



Straight from the source – May 2025

This month, AC Jennifer Moltisanti talks tax law, what attracts our attention and the power of an annual health check.

Published 7 May 2025

Politics, religion and tax: 3 subjects to avoid at any of my family gatherings given the generational mix of opinions and beliefs. Yet here we are – the federal election has been run, the conclave to select a new pope has commenced and I live and breathe tax. Discussions at our table have never been livelier!

So, let's talk tax.

Last week, I participated in a regulator's panel at [The Tax Institute's](#) annual Not-for-profit Tax Intensive together with [Natasha Sekulic](#) from the Australian Charities and Not-for-profits Commission (ACNC) and [Tricia Stroud](#) from Office of the Registrar of Indigenous Corporations (ORIC). We discussed our respective key areas of focus, good practices and how we work together. The session was facilitated by [Morag Ingham](#) from Findex, who not only maintained a lively conversation, but managed to keep us to time. The tax intensive provided a healthy focus on key sector considerations including director obligations, good governance, the emerging landscape and of course the new reporting requirements for NFPs.

When it comes to tax, our starting premise is always the law. As an apolitical organisation the ATO administers the law. In last month's *Straight from the source* column, I mentioned that our purpose is to collect tax and that our vision is an Australia where every taxpayer meets their obligations because complying is easy, help is tailored and deliberate non-compliance has consequences.

In the context of the NFP sector, our remit is to ensure all NFPs access concessions correctly, meet their obligations and operate in a sector where transparency and integrity are assured.

The law

It's important to acknowledge that the tax law outlines the types of NFPs that can be exempt from income tax. There are generally 2 pathways to income tax exemption:

1. an NFP is registered with the ACNC and endorsed by us as income tax exempt
2. an NFP meets one of the **income tax exempt categories** in the tax law.

If an NFP is not eligible for income tax exemption, they're a taxable NFP, and they'll need to determine their taxable income.

Let's break down the 3 types of NFPs: taxable, charitable and self-assessing income tax exempt NFPs.

Taxable NFPs

If your NFP is taxable and has taxable income greater than \$416 you have an obligation under the income tax law to lodge a tax return and pay tax. NFPs will need a tax file number (TFN) to lodge a tax return.


Taxable NFPs must lodge an income tax return and pay income tax by 15 May each year.

If your organisation is an NFP company with a taxable income of \$416 or less, your NFP can meet its obligation by notifying us of a non-lodgment advice by 15 May each year. NFP companies can be incorporated and unincorporated. They must operate for a purpose and not for the profit or gain of its individual members and must have governing documents that prohibit any distributions to members whether in money, property or otherwise.

A frequent question taxable NFPs ask me is about calculating taxable income. The simplest way to approach this is to begin with identifying where your NFP's revenue is coming from:

- If your revenue is derived solely from members, there is a strong chance you will be under the \$416 threshold, and you can lodge a **non-lodgment advice**.

- If your revenue is derived from additional sources such as investments, grants or sales to non-members, you will need to identify your assessable income and allowable deductions to calculate your taxable income.

We have broken this down and you can find out more information by visiting ato.gov.au/taxableNFPs or watch the 'ATO and HWL Ebsworth webinar – What to know if your NFP is taxable' video at [Not-for-profit – ATOtv](#) .

Self-assessing income tax exempt NFPs

Non-charitable NFPs with an active Australian business number (ABN) are required to lodge an annual NFP self-review return to notify eligibility to self-assess as income tax exempt. The first NFP self-review return, for the 2023–24 income year, was due by 31 March 2025. We extended the due date only for the 2023–24 income year to help NFPs lodge their first return.

If your NFP has **missed the lodgment due date**, the best thing to do is lodge as soon as possible before the next return is due from 30 June 2025. You don't need to request an extension from us. We've suspended the penalty application for NFPs who are making genuine efforts to comply and just need more time to lodge their 2023–24 NFP self-review return. This is part of our transitional support arrangements for the sector.

