

# Guide to fundraising (Vic)

Information for organisations undertaking fundraising activities in Victoria

Nov 2020



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**What is fundraising?**

# What is fundraising?

**Organisations that fundraise need to comply with laws about fundraising. These laws are different in each state and territory.**

This guide covers the laws on fundraising in Victoria only, including the *Fundraising Act 1998 (Vic)* and the *Fundraising Regulations 2019 (Vic)* (collectively, **Victoria's fundraising law**).

When organisations undertake 'fundraising appeals' in Victoria, they need to comply with requirements for fundraisers, including applying for a fundraising licence where necessary.



## Fundraising appeals

Fundraising appeals include:

- telephone appeals
- public auctions
- doorknock appeals
- tin collections
- clothing bins
- public appeals to support clubs, associations, causes or people, and
- a range of other activities that raise funds

Consumer Affairs Victoria (**CAV**) is the regulator of fundraising appeals in Victoria.

Each Australian state and territory has its own rules relating to fundraising activities and there are differences across jurisdictions. Your organisation may need to comply with multiple jurisdictions' fundraising laws (including registering as a fundraiser in multiple jurisdictions) if it intends to fundraise in more than one state or territory.

For further information, a link to the relevant state and territory government agencies is provided in the resources section below.



## Caution – September 2020 reforms

Victoria's fundraising law has been amended to streamline the registration and reporting requirements for charities that conduct fundraising in Victoria. These changes, which came into effect on 1 September 2020, are:

- Organisations registered with the Australian Charities and Not-for-profits Commission (ACNC) will not need to register separately with CAV in order to fundraise in Victoria. Instead, to be considered a registered fundraiser, organisations will be required to notify CAV of their intention to fundraise via a [myCAV account](#).
- Organisations exempt from the requirement to notify CAV of an intention to fundraise include:
  - religious organisations (recognised denominations)
  - registered trade unions and political parties
  - hospitals and certain other health organisations funded by the government
  - a variety of schools and educational institutions
  - organisations that receive less than \$20,000 gross in a financial year from fundraising, are not paid for conducting the fundraising and use only unpaid volunteers.
- Organisations will still be required to maintain fundraising records, but are no longer required to submit separate annual statements to CAV. Instead, organisations can submit the Annual Information Statement to the ACNC. Medium or large organisations that only fundraise in Victoria should ensure the financial reports they submit to the ACNC meet the ACNC reporting requirements.
- The *Fundraising Act 1998 (Vic)* now grants CAV the power to deregister or suspend the registration of an ACNC registered organisation if it has paid 'excessive commission or other remuneration' to a collector or commercial fundraiser that administers part or all of an appeal in Victoria on behalf of the CAV registered organisation.

## What is a fundraising appeal?

Victoria's fundraising law regulates 'fundraising appeals'.



### Definition

Section 5 of the *Fundraising Act 1998 (Vic)* defines a fundraising appeal as:

the soliciting or receiving of money or a benefit on the basis of a representation that the soliciting or receiving is not solely for the profit or commercial purpose of the person or any other person, cause or thing on whose behalf the person is soliciting or receiving the money or benefit

The regulated fundraising appeal can be a single event over a limited period of time or an ongoing activity.

Generally, fundraising activities are those activities which meet the following requirements:

- you ask or target the public (people outside your organisation)
- you ask for money or other benefits (which includes any gain or reward), such as goods (food, clothes) or services, and
- the reason for you are asking for the money or benefit is not solely for your profit or commercial benefit

In general, if you or your organisation is asking for or receiving money or other benefits to use for 'not-for-profit' purposes, you will be conducting fundraising activities.



### Example

An organisation sells goods to the public. Part of the money raised will be donated to the homeless but the remainder will be the organisation's profit. As the goods are not being sold solely for the profit, the company will be conducting a 'fundraising' activity.

Examples of fundraising activities from [the CAV website](#) include:

- doorknock appeals
- telephone appeals
- traffic intersection and highway collections
- golf days, movie nights and trivia nights
- dinner dances and balls
- public auctions
- clothing bins
- sale of goods at opportunity shops
- appeals run by commercial fundraisers
- public appeals to support clubs, associations, causes or people, and
- sale of goods where part of the sale price is donated to a charitable organisation or cause

Unless they are exempt from registration, any person or organisation that undertakes fundraising must register as a fundraiser.

# Registration as a fundraiser

# Registration as a fundraiser

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## This section covers:

- ▶ does our organisation need to register as a fundraiser?
  - ▶ how does our organisation register as a fundraiser?
  - ▶ what if my organisation breaches Victoria's Fundraising Law or undertakes fundraising without an authority to fundraise?
  - ▶ what are some other relevant permissions and laws to consider when fundraising?
  - ▶ what are our obligations after registering as a fundraiser?
- 

## It's important to understand the fundraising registration process well in advance of your fundraising activities.

Getting registrations right from the start can prevent issues down the track.

