

State tax exemptions

Legal information for South Australian community organisations

This fact sheet covers:

- ▶ state duties and exemptions
 - ▶ payroll tax and exemptions, and
 - ▶ land tax and exemptions.
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In addition to the various taxes that are imposed on community organisations by the Federal Government, South Australian groups may also be subject to state taxes. In South Australia, the main government agency that is responsible for state taxes is called RevenueSA (RevenueSA).

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 South Australian government charges on certain transactions and documents (generally called "conveyances"). The legislation in which these duties are set out is called the *Stamps Act 1923 (SA)* (**Stamps Act**). The most commonly-known conveyance that duty is charged on is a transfer of land. However, duties are also charged on declarations of a trust over property, registration and transfer of a motor vehicle, and certain leasing transactions, as well as on other transactions.

In general, incorporated, not-for-profit community organisations will be liable to pay duties, in accordance with the Stamps 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 organisations established wholly for charitable or religious purposes are eligible for the general exemption from some of the duties listed in the Stamps Act. In general, charitable and religious organisations are exempt from paying any duty on the following transactions (where they would normally attract a duty):

- a conveyance or transfer of property (eg. land)
- declaration of trust over property

- application for registration or transfer of registration of a vehicle used to convey people with disabilities (but only if the entity is a disability services provider endorsed as an income tax exempt charity under the *Income Tax Assessment Act 1997* (Cth)), and
- policies of insurance in respect of motor vehicles (but only in respect of vehicles used to transport people with disabilities and where the entity is a disability services provider endorsed as an income tax exempt charity under the *Income Tax Assessment Act 1997* (Cth)).

The general exemption from duties will only be granted where the property will not be used (wholly or predominantly) for commercial or business purposes (even if revenue from such activities is applied towards the charitable or religious purposes of the organisation).

There are also some limited duty exemptions set out in other legislation. For example, *the Associations Incorporation Act 1985 (SA)* (AI Act) provides certain exemptions from 'stamp duty' in relation to vesting of property in a body corporate when an association is dissolved or when two or more incorporated associations amalgamate under the AI Act.

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

RevenueSA does not issue a certificate of exemption for charitable or not-for-profit community organisations.

To obtain an exemption from state stamp duties, it is not sufficient simply to be a registered charity with the ACNC. Your organisation must apply for an exemption from the relevant duty to RevenueSA on a case by case basis, and provide documentation to prove its charitable status under South Australian law. There is no prescribed form. Application is by written submission and providing a copy of the association's rules or constitution and other supporting documents including information as to the use of the property for non-commercial or business purposes. Applications should be made after a dutiable transaction is completed. You can seek advice from RevenueSA regarding your charitable status if you are unsure.

We have included a link to RevenueSA information in the Resources section below.

CAUTION

State tax laws are not linked to federal tax laws, and RevenueSA 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 South Australian law.

Payroll tax

What is payroll tax?

Payroll tax is a tax that the South Australian 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 and reimbursements, employer superannuation contributions, fringe benefits, termination

payments, etc. The legislation in which this tax set out is called the *Payroll Tax Act 2009 (SA)* (**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, not-for-profit community organisations that employ people in South Australia will be required to pay payroll tax if the amount they pay in employee wages exceeds the 'threshold amount' set by the state 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 not-for-profit organisations can apply for. In particular, non-profit organisations having as their sole or dominant purpose a charitable purpose (but not including a school, a college, an educational institution, an educational company or an instrumentality of the State) and religious or public benevolent institutions may be exempt from paying payroll tax in relation to wages paid to people who are engaged exclusively in work of a charitable, religious or benevolent purpose. People who are engaged directly in the primary work or in administrative or management work which is predominately associated with the organisation's charitable work, are generally accepted as being exclusively engaged in that work. To be exempt from paying state payroll tax it is not sufficient to be a registered charity with the ACNC. The South Australian government will need to be satisfied that your organisation meets the definition of charity in the Payroll Tax Act. That is, the organisation must be non-profit, for the public benefit and be for the relief of poverty, sickness or the needs of the aged, the advancement of education or religion or for other purposes beneficial to the community.

How does our organisation access the exemption?

If you think your organisation may be eligible for an exemption from paying payroll tax, contact RevenueSA to apply for an exemption. Application for exemption is by completion and lodgement of an Application Form together with supporting documents (for example, the organisation's constitution and/or memorandum and articles of association or proof of incorporation and rules, latest audited Annual Report, details of the purpose and day to day activities of the organisation, and states and territories where wages are paid). We have included a link to the Application Form in the Resources section at the end of this page. You may need the assistance of a lawyer to make the application.

Land tax

What is land tax?

Land tax is a tax that the South Australian government imposes on the 'total taxable value' of land owned by the organisation in South Australia. The legislation which imposes the tax is called the *Land Tax Act 1936 (SA)*.

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.

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:

- associations whose objects are or include supplying accommodation, food, clothing, treatment, nursing, care or help to needy or helpless persons
- associations that are established for charitable, educational, benevolent, religious or philanthropic purposes (although only when the land is used wholly or mainly for those purposes)
- associations that are established for sporting, or exercise purposes, or that hold the land wholly for the recreation of the local community, or for the purposes of agricultural shows and exhibitions of a similar nature
- land owned by an association whose object is the conservation of native fauna and flora and is used solely or mainly as a reserve for this purpose, and
- land owned by certain prescribed associations (for example those holding land for the purposes of providing services or support to the community in relation to literature, science, languages, the arts, preservation of historical, traditional or cultural heritage or similar purposes.

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 should contact RevenueSA. To apply for an exemption an Application Form must be completed and lodged together with any relevant supporting documents. A link to the relevant form and Information Sheet is contained in the Resources section. 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 the date of the assessment notice.

Other taxes

Duties, payroll and land tax are three of the main taxes that the South Australian government levies. There may be other state taxes that apply to not-for-profit community organisations.

To find out more about state taxes and whether your organisation may be eligible for any exemptions or concessions, go to the RevenueSA 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](#)

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

✔ [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 Duties Act 1923 \(SA\)](#)

✔ [Associations Incorporation Act 1985 \(SA\)](#)

✔ [Payroll Tax Act 2009 \(SA\)](#)

✔ [Land Tax Act 1936 \(SA\)](#)

Related Resources

✔ [RevenueSA Website](#)

✔ [Stamp Duty Document Guide \(Opinions\)](#)

✔ [Guide to Land Tax in South Australia](#)

✔ [Application for Exemption from Land Tax](#)

✔ [Land Tax Exemption Information Sheet](#)

✔ [Guide to Payroll Tax in South Australia](#)

✔ [Application for Exemption from Payroll Tax](#)

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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