is intended for personal use or consumption of the recipient
- token item which is usually mass produced and of minor value
- asset with original cost or fair value of less than \$10,000 capitalisation threshold.

Properties are categorised in the TD – Gifting of property as follows:

- retired animal
- corporate gifts
- corporate gifts on behalf of the Administrator of the Northern Territory
- ministerial gifts
- other property.

2. What properties are excluded from the scope of the Treasurer's Direction (TD) – Gifting of property?

The following properties are excluded from the scope of the TD – Gifting of property:

- merchandise or other promotional products branded with an NT Government approved logo where the total cost of items being gifted to a recipient per occasion is **\$55 (GST inclusive) or less**
- property gifted under legislation other than the FMA, including the transfer of:
 - a vehicle under the *Gaming Control Act 1993* through the Community Benefit Fund
 - land under the *Crown Lands Act 1992* and the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth)
 - property under the *Housing Act 1982*
- prizes or awards provided as part of NT Government program, competition initiative, or sponsorship agreement in line with the strategic priorities and initiatives of the agency or the NT Government
- prizes or awards funded by the Department of the Chief Minister and Cabinet (CMC) and provided to support the duties of the Administrator of the NT.

3. Why are retired animals included in the TD – Gifting of property?

There are instances where a working animal owned by the government, such as a NT Police Force horse or dog, reaches retirement. These animals are made available for adoption to non-government organisations, or NT Government employees who have worked closely with the animal, in an attempt to ensure they live comfortably during their retirement years.

4. What are corporate gifts?

A **corporate gift** is either:

- a. merchandise or other promotional products branded with an NT Government approved logo where the total cost of items being gifted to a recipient per occasion is **more than \$55 (GST inclusive)**
- b. or defined as an item of property that was purchased with the intention of transferring to the recipient as a gift and used as:
 - i. a way to promote or enhance the NT Government's image
 - ii. support government policy and objectives
 - iii. a way to further the conduct of official business
 - iv. an expression of goodwill or appreciation, including recognition of an NT public sector employee's years of service through the [recognition of services milestones program](#)

Corporate gifts may be provided when welcoming guests, to facilitate the development of business relationships, further public sector business outcomes and celebrate achievements.

Examples of corporate gifts include but are not limited to:

- signed or token memorabilia items
- gifts to foreign dignitaries, visitors, guests or hosts as a means to establish or maintain positive relations
- memberships and entry tickets for sporting, cultural, business or other activities.

5. What are corporate gifts on behalf of the Administrator for the NT?

Corporate gifts on behalf of the Administrator of the NT is an item of property that was purchased with the intention of transferring the ownership to the recipient as a gift, used to support the duties of the Administrator of the Northern Territory and funded by the Department of the Chief Minister and Cabinet (CMC). Recipient may be foreign dignitaries or very important person (VIP) visiting the NT.

The Official Secretary to the Administrator of the NT can approve gifts provided to the Administrator for the NT, subject to meeting the criteria outlined in the TD – Gifting of property.

6. What are ministerial gifts?

Ministerial gifts are corporate gifts given to a recipient by an authorised person in accordance with the ministerial gifts policy administered by the CMC. An authorised person may be the NT Government minister, member of the Legislative Assembly (when representing a minister) or the Leader of the Opposition.

The Protocol NT unit within CMC maintains an official gift range and a gift register of items presented to foreign dignitaries and VIPs visiting the NT or for presentation when ministers are travelling on official business.

Approval from the accountable officer of CMC must be obtained for all ministerial gifts, regardless of its value.

For further guidance on ministerial gifts, contact Protocol NT:

Phone: 08 8999 6238

Email: protocol.cmc@nt.gov.au

7. Why are NT Government branded merchandise valued at \$55 (GST inclusive) or less, excluded from the scope of the TD – Gifting of property?

NT Government branded merchandise valued at **\$55 (GST inclusive) or less** per recipient, are considered token items of inconsequential or trivial value to both the agency (and person on behalf of the agency) providing the item and the recipient.

They are often distributed as handouts at trade shows, conferences or events, exhibitions or launches, with an aim to promote the NT Government, increase awareness, or create interest.

The NT Government Brand Guidelines requires all merchandise produced by the NT Government, an agency or GBD, to feature an approved NT Government logo.

Generally, the expense from purchasing merchandise and promotional items is treated as marketing and promotion expense rather than assets donated and gifted.