## Does our organisation need to register as a fundraiser?

Generally, an organisation (or person) who conducts a fundraising activity will need to register as a 'fundraiser' in Victoria, unless:

- the fundraising law says the activity is not a regulated fundraising appeal
- your organisation is an exempt organisation, or
- your organisation is registered as a charity with the ACNC (noting that CAV must still be notified of your intent to fundraise in Victoria)

## What activities are not 'fundraising' under the Victorian fundraising law?

While the Victorian fundraising law provides a broad definition of what is considered a 'fundraising appeal', it also provides a list of activities that are not viewed as 'fundraising' (even if they are targeted at the general public and promoted for a not-for-profit purpose).

Your organisation **will not** have to register as a fundraiser for the following activities:

- promotions for membership or joining fees, even if the money or benefit is given to purposes outside the organisation
- raising money for a patriotic fund (as defined in *the Veterans Act 2005* (Vic))
- seeking bequests on behalf of a deceased persons family for the benefit of a person or organisation in lieu of flowers being sent to deceased person's funeral (there is more information on gifts on our [fundraising page](#))
- memorial gifts (for example, a request to donate funds in lieu of flowers upon a death)
- raising money within a workplace targeted at past or present employees or members and their relatives, even if the fundraising is for a cause other than the organisation itself (for example, raising funds to donate to the Red Cross within the workplace for disaster relief)
- receiving money or benefits from a:
  - Commonwealth, State, Territory or local government body
  - corporation, partnership or trust that is permitted to donate for not-for-profit or non-commercial purposes under its constituent documents ([see our grants and funding webpage for more information](#)), or



- raffles, lotteries and other gaming activities authorised under the *Gambling Regulation Act 2003 (Vic)* (see 'Caution' below)



### Caution

Although there is no need for your organisation to register as a fundraiser if it's holding a raffle or lottery or other gaming activity, these activities are regulated under the *Gambling Regulation Act 2003 (Vic)*.

Your organisation may still need to comply with certain rules under this Act, including obtaining a permit to conduct such activities from the Victorian Commission for Gambling Regulation (if the prize value exceeds \$5000). If you want to conduct a raffle to raise funds on behalf of a charity, you will need their written permission before conducting the raffle. For more information on obligations for holding a raffle or lottery, see our [fact sheet on raffles and minor gaming](#) or the Victorian Commission for Gambling Regulation website.

### Commercial fundraisers

The obligation to register extends to 'commercial fundraisers'.

A 'commercial fundraiser' is a person or organisation outside your organisation who you hire to administer all or part of the fundraising activities. This means that even though you may be exempt from registering as a fundraiser, if you decide to outsource any of your fundraising to a paid service provider, the 'commercial fundraiser' is not covered by this exemption and must register. The organisation will remain exempt and does not have to register (irrespective of the registration of the commercial fundraiser).



### Caution – commercial fundraisers

One of the changes to Victoria's fundraising law relates to commercial fundraisers. Under the amended laws, which came into effect on 1 September 2020, CAV will have the power to deregister (or suspend the registration of) an ACNC-registered organisation if they have paid 'excessive commission or other remuneration' to a collector or commercial fundraiser.

There is not yet any guidance on what may be considered 'excessive' commission or remuneration, but the power appears quite broad as the CAV only need to 'deem' the commission or remuneration as excessive.

## Which organisations are exempt from registration?

A small number of fundraisers are exempt from registration (although they must still comply with general obligations for fundraising as set out below). For further detail about the exceptions see the [CAV Exemptions from Fundraising Registration](#).

### General exemption for fundraising less than \$20,000 and using unpaid volunteers

Your organisation (or a person) does not need to register as a 'fundraiser' if it meets the following requirements:

- it receives fundraising of less than \$20,000 (gross or total amounts before deductions and tax) in a financial year
- it is not paid for conducting the fundraising, and
- only unpaid volunteers are used to conduct the fundraising



### Caution

You will need to monitor the situation if your organisation falls in this category.

If your organisation is exempt because fundraising does not exceed \$20,000 (gross) in a financial year and uses unpaid volunteers to conduct fundraising, you should continue to assess whether your organisation fits into this category throughout the year. When you start using paid volunteers or you receive more than \$20,000 (gross) in fundraising, you must then register as a fundraiser at that point as you will no longer be able to rely on this exemption.

