

State tax exemptions

Legal information for Queensland community organisations

This fact sheet covers:

- state duties and exemptions
- payroll tax and exemptions, and
- land tax and exemptions.

In addition to the various taxes that are imposed on community organisations by the Federal Government, Queensland groups may also be subject to state taxes. In Queensland, the main government agency that is responsible for state taxes is called the Office of State Revenue (OSR).

We recommend that your organisation seek advice on its state tax obligations. This fact sheet sets out a brief description of some of the main state 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 Queensland government charges on certain transactions, known as dutiable transactions. The legislation in which these duties are set out is called the *Duties Act 2001 (Qld)* (**Duties Act**). The most commonly known transaction that duty is charged on is the transfer of land. However, in Queensland duties are also charged on surrenders of interests in land, partnership acquisitions, declarations of a trust over property, acquisitions of "new rights", transfer of a motor vehicle, certain leasing transactions and purchasing insurance, as well as on other transactions.

In general, incorporated, not-for-profit community organisations will be liable to pay duties, in accordance with the Duties 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 'charitable institutions' under Queensland law are eligible for exemptions from some of the duties as listed in the Duties Act. In general, charitable institutions are exempt from paying any duty on the following transactions (where they would normally attract a duty):

- transfer of property (e.g. land)
- creation or termination of a trust of dutiable property for the benefit of a charitable institution

- a premium for general insurance for property or undertaking of a charitable institution, and
- application for registration or transfer of registration of a vehicle in the name of a charitable institution.

The availability of the exemption is subject to the institution using the property solely or almost solely for one or more "qualifying exempt purposes" including for activities of a religious nature, public benevolent purposes, educational purposes, relief of poverty, care of sick, aged, infirm, afflicted or incorrigible persons, as residence for a minister engaged in religious purposes. The property must be used for this purpose within 6 months of the date that the duty liability is triggered and continue to be used for this purpose for a further period of 12 months from this date.

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

To qualify for exemption from stamp duties (and also payroll tax and land tax - see further below) charitable institutions must first register with the OSR under the *Taxation Administration Act 2001 (TAA)*. It is not sufficient simply to be a registered charity with the ACNC.

Your organisation will have to apply for registration with the OSR by completing and lodging an Application for Registration form (Form TA3). Additional supporting documentation demonstrating charitable status must also be provided (for example, constitution, certificate of incorporation, details of the institution's activities and fees charged and other supporting information that provides background to the institution's activities).

After the application has been submitted the OSR will send your organisation a letter confirming the application has been received. It can take up to 30 working days to process the application. If your application is approved, the OSR will issue you with a notice of registration stating the date your organisation was registered and any other information about the registration. If the application is refused, the OSR will provide you with an information notice explaining the decision.

If the application is approved, your organisation must then make a separate application for exemption in respect of stamp duties (including transfer duty, vehicle registration duty and insurance duty), payroll tax and land tax (see further below).

We have included a link to the application process in the Resources section below.

CAUTION

State tax laws are not linked to federal tax laws, and the OSR applies a state definition of 'charity' and 'charitable', so your organisation may need advice to make sure that it meets both state 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 Queensland law.



Payroll tax

What is payroll tax?

Payroll tax is a tax that the Queensland 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 1971* (Qld) (**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, charitable institutions that employ people in Queensland will be required to pay payroll tax if the amount they pay in employee wages exceeds the 'threshold amount' set by the Queensland government. The Payroll Tax Act includes quite a broad definition of 'employees' 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 charitable institutions?

Payroll tax exemptions apply to wages paid or payable by a registered charitable institutions (see above) in relation to wages paid to people who are engaged exclusively in work for the charitable institution for a "qualifying exempt purpose". A charitable institution that is either a hospital or a 'non-tertiary educational institution' may also be able to claim a payroll tax exemption if the employee is doing the kind of work usually performed by a hospital or non-tertiary educational institution.

Any of the following is a qualifying exempt purpose:

- religious activities
- educational purposes (including kindergartens, but not universities or university colleges)
- public benevolent purposes
- relief of poverty
- care of sick, aged, infirm, afflicted or incorrigible persons, or
- providing a residence to a minister engaged in for religious purposes.

To be exempt from paying state payroll tax it is not sufficient simply to be a registered charity with the ACNC. The state government also needs to be satisfied that your organisation meets the definition of charity in the Payroll Tax Act. For this purpose, your organisation will first need to be registered as a charitable institution under the TAA (see above).

There are also a number of other types of exemptions. We have included a link to the payroll tax exemption application process in the Resources section at the end of this page.

How does our organisation access the exemption?

If you think your organisation may be eligible for an exemption from paying payroll tax, you will first need to make application to be registered as an approved "charitable institution" under the TAA (see above) and then apply for a payroll tax exemption. There is no prescribed form to apply for a payroll tax exemption. If your application to be registered as a charitable institution is approved, you may need to provide copies of the notice of determination to contractors, employee agents and other deemed employees to confirm your exempt status. You may need the assistance of a lawyer with this process.

Land tax

What is land tax?

Land tax is a tax that the Queensland government imposes on the 'total taxable value' of land owned by the organisation in Queensland. The legislation which imposes the tax is called the *Land Tax Act 2010 (QLD)*. In general, community organisations that own land which is subject to the tax will be liable to pay the tax, unless they qualify for an exemption or concession.

Are there any exemptions from land tax or concessions available for not-for-profit community organisations?

An exemption from land tax means an organisation does not have to pay any tax for the land covered by the exception. Exemptions from land tax are available in some circumstances for charitable institutions, although only when the land is used predominantly for an 'exempt purpose'. An 'exempt purpose' includes (but is not limited to) activities of a religious nature, a public benevolent purpose, an educational purpose and the relief of poverty.

An exemption may also be claimed on vacant land if the institution intends to use the land mainly for an exempt purpose within 3 years of acquiring the land, or a longer period approved by the OSR.

How does our organisation get the exemption or concession?

If you believe that your community organisation may be eligible for a land tax exemption you will first need to make application to be registered as an approved "charitable institution" under the TAA (see above) and then to apply for land tax exemption by completing the application form "Land Tax LT15 Exemption Claim - Charitable Institution" and submit it to the OSR for assessment. If an exemption is granted in respect of particular property the exemption will apply for the liability year and subsequent years (you do not need to reapply). You must, however, notify the OSR if the land is no longer being used for an exempt purpose. We have included a link to the application form in the Resources section below.

If your organisation has received a land tax assessment notice and believes it is entitled to an exemption from the tax, you need to formally object to the assessment notice (on the basis that you believe the land assessed is exempt). Your organisation must object to a land tax assessment notice within 60 days from which the assessment notice was served.

Other taxes

Duties, payroll and land tax are three of the main taxes that the Queensland government levies. There may be other state taxes that apply to not-for-profit community organisations (such as insurance duty, which is duty imposed on a premium paid for general insurance). To find out more about state taxes and whether your organisation may be eligible for any exemptions or concessions, go to the OSR 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

✔ [Duties Act 2001 \(Qld\)](#)

✔ [Payroll Tax Act 1971 \(Qld\)](#)

✔ [Land Tax Act 2010 \(Qld\)](#)

Related Resources

✔ [Queensland OSR - Charitable Institutions Information](#)

✔ [Form TA3](#)

✔ [Duties exemptions for charities](#)

✔ [Payroll tax exemptions for charities](#)

✔ [Land Tax LT15 form](#)

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

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