

State tax exemptions

Legal information for Northern Territory community organisations

This fact sheet covers:

- ▶ territory duties and exemptions, and
 - ▶ payroll tax and exemptions.
-

In addition to the various taxes that are imposed on community organisations by the Federal Government, Northern Territory groups may also be subject to territory taxes. In the Northern Territory, the main government agency that is responsible for territory taxes is called the Territory Revenue Office (TRO).

We recommend that your organisation seek advice on its territory tax obligations. This fact sheet sets out a brief description of some of the main territory taxes and the exemptions or concessions that may be available for some community organisations.

Duties ('stamp duty')

What are duties?

Duties (or stamp duties) are taxes that the Northern Territory government charges on certain transactions, known as dutiable transactions. The legislation in which these duties are set out is called the Stamp Duty Act (NT) (Stamp Act). The most commonly known transaction that duty is charged on is the transfer of land. However, duties are also charged on declarations of a trust over property, transfers of mining tenements and exploration licences, transfers of business property, policies of general insurance, certain leases of land and the transfer and issue of motor vehicle certificates of registration. In general, incorporated, not-for-profit community organisations will be liable to pay duties, in accordance with the Stamp Act, in the same way that any other organisation or individual is required to, unless they qualify and have applied for an exemption.

Are there any exemptions from duties available for not-for-profit community organisations?

In general, only community organisations that are 'exempt entities' under Northern Territory law are eligible for exemptions from some of the duties as listed in the Stamp Act. A non-profit organisation that has as its sole or dominant purpose a "charitable, benevolent, philanthropic, or patriotic" purpose is deemed to be an 'exempt entity' under the Stamp Act. An exempt entity engaging in an exempt use of a property (a use for purposes other than the carrying on of a commercial activity by or on behalf of the entity) is exempt from duty. This means that in general, charitable organisations are exempt from paying any duty on the following transactions (where they would normally attract a duty):

- conveyance of dutiable property (e.g. land, chattels) if the property is to be used solely by the entity for an exempt use

- certain leases of property to a charitable organisation if the property is to be used solely by the entity for an exempt use
- a motor vehicle certificate of registration issued in the name of a exempt entity. There is no exemption for stamp duties charged on general insurance policies for exempt entities

Certain types of entities are specifically excluded from being 'exempt entities' including broadly, political parties, industrial organisations and trade unions, organisations that promote trade, industry or commerce, professional organisations, unless the Commissioner for Territory Revenue (Commissioner) makes a determination that they are not exempt.

There are also some limited duty exemptions set out in other legislation. For example, the *Associations Act* (NT) provides for an exemption from 'stamp duty' in relation to 'transfers' of property when an incorporated association becomes incorporated under the Corporations Act or another Act (i.e. property of the incorporated association transfers to the ownership of the newly incorporated association).

What does our organisation have to do to access the exemption?

The TRO no longer issues general Certificates of Exemption for all purposes. It does, however, issue a general Certificate of Exemption (current for up to 5 years) in respect of motor vehicle transactions. The Certificate of Exemption is obtained from the TRO and must be presented to the Motor Vehicle Registry each time a vehicle is acquired or transferred in order to apply the exemption.

To claim an exemption from territory duties in respect of other transactions, these are determined on a case by case basis. It is not sufficient to be a registered charity with the ACNC. For each transaction, your organisation will be required to make a formal submission to the TRO in writing requesting an exemption and provide documentation sufficient to prove its charitable status under Northern Territory law (such as a copy of the constitution and/or memorandum and articles, or rules as well as the Annual Report. If duty has been already paid, an application for refund can be made to TRO. You may need the assistance of a lawyer to make the application.

You can seek advice from the TRO regarding your exempt entity status if you are unsure. We have included a link to the TRO contact information page in the Resources section below.

CAUTION

Territory tax laws are not linked to federal tax laws, and the TRO applies a Territory definition of 'charity' and 'charitable', so your organisation may need advice to make sure that it meets both Territory and federal requirements.

There may be some organisations that are considered a charity under the federal definition contained in the *Charities Act 2013* (Cth), but may not meet the definition of charity under Northern Territory law.



Payroll tax

What is payroll tax?