Common merchandise items include, but are not limited, to t-shirts, caps, water bottles, lanyards, USB sticks, posters, stickers, pens, mugs, mouse pads and wrist bands.

It is important to note, while merchandise and other promotional products of trivial value are excluded from the scope of the TD – Gifting of property, consideration should be given to conflicts of interest and risk of adverse public perception and scrutiny, before providing such items.

Merchandise or promotional products valued at **more than \$55 (GST inclusive)** per recipient are included in the definition of corporate gifts and must be approved in accordance with the conditions for corporate gifts outlined in the TD – Gifting of property.

8. Why are properties that can be gifted under legislation other than the Financial Management Act 1995 (FMA) excluded from the scope of the TD – Gifting of property?

Gifting provisions under legislations other than the FMA take precedence.

Gifting of property allowable under legislation other than the FMA includes, but is not limited to:

- vehicles under the *Gaming Control Act 1993* through the Community Benefit Fund
- land under the *Crown Lands Act 1992*
- land under the *Aboriginal Land Rights (Northern Territory) Act 1976 (Cth)*
- property under the *Housing Act 1982*.

9. Why are prizes or awards provided as part of NT Government program, competition initiative, or sponsorship agreement excluded from the scope of the TD – Gifting of property?

Prizes are offered and given as a reward to winners while awards are presented or given to recognise merit or high achievement in the community.

If prizes and awards are given as part of an NT Government program, competition or sponsorship agreement, they are considered constructive or legal obligation.

Constructive obligation

Constructive obligation is an obligation that derives from an entity's action where:

- by an established pattern of past practice, published policies or a sufficiently specific current statement, the entity has indicated to other parties that it will accept certain responsibilities
- as a result, the entity has created a valid expectation on the part of those other parties that it will discharge those responsibilities.

When an agency or NT Government announces a program or competition initiative, it creates an expectation that the agency or NT Government will provide the prize or award to the winner to discharge its responsibilities.

Legal obligation

Legal obligation means any requirement or duty created by statute or common law.

When an agency or NT Government enters into a sponsorship agreement which states that prizes or awards are to be provided by the agency or NT Government, it creates a legal obligation as the sponsorship agreement (provided all contractual elements are satisfied) is considered legally binding.

10. What are the process and approval requirements applicable for prizes and awards?

Prizes and awards should only be given as part of an NT Government program, competition initiative or sponsorship agreement that is in line with the strategic priorities and initiatives of the agency or NT Government. There are also instances where the CMC funds the prizes or awards that are provided to support the duties of the Administrator of the NT.

Expenses incurred related to an NT Government program, competition initiative or sponsorship agreement, or to support the duties of the Administrator of the NT are part of the agency's operational costs and should only be incurred in accordance with the agency's internal policies and procedures.

Prizes or awards provided by an agency as part of a sponsorship agreement should only be incurred in accordance with agency's internal policies and procedures and comply with the relevant sponsorship agreement. The agency should also refer to the [NT Government Sponsorship Policy](#) for other requirements, where applicable.

11. Does the TD – Gifting of property cover gifts received by the NT Government?

No. The TD – Gifting of property does not cover gifts received by NT Government. The TD – Gifting of property deals with circumstances where property is being gifted by or on behalf of the NT Government, rather than being received into the NT Government.

Gifts received by the NT Government are governed by either:

- the *Public Sector Employment and Management Act 1993* (PSEMA) code of conduct (or agency or GBD code of conduct)
- the Ministerial gifts policy.

PSEMA code of conduct

The [Code of Conduct](#), issued in accordance with the PSEMA, is mandatory to all public sector officers. Section 20 of the Code of Conduct sets out the principles for public sector officers about acceptance of gifts and benefits.

Public sector officers are defined in the PSEMA, and include accountable officers and NT Government employees.

Ministerial gifts policy

The Ministerial gifts policy is administered by the CMC. It applies to the Chief Minister, ministers, members of the Legislative Assembly (when representing ministers), and staff employed within ministerial offices. The policy sets out the conditions in which gifts can or cannot be accepted by the NT Government.

12. Is property that has been gifted or transferred from one agency to another for nil consideration included in the scope of the TD – Gifting of property?

No. Internal transfers between agencies (including GBDs) are excluded from the scope of the TD – Gifting of property. The TD – Gifting of property only deals with transfers from the NT Government to external entities or NT public sector employees.

