

Does your organisation have to pay income tax?

ARE ALL NON-PROFIT ORGANISATIONS EXEMPT FROM INCOME TAX?

No. The income tax law provides that only certain types of non-profit organisations are exempt.

The following types of organisations must be endorsed by the Tax Office to be exempt from income tax:

- charities, and
- certain non-charitable funds (Note: This fact sheet does not discuss the requirements for these funds).

Other organisations can self-assess whether they are exempt from income tax.

Many organisations are taxable and may need to lodge an income tax return and pay income tax.

IS YOUR ORGANISATION 'NON-PROFIT'?

To access the income tax concessions that apply to non-profit organisations, your organisation must be 'non-profit'.

A non-profit organisation is one which is not operating for the profit or gain of its individual members, whether these gains would have been direct or indirect. This applies both while the organisation is operating and when it winds up.

The Tax Office accepts an organisation as non-profit where its constituent or governing documents prevent it from distributing profits or assets for the benefit of particular people – both while it is operating and when it winds up. These documents should contain acceptable clauses showing the organisation's non-profit character. The organisation's actions must be consistent with this requirement.

EXAMPLES:

Acceptable clauses that indicate non-profit character include:

Non-profit clause

'The assets and income of the organisation shall be applied solely in the furtherance of its above-mentioned objects and no portion shall be distributed directly or indirectly to the members of the organisation except as bona fide compensation for services rendered or expenses incurred on behalf of the organisation.'

Dissolution clause

'In the event of the organisation being dissolved, the amount that remains after such dissolution and the satisfaction of all debts and liabilities shall be transferred to another organisation with similar purposes which is not carried on for the profit or gain of its individual members.'

A non-profit organisation can still make a profit, but this profit must be used to carry out its purposes. The profits must not be distributed to owners, members or other private people.

DOES YOUR ORGANISATION NEED TO BE ENDORSED TO BE EXEMPT?

If your organisation is a charity it will need to be endorsed by the Tax Office to be exempt from income tax.



WHAT IS A CHARITY?

For an organisation to be a charity it must be established and operated for altruistic purposes that the law regards as charitable.

The characteristics of a charity are:

- it is non-profit
- it is an entity which is a trust fund or an institution
- it exists for the public benefit or the relief of poverty
- its purposes are charitable within the legal sense of that term, and
- its sole purpose is charitable.

Charitable purposes are:

- the relief of poverty or sickness or the needs of the aged
- the advancement of education
- the advancement of religion
- child care services on a non-profit basis, and
- other purposes beneficial to the community.

EXAMPLE:

Charities include most religious institutions, aged persons homes, homeless hostels, organisations relieving the special needs of people with disabilities and societies that promote the fine arts.

An organisation that is established, controlled and operated by family members and friends will not generally be considered a charity.

Most clubs, societies and associations are not charities. Your organisation will not be a charity if:

- it is primarily for sporting, recreational or social purposes
- it is primarily for political, lobbying or promotional purposes
- its purpose is illegal or against public policy, or
- it is primarily for carrying on a commercial enterprise to generate surpluses.

EXAMPLE:

Organisations that are not charities include social clubs run by religious institutions, ethnic cultural associations, cinema clubs, friendship clubs, wine societies, fan clubs, rowing clubs, football clubs, dancing clubs, athletic clubs, model train societies, boating and fishing clubs, boxing clubs, golf clubs, car clubs and motor racing clubs.

➤ For more information on charities, see our publication *Income tax guide for non-profit organisations* (NAT 7967).

WHAT IF YOUR ORGANISATION IS A CHARITY?

If your organisation is a charity it cannot self-assess its income tax exemption. It must apply to the Tax Office for exemption.

➤ For more information on applying for endorsement, see our fact sheet *The endorsement process to access charity tax concessions* (NAT 3192).

IF YOUR ORGANISATION IS NOT A CHARITY, WILL IT BE EXEMPT?

If your organisation is not a charity, it can self-assess its income tax exemption. Only some specified categories of organisations are exempt. They come from these broad categories:

- cultural organisations
- community service organisations
- educational organisations
- employment organisations
- health organisations
- religious organisations
- resource development organisations
- scientific organisations
- sports organisations

Many of the exempt categories require the organisation to be a 'non-profit' club, society or association and to pass **one** of the following tests:

- **Physical presence in Australia test:** the organisation has a physical presence in Australia and, to the extent of its physical presence, it pursues its objectives and incurs its expenditure principally in Australia
- **Deductible gift recipient test:** the organisation is a deductible gift recipient, or
- **Prescribed by law test:** the organisation is prescribed by law in the income tax regulations, and it is located outside Australia and is exempt from income tax in its country of residence.

➤ For more information on the requirements for the exempt categories, including the tests which must be passed, see our publication *Income tax guide for non-profit organisations* (NAT 7967).

If an organisation meets all the requirements for income tax exemption, it will be exempt without the need to inform the Tax Office.

EXAMPLE:

A club wanting exempt status as a cultural organisation must be 'non-profit' and its main purpose must be the encouragement of art, literature or music.