NFPs can use the [NFP self-review return update, connect and lodge flowchart](#) to follow a step-by-step guide on how to access and lodge the return online through Online services for business. If you don't have access to our online services, you can also lodge by phoning our automated self-help phone service on **13 72 26** or through your registered tax agent.

From July 2025, we'll start to review NFPs that intentionally ignore their obligations. For more information visit ato.gov.au/NFPtaxexempt.

Charitable NFPs

Since 2012, NFPs with charitable purposes have been required to be registered with the ACNC to access tax concessions. This is not optional. Charities who aren't registered with the ACNC are taxable and cannot self-assess as income tax exempt.

While registered charities report annually to the ACNC via an annual information statement, they're still subject to ATO oversight in relation to their entitlement to tax concessions and for all their tax obligations. This includes lodging activity statements to report and pay obligations like GST, pay as you go (PAYG) withholding and FBT instalments and lodging fringe benefits tax (FBT) returns if required.

Charitable NFPs who aren't registered with the ACNC and have mistakenly assumed they were income tax exempt should review their taxable status. If you realise that your organisation should have been registered with the ACNC as a charitable NFP, you can still lodge the NFP self-review return and we'll help you with the next steps.

For more information visit ato.gov.au/NFPtaxexempt.

What attracts our attention

Wherever I am and whoever I speak to, I'm always asked what attracts the ATO's attention. There are no secrets and we've been signalling what attracts our attention through various channels for many years.

The key areas that attract our attention focus on whether NFPs are:

- **operating for purpose** – especially whether NFP entities are applying income and assets solely for purpose, and that they're operating in accordance with their governing documents
- **complying with ancillary fund guidance** – with the growth of NFP vehicles such as ancillary funds, it is critical to sector confidence that the guidelines underpinning both public and private ancillary funds are adhered to
- **meeting the reporting obligations for self-assessing income tax exempt NFPs** – while the new reporting obligations have not been driven by a change in the law, we acknowledge they have exposed gaps in NFP's compliance with the law. We'll continue to support the sector as organisations transition to their correct taxable status.
- **doing the right thing where we see emerging issues** it's important NFPs remain vigilant and meet all their tax and super obligations. Recently, we flagged a focus on correct GST reporting and rising debt levels.

All NFPs should have confidence we're here to help them get it right. We provide tailored advice and guidance including a dedicated phone

service on **1300 130 248**. NFPs can call this number to obtain personalised advice from one of my team members Monday to Friday 8:00 am–6:00 pm. Outside these times NFPs can contact us at atoendorsements@ato.gov.au and we can set up a suitable time.

Annual health check

Implementing the new reporting requirements for NFPs has revealed some gaps in sector compliance, with the 2 most frequent gaps identified being outdated ABN registration details and incorrect taxable status. These can be avoided by regularly checking the health of your NFP.

Undertaking a regular annual health check of your NFP is recommended as part of good governance. We've published the **NFP tax, super and registry responsibilities checklist** which helps NFPs stay on track with their tax, super and registry obligations. It's good practice to run through this checklist at your regular board or committee meetings as a standing agenda item. Staying current with your tax and super affairs is part of your good governance framework and delivers transparency and accountability for your members.

As we head towards the end of the financial year, take some time out to review your affairs. If you've made a mistake, don't panic. We're here to help you get it right.

Take care and stay safe

Jennifer

QC 104614

Our commitment to you

We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

If you follow our information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we will take that into account when determining what action, if any, we should take.

Some of the information on this website applies to a specific financial year. This is clearly marked. Make sure you have the information for the right year before making decisions based on that information.

If you feel that our information does not fully cover your circumstances, or you are unsure how it applies to you, contact us or seek professional advice.

Copyright notice

© Australian Taxation Office for the Commonwealth of Australia

You are free to copy, adapt, modify, transmit and distribute this material as you wish (but not in any way that suggests the ATO or the Commonwealth endorses you or any of your services or products).