Payroll tax is a tax that the Northern Territory government charges on 'taxable wages' paid or payable by an employer to its employees and deemed employees. The tax is calculated as a percentage of the

'wages'. 'Wages' is defined very broadly and includes remuneration, salaries, commissions, bonuses, allowances, employer superannuation contributions, fringe benefits, termination payments etc. The legislation in which this tax is set out is called the *Payroll Tax Act* (NT) (**Payroll Tax Act**).

All Australian states and territories have participated in the payroll tax harmonisation program which is designed to align the payroll tax provisions in a number of key areas including cross border workers, grouping of businesses and timing for lodgement of returns. Jurisdictional differences still apply on other aspects including in respect of available exemptions. Unless exempt, non-profit community organisations that employ people in the Northern Territory will be required to pay payroll tax if the amount they pay in employee wages exceeds the 'threshold amount' set by the Territory government. The Payroll Tax Act includes quite a broad definition of 'employee' which may extend to include some workers that your organisation considers to be 'contractors' for the purposes of other legislation. For more information about payroll tax, see the Resources section below.

Are there any exemptions from payroll tax available for not-for-profit community organisations?

There are a number of exemptions from payroll tax that non-profit community organisations can apply for. In particular, non-profit organisations which carry on charitable activities (activities that are of a predominantly charitable, religious, benevolent, philanthropic or patriotic in nature) may be exempt from paying payroll tax in relation to wages paid to people who are engaged predominately in work connected with these charitable activities. To be exempt from paying territory payroll tax it is not sufficient to be a registered charity with the ACNC. The Northern Territory government will need to be satisfied that your organisation meets the definition of "non-profit entity" in the Payroll Tax Act (certain types of entities are specifically excluded from being 'exempt entities' unless the Commissioner for Territory Revenue (Commissioner) makes a determination that they are not exempt).

The Northern Territory government recently amended the Payroll Tax Act to ensure that the exemption will not be available for wages paid to a worker who performs a commercial or for-profit activity, regardless of how the funds raised from that activity are used. This means that merely raising money for a charity is not in itself sufficient to attract exemption from payroll tax.

How does our organisation access the exemption?

If you think your organisation may be eligible for an exemption from paying payroll tax, contact the TRO to apply for an exemption. You will need to lodge an application (there is no prescribed form) together with any supporting documents (for example, a constitution, memorandum of understanding, brochures or any other document which states the purpose of the organisation) for the TRO to assess. You may need the assistance of a lawyer to make the application.

Land tax

What is land tax?

Land tax is a tax that some state and territory governments impose on land owned by organisations and individuals. The Northern Territory government does not levy land tax on land owned by either organisations or individuals.

Other taxes

Duties and payroll tax are two of the main taxes that the Northern Territory government levies. There may be other territory taxes that apply to not-for-profit community organisations.

To find out more about territory taxes and whether your organisation may be eligible for any exemptions or concessions, go to the TRO website which has been listed in the Resources section below.

Resources

Related Not-for-profit Law Resources

The Not-for-profit Law Information Hub (www.nfplaw.org.au) has further resources on the following topics:

✔ Getting started – www.nfplaw.org.au/gettingstarted

Not-for-profit Law's Getting Started page on the Information Hub has information on incorporating and choosing a legal structure.

✔ Tax – www.nfplaw.org.au/tax

Not-for-profit Law's Tax page on the Information Hub has information Federal tax laws and concessions and exemptions for charities and not-for-profits.

Legislation

✔ [Stamp Duty Act \(NT\)](#)

✔ [Payroll Tax Act NT](#)

Related Resources

✔ [Territory Revenue Office](#)

✔ [Territory Revenue Office - contact](#)

✔ [Stamp Duty Exemption form - motor vehicle stamp duty](#)

A Not-for-profit Law Information Hub resource. Access more resources at www.nfplaw.org.au. Justice Connect Not-for-profit Law acknowledges the generous support of our funders and supporters. Find out more at www.nfplaw.org.au

© 2017 Justice Connect. You may download, display, print and reproduce this material for your personal use, or non-commercial use within your not-for-profit organisation, so long as you attribute Justice Connect as author and retain this and other copyright notices. You may not modify this resource. Apart from any use permitted under the *Copyright Act 1968* (Cth), all other rights are reserved.

To request permission from Justice Connect to use this material, contact Justice Connect at PO Box 16013, Collins Street West, Melbourne 8007, or email nfplaw@justiceconnect.org.au.