13. Why can't cash or cash equivalents be gifted?

Cash and cash equivalents (including prepaid cards) cannot be gifted, except for prepaid cards provided to an NT public sector employee to show recognition of years of service through the [recognition of services milestones program](#).

The gifting of cash or cash equivalents is likely to result in adverse public perception and scrutiny.

The provision of cash to non-government organisations should be administered through grant arrangements.

14. What are prepaid cards?

Prepaid cards are a form of secured cards that is tied to a previously deposited cash balance.

Prepaid cards include, but are not limited to, gift cards and merchant debit cards (for example Visa or Mastercard). These cards can be used to purchase items wherever the card is accepted, in lieu of providing cash, up to the amount previously deposited onto the card.

Prepaid cards are considered as cash equivalent, thus, cannot be gifted unless provided to NT public sector employees to show recognition for years of service through the [recognition of services milestones program](#).

Prepaid cards provided as a subsidy, for example to provide assistance following an eligible natural disaster, are not considered “gifts”. In these circumstances, the prepaid cards would be accounted for as a subsidy.

A gift card, also known as a gift voucher, is usually loaded with an amount of money that enables the recipient to exchange it for goods or services to the value of the amount on the card. A gift card may be in physical or electronic form. It may be provided as a card, voucher or a code sent electronically (usually by email).

Gift cards can't usually be exchanged for cash, unless there is a remaining amount on the card that the business believes cannot be conveniently used.

15. What is the difference between a gift, grant or subsidy, sponsorship, marketing and promotional items?

Gift

A gift is an asset transferred to a suitable recipient from an agency to a non-government entity or person, without receiving any consideration or compensation, and where there is no constructive or legal obligation for the transfer.

Grant or subsidy

Grant is defined as distributions of public money made by an agency to other agencies, entities or individuals that are directed at achieving agency outputs and outcomes.

Agencies may also refer to the [NT Government Grant Policy](#) for further definition and characteristics of grants.

Generally, the government provides three types of money-based grants. They are for:

- service provision
- community and business grants
- capital grants.

A subsidy is a type of grant payment aimed at reducing all or part of the costs of an activity of a government entity, non-government entity or person. Common forms of subsidy payments include:

- personal benefit payments to members of the community or households
- concessions that provide users with preferential rates
- concessional discounts on advances
- community service obligation payments.

The transfer of property to an entity for no consideration or compensation is likely to be a grant or subsidy if any of the following are applicable:

- there is a government policy that creates a constructive obligation for the grant or subsidy – for example, a commitment by the NT Government to build a health centre for a community or provide transport for a special needs group
- an asset is constructed for the purposes of transferring that asset to another entity – for example, water and sewerage infrastructure in a remote community for transfer to a government owned corporation or local government council
- a potential recipient is required to meet predetermined eligibility criteria and or use the property for a specific purpose – for example, providing a specified service to the community with the property
- there are restrictions relating to dealing with or maintaining the property – for example, the recipient cannot dispose of or transfer ownership of the property
- there is a form of acquittal back to the agency.

Sponsorship

Sponsorship is defined as the right to associate the sponsor's name, products or services with the sponsored organisation's services, products or activities, in exchange for advertising, publicity or tangible benefits.

Sponsorship is a commercial arrangement; it is not a goodwill gesture, donation or grant.

There should be an agreement between the sponsor and the sponsored entity or individual that sets out the terms of the sponsorship.

Agencies should refer to the [NT Government Sponsorship Policy](#), where applicable, for further information.

Marketing and promotional items

Marketing and promotional items are NT Government branded merchandise provided to recipients to promote the NT Government, increase awareness, or create interest. They are often distributed as handouts at trade shows, conferences or events, exhibitions or launches. In comparison, corporate gifts are more personalised and given to specific recipients.

NT Government branded merchandise or other promotional products valued at **\$55 (GST inclusive) or less** is outside the scope of TD – Gifting of property.

On the other hand, NT Government branded merchandise or other promotional products valued at **more than \$55 (GST inclusive)** per recipient are included in the definition of corporate gifts and must be approved in accordance with the conditions for corporate gifts outlined in paragraphs 13 to 15 and 18 of the TD – Gifting of property.