The club must also pass one of the three tests described on the previous page. If the club meets all the requirements it will be exempt from income tax. It will not need to inform the Tax Office of its exemption.

YOUR ORGANISATION'S MAIN PURPOSE IS SOCIAL OR RECREATIONAL – DOES IT FALL WITHIN THE EXEMPT CATEGORIES?

No. If your club's main purpose is providing social or recreational facilities and activities, it will not be exempt.

EXAMPLE:

A club is established for persons of a particular nationality. Its main purpose is to provide members with a social outlet and recreational activities. It is not an exempt organisation even though traditional music and dance may be performed at the club.

WHAT IF YOUR ORGANISATION MEETS ALL THE REQUIREMENTS FOR EXEMPTION?

If you work out your organisation meets all the requirements for income tax exemption:

- it will not need to pay income tax or lodge income tax returns (unless specifically requested)
- you do not need to get confirmation of its exemption from the Tax Office, and
- you should carry out a yearly review to check if it is still exempt. You should also do this when there are major changes to your organisation's structure or activities.

IF YOUR ORGANISATION IS NOT EXEMPT FROM INCOME TAX, HOW IS IT TREATED?

Clubs, societies and associations that are not exempt are taxable. They are generally treated as companies for income tax purposes, whether they are incorporated or not. There are two categories of companies applying to clubs, societies and associations:

- non-profit companies, or
- other taxable companies.

Taxable clubs, societies and associations that are 'non-profit' are treated as non-profit companies for income tax purposes. They must be prohibited, by the terms of their constituent documents, from making any distributions, whether in money, property or otherwise, to their members. They have the benefit of special arrangements for lodging income tax returns and special rates of tax.

Clubs, societies and associations that do not meet the 'non-profit' requirement are treated as other taxable companies. Such organisations are required to lodge an income tax return each year, regardless of their taxable income. They have the same rates of tax applied as other companies. Returns should be lodged using the *Company tax return* (NAT 0656).

WHEN IS A NON-PROFIT COMPANY REQUIRED TO LODGE AN INCOME TAX RETURN?

A non-profit company with taxable income of:

- \$416 or less a year is not required to lodge an income tax return if an Australian resident (unless specifically requested by the Tax Office)
- more than \$416 a year is required to lodge an income tax return for that year.

Returns should be lodged using the *Company tax return* (NAT 0656). This form and the accompanying instruction booklet are available from the Tax Office.

WHAT INCOME TAX RATES APPLY TO NON-PROFIT COMPANIES?

The income tax rates that apply to non-profit companies are as follows:

Taxable income	Rate of tax
0 – \$416	nil
\$417 – \$915	55% for every \$1 over \$416
\$916 and above	30% on the whole amount of taxable income

EXAMPLE:

A non-profit organisation has taxable income of \$380 in the income year 2006–07. The income tax payable is nil.

A non-profit organisation has taxable income of \$900 in the income year 2006–07. The income tax payable is \$266.20. It is calculated as $(\$900 - \$416) \times 0.55$.

A non-profit organisation has taxable income of \$2,000 in the income year 2006–07. The income tax payable is \$600. It is calculated as $\$2,000 \times 0.30$.

HOW IS THE TAXABLE INCOME OF A NON-PROFIT ORGANISATION CALCULATED?

The taxable income of a non-profit organisation is calculated in the same way as for other companies. However, you will need to know about how amounts received from members are treated.

➤ For more information on calculating taxable income, see our fact sheet *How to calculate your organisation's taxable income* (NAT 7196).

OTHER TAXES AND OBLIGATIONS

Irrespective of whether your organisation is exempt from income tax or taxable, it may have other taxes or obligations such as goods and services tax (GST), fringe benefits tax (FBT) and pay as you go (PAYG). Contact the Tax Office for more information.

➤ MORE INFORMATION

For help with matters specific to non-profit organisations, including the endorsement process for charities and deductible gift recipients, income tax, GST and fringe benefits tax concessions, phone **1300 130 248**.

To obtain copies of our publications:

- visit our website at **www.ato.gov.au/nonprofit**
- phone **1300 720 092** and quote the NAT number (a unique national identifying number we give each of our publications)
- write to us at **GPO Box 9990 in your capital city**, or
- obtain a fax by phoning **13 28 60**.

If you do not speak English well and want to talk to a tax officer, phone the Translating and Interpreting Service on **13 14 50** for help with your call.

If you have a hearing or speech impairment and have access to appropriate TTY or modem equipment, phone **13 36 77**. If you do not have access to TTY or modem equipment, phone the Speech to Speech Relay Service on **1300 555 727**.

OUR COMMITMENT TO YOU

We are committed to providing you with advice and information you can rely on.

If you feel this publication does not fully cover your circumstances, please seek help from the Tax Office or a professional adviser.

The information in this publication is current at August 2007. We regularly revise our publications to take account of any changes to the law, so make sure that you have the latest information. If you are unsure, you can check for a more recent version on our website at **www.ato.gov.au** or contact us.