

State tax exemptions

Legal information for Tasmanian 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, Tasmanian groups may also be subject to state taxes. In Tasmania, the main government agency that is responsible for state taxes is called the State Revenue Office (SRO).

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 Tasmanian government charges on certain transactions, known as dutiable transactions. The legislation in which these duties are set out is called the *Duties Act 2001 (Tas)* (**Duties 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, registration and transfer of motor vehicles and certain leasing transactions, as well as on other transactions involving the acquisition of (or a change in beneficial ownership of) an interest in land.

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, community organisations that are 'charitable organisations' under Tasmanian law are eligible for exemptions from some of the duties as listed in the Duties Act. A "dutiable transaction" for no consideration that is solely for a "charitable, religious, or educational" purpose 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) as long as the transaction is for 'no consideration' (for example, there has not been a payment of money, or exchange of something of value for the transaction). These transactions are:

- transfer of property (e.g. land)
- grant or surrender of an interest in land in Tasmania
- declaration of trust over property
- vesting of dutiable property (land or interests in land) by court or under Australian statute
- declaration of trust over non-dutiable or non-identified property
- any other transaction that results in a change of beneficial ownership of dutiable property, and
- application for registration or transfer of registration of a vehicle registered to a charitable organisation.

There are also some limited duty exemptions set out in other legislation. For example, the *Associations Incorporation Act 1964* (Tas) provides for an exemption from "duty, tax, fee or change" in relation to 'transfers' of assets in certain circumstances as stated in that Act.

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

To get an exemption from state stamp duties, it is not sufficient to be a registered charity with the ACNC. Your organisation will have to apply for the exemption to the SRO, and provide documentation to prove its charitable status under Tasmanian law (including your rules or constitution and other supporting documents). This application is made through Tasmanian Revenue Online (TRO), and should be lodged along with the supporting documents. Applications should be made after a dutiable transaction is completed. You can seek advice from the SRO regarding your charitable status if you are unsure. 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 SRO 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 Tasmanian law.



Payroll tax

What is payroll tax?

Payroll tax is a tax that the Tasmanian state 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 set out is called the *Payroll Tax Act 2008* (Tas) (**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 Tasmania will be required to pay payroll tax if the amount they pay in employee wages exceeds the 'threshold amount' set by the Tasmanian 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 community organisations can apply for. In particular, not-for-profit organisations which have as their sole or dominant purpose charitable, benevolent, philanthropic or patriotic purposes (with some exceptions)) may be exempt from paying payroll tax in relation to wages paid to people who are engaged exclusively in work of a charitable, benevolent, philanthropic or patriotic nature. To be exempt from paying state payroll tax it is not sufficient to be a registered charity with the ACNC. The Tasmanian government will need to be satisfied that your organisation meets the definition of charity utilised in applying the provisions of the Payroll Tax Act.

There are also a number of other types of exemptions, including exemptions for wages paid by not for profit health care and education providers. We have included a link to the 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, contact the SRO to apply for an exemption. You will need to lodge a written application (there is a prescribed form, linked in the Resources section below), together with any supporting documents (for example, your constitution and/or memorandum and articles of association or rules, brochures or any other document which states the purpose of the organisation, audited Annual Report and copies of any income tax exemption certificate issued by the Australian Taxation Office). 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 Tasmanian government imposes on the "assessed land value or the apportioned assessed land value" of land owned by the organisation in Tasmania. Land tax is calculated based on the property's actual use as at the relevant taxing date. The legislation which imposes the tax is called the *Land Tax Act 2000* (TAS).

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 exemption. Exemptions from land tax are available in some circumstances for land owned by or, in trust for, or vested in:

- a religious denomination or society (although only when the land is used solely for religious charitable or educational purposes)
- charitable institutions which are exempt from the payment of income tax under the *Income Tax Assessment Act 1997* (Federal legislation) (although only when the land is used solely for charitable purposes)
- non-profit educational purposes (where the land is owned by a person having the ownership, management or control of an educational institution and is used solely for that purpose), and
- community service organisations which are exempt from the payment of income tax under the *Income Tax Assessment Act 1997* (Federal legislation) and the land is not primarily used to raise income for the organisation.

In order to qualify as a charitable institution under the Land Tax Act, the SRO must be of the opinion that the institution is established solely for charitable purposes and not for profit or gain.

If land is used principally for the purposes of cricket, football, golf, tennis, bowls or other athletic sports or exercises and not for the pecuniary profits of the members of that club or body, the club or body owning that land may be entitled to a concessional rate of land tax. Similarly, land owned by a club formed primarily for the purpose of promoting or controlling racing sports (horseracing, motor vehicle racing, or greyhound racing) is subject to a concessional rate of land tax. A concession from land tax means an organisation pays a lower rate of tax for land on which they must pay land tax.

How does our organisation access the exemption or concession?

If you believe that your community organisation may be eligible for a land tax exemption or a concessional rate, you should contact the SRO. A form is available online to apply for an exemption from land tax in Tasmania. This form will need to be lodged with the SRO along with information about the property and the nature of the charitable organisation. Supporting documents (such as the Annual Report and balance sheet of the organisation) will also need to be lodged with the SRO as part of the application.

If your organisation has received a land tax assessment notice and believes it is entitled to an exemption from the tax or a concessional rate, 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 Tasmanian 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 SRO 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 \(Tas\)](#)

✔ [Payroll Tax Act 2008 \(Tas\)](#)

✔ [Land Tax Act 2000 \(Tas\)](#)

Related Resources

✔ [State Revenue Office Tasmania](#)

✔ [Payroll Tax Exemption form](#)

✔ [Land Tax Exemption form](#)

✔ [Tasmanian Revenue Online](#)

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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