16. What is the difference between gifting property and donating property?

There is no difference between gifting property and donating property. The terms “gifting” and “donating” can be used interchangeably, as they both result in the transfer of ownership of property without receiving any consideration or compensation, and where there is no constructive or legal obligation for the transfer.

17. Who is responsible for coordinating prior approvals for corporate gifts provided as recognition of an NT public sector employee’s years of service through the recognition of services milestones program?

The [recognition of service milestones program](#) aims to formally recognise and reward employees for their years of service to the NT Government. Recognising service milestone functions are hosted by the Chief Minister and the Minister for Public Employment and are coordinated by Protocol NT in collaboration with the Office of the Commissioner for Public Employment (OCPE) within CMC.

As part of coordinating the recognition of service milestone functions, agencies may choose Protocol NT to organise a gift for eligible employees that are attending the event. Agencies are responsible for all costs associated with their employees’ recognition of service, including the cost of gifts provided to the employee.

Therefore it is the responsibility of the relevant agency of the employee to obtain approval from the appropriate delegate in accordance with the TD – Gifting of property, prior to advising Protocol NT to organise gifts for their employees as part of the recognition of service milestones program.

Agencies are responsible for developing internal policies and procedures that align with the recognising service milestones guide developed by OCPE Strategic Workforce Planning and Development unit, and that complies with the requirement of the TD – Gifting of property.

For further queries about the recognising service milestones guide, agencies may contact OCPE Strategic Workforce Planning and Development:

Phone: 08 8999 6238

Email: swpd.ocpe@nt.gov.au

18. Why is it important to consider conflicts of interest and risk of adverse public perception or scrutiny, before providing a gift?

Transparent and accountable practices are vital to maintaining the NT community's trust in the public sector, and its confidence that public resources are being used responsibly and appropriately.

As public officials, our management of providing gifts is a practical demonstration of our integrity, impartiality and accountability. It allows the community, business associates and government to be confident we make decisions and provide advice free of favouritism, influence and conflicts of interest.

In addition to the type and value of a gift and who the recipient is, consideration should also be given to the frequency in which gifts are provided to a recipient. To mitigate the risk of adverse public perception, gifts to recipients should not occur on a regular basis.

19. How do I assess if there is potential, perceived or actual conflict of interest in relation to gifting of property?

Conflicts of interest are conflict between an employee's private financial or other interests, and their official duties or responsibilities. Conflicts of interest may be actual, potential or perceived, and can arise from gaining personal advantage as well as avoiding personal losses, whether financial or otherwise.

- **Actual conflict of interest** involves a direct conflict between a public official's current duties and responsibilities and his or her existing private interests.
- **Potential conflict of interest** arises where a public official has private interests that could interfere with their official duties in the future.
- **Perceived (or apparent) conflict of interest** is when it could be perceived or appear a public official's private interests could improperly influence the performance of his or her public duties, whether or not this is the case.

Almost every type of function performed in the public sector can be vulnerable to conflicts. Factors to consider when making a decision about whether your public duty and your private interests are in conflict typically include:

- financial and economic interests
- family or private businesses
- secondary employment
- affiliations with for-profit and non-profit organisations and associations
- affiliations with political, trade union or professional organisations
- obligations to professional, community, ethnic, family, or religious groups in a personal or professional capacity
- enmity or competition with another individual or group
- significant family or other relationships with clients, contractors or other staff working in the same or a related organisation
- future employment prospects or plans
- privately held shares.

The following are some areas for consideration in determining if a conflict does or may exist:

- real estate ownership
- share holdings and other business interests
- trusts (consider beneficial interests held in trusts or nominee companies)
- directorships in companies and organisations
- partnerships and joint ventures
- other assets
- other significant sources of income
- liabilities
- associations or other interests
- Australian, state or local government office(s) held.

Staff members should refer to the following for further information and guidance:

- NT Government [Code of Conduct](#)
- agency's internal conflict of interest policy
- agency's relevant risk or governance unit.

Offences in relation to conflicts of interest are included in paragraphs 77 to 79 of the *Criminal Code Act 1983* and paragraph 49 of the PSEMA.

20. How can I identify if an organisation is a not-for-profit?

A not-for-profit (NFP) organisation does not operate for profit, personal gain or other benefit of particular people, for example, its members, the people who run it or their friends or relatives.

NFP organisations operate in many areas of society. They include:

- charities
- church schools
- churches
- community organisations
- cultural organisations
- environmental protection organisations
- neighbourhood associations
- public museums and libraries
- scholarship funds
- scientific organisations
- scouts
- sports and recreational clubs
- surf lifesaving clubs
- traditional service clubs.

Prior to providing a gift to a non-government organisation, it is important to determine if that organisation is an NFP. This can be done in a number of ways, as outlined below.

Charities

- **Australian Charities and Not-for-profits Commission (ACNC) register**

All charities are NFPs and they must be registered with the ACNC.

To determine if an NFP organisation is a charity you can search the ACNC register [here](#).

Other NFPs

- **Australian Business Number (ABN) register**

If an NFP seeks to register as a charity or deductible gift recipient (DGR) to access tax concessions, it must have an ABN.

To determine if an organisation is a registered charity or DGR, you can search the ABN register [here](#).

- **Governing documents**

An organisation that claims to be an NFP should have governing documents that support this statement. An NFP's governing documents are formal documents that set out:

- the organisation's purpose
- the organisation's NFP character
- the way the organisation is governed, operates and makes decisions.

Examples of such documents include, but are not limited to: rules or articles of association, constitution, rule book, or deed of trust.

If the governing documents prevent the organisation from distributing profits or assets for the benefit of specific people, both while it operates and when it winds up, it is likely to be an NFP.

21. When do we consider property as surplus to the agency's requirements?

Property is surplus to an agency when it is considered no longer of valuable use. For example, an agency has relocated into a new office building where pre-owned office tables do not fit within the building's configuration and are no longer fit for purpose or any other function performed by the agency. As a result new office tables were purchased. The pre-owned office tables are therefore now considered surplus to the agency.

22. What is meant by serviceable condition? Why must property be in good or serviceable condition before it can be gifted?

Serviceable condition means property is considered useable or functional for its intended purpose, without causing injury or harm to the user, regardless of its wear and tear, or appearance.

Property not in serviceable condition must not be gifted, as it will impose a level of risk of potential injury or harm to the user of the property, and potentially expose the NT Government to damages or legal settlements.

23. What is meant by low value property?

Low value property refers to an item with an initial cost (purchase cost or fair value at the time of acquisition) of less than \$10,000.

These assets are not capitalised. Instead, they are generally expensed in the operating statement, in accordance with the TD A2.2 Property, plant and equipment.

24. Is it required to document assessment of conditions of gifting of property?

Yes, relevant approval documentations must incorporate the basis on which approvals were made and how the conditions of gifting were met.

25. Who is responsible for expenses associated with gifting property?

Prior to making a commitment to gift property, the logistics and costs associated with transferring the gift, such as disassembly, reassembly and transportation, should be negotiated between the agency and the recipient. If Treasurer's approval is being sought, this information should be included in the ministerial request.

26. What happens if a request to gift property is not approved?

The property cannot be gifted.

The TD A2.2 Property, plant and equipment addresses alternative disposal methods for public property.

For large assets, such as medical centres or motor vehicles, it may be more appropriate for the asset to be provided through a grant, where key performance indicators are attached to the conditions of the transfer. Information on grants can be found in the following TDs:

- infrastructure series TDs – for capital grants
- grants and subsidies TD – for all other grants.

27. What information should be retained in relation to gifted property?

As part of the development of the Treasurer's Annual Financial Report, the Department of Treasury and Finance will request from agencies an up-to-date copy of their gifting register in order to disclose gifts provided under the FMA.

At a minimum, an agency must maintain a gifting register with the following information:

- name of gift recipient
- description of gift
- reason for gift
- the gift's carrying value (whether nil or otherwise)
- date the gift was approved by a delegate or the Treasurer
- who approved the gift
- date the gift was processed in the agency's accounting records
- whether the property was capitalised on the register of assets, and confirmation the register has been updated with details of the gifting – in practice this will generally involve liaising with the Department of Corporate and Digital Development Fixed Assets unit
- the record identifier to enable an authorised user to access the formal documentation demonstrating the approval to gift the property, as well as the basis on which the approval was made and how the conditions of gifting were met – in practice, the record identifier may be a hyperlink to an electronic folder or a HPE Content Manager (TRM) reference. The documentation may include a signed letter, email or memorandum of approval.

Clear documentation should be maintained to substantiate the agency has assessed and confirmed the conditions in the TD have been met prior to property being approved for gifting.