### Special exemptions for certain organisations

Specific types of organisations don't need to register as a fundraiser when fundraising. These are:

- state government schools, school councils and registered non-government schools and some kindergartens
- tertiary educational institutions, including universities and TAFE colleges
- public and denominational hospitals, public health services, state-funded residential care services and other registered health agencies funded by the state government
- religious bodies authorised to marry people
- political parties registered under the Victorian or Commonwealth Electoral Acts
- trade unions registered in Victoria
- federally registered associations of employees, associations of employers or enterprise associations
- licensed children's services receiving funding for a kindergarten program from the Department of Education and Early Childhood Development
- Cancer Council Victoria, and
- any other organisation the Minister specifically declares to be exempt



### Note

Being an exempt organisation exempts you from registration as a 'fundraiser' with CAV only.

Exempt organisations are still required to comply with the other obligations related to the fundraising activity (for example, keeping accurate financial records). They are also still required to comply with fundraising laws in other states.



### Examples of where fundraising registration is required

- Goods or services being promoted or labelled for sale to the public on the basis that a certain percentage or dollar amount from the sales of the product will be given to a nominated beneficiary or charity (for example, 'For every product sold, \$1 will be donated to the Cancer Council Victoria')
- People with collection tins soliciting donations on roads (subject to Victoria Police permit). They are considered to be fundraising and require identification unique badges and use secured, properly sealed and consecutively numbered collection tins. In addition all collection tins must be clearly labelled with the name of:
  - the appeal, or
  - the person conducting the appeal and the person, organisation or cause of the appeal being conducted
- Television or radio stations that promote a competition, talent quest or reality TV programs, where the public is invited to vote for a particular contestant, with a percentage of the funds raised by the telephone billing process being donated to a nominated beneficiary or charity.



### Example of where fundraising registration isn't required

- Organisations that decide to raise funds in order to send their members on an overseas tour. This type of financing is considered to be solely for the benefit of the organisation and is not considered to be fundraising.

## What is the process for organisations that are registered with the ACNC?

Following a change to Victoria's fundraising law (which came into effect on 1 September 2020), organisations which are already registered with the ACNC no longer need to go through separate steps to register as a fundraiser with CAV. Instead, they only need to notify CAV of their intention to conduct a fundraising appeal in Victoria in order to be considered a registered fundraiser. This will reduce red tape for ACNC-registered organisations which run fundraising appeals in Victoria. Organisations can notify CAV by creating or signing into their myCAV account and selecting the 'Notify of charity registration with ACNC'. Further details can be found on the [CAV website](#).

## How does our organisation register as a 'fundraiser'?

If your organisation needs to register as a fundraiser, you must apply to CAV 28 days before you start fundraising. Make your applications online through the [myCAV](#) portal. There is no fee to register as a fundraiser.

Information about the application process and the requirements for registration are set out in CAV's 'Register as a fundraiser' document (you can download this from the [registration section of CAV's website](#)).

CAV may also impose conditions on registering as a fundraiser – including:

- on a case-by-case basis and with special conditions, a requirement that all, or a certain proportion of, the proceeds are distributed
- where less than 50% of funds will go to beneficiaries, the registration will be subject to a public disclosure condition, which will apply to all fundraising activities the fundraiser conducts, and
- if less than 35% of funds will go to beneficiaries, CAV will ask you to 'show cause' why you should be registered

Further details about conditions of registration can be found at the [CAV website](#).



### Note

You need to register 28 days before your community organisation proposes to undertake its fundraising activities. If you have special circumstances and need to lodge an urgent application for registration in less than 28 days, CAV may consider this but you will also need to provide a letter setting out your special circumstances.



### Note

The form asks for details of people who will fill various fundraising roles.

These roles include:

- the person applying for registration
- all appeal managers (anyone who has managerial or financial responsibility for the fundraiser),
- and all associates of the fundraiser (anyone who is able or will be able to have significant influence over the management or operation of the fundraiser). This includes directors, company secretaries, board members and committee members.

You will need all of these people to download and complete the '[Criminal record and personal insolvency declaration](#)'.

You will also need to attach a completed '[Beneficiary consent form](#)' from each 'beneficiary' named in the application.

'Beneficiaries' must be clearly identified so that the public has confidence in giving to fundraisers. For example, generally identifying 'orphaned and disadvantaged children' as a 'class' of beneficiaries or a 'cause' is not sufficient. Rather, identifying a specific orphanage which cares for children, or specific programs for disadvantaged children in a particular locality or region would be more acceptable.

CAV will generally respond to your registration application within 21 days of receiving your application, by:

- consenting to your application (or consenting with further conditions)
- requesting more information, or
- refusing registration (in which case you may not conduct fundraising activities)

If you disagree with the decision made by CAV, you can appeal to the Victorian Civil and Administrative Tribunal (**VCAT**) within 28 days of the decision being made.



### Note

If you forget to lodge your application within 28 days of starting your fundraising activity, this will not be considered special circumstances warranting an urgent registration. You will need to delay your intended start of fundraising under your registration is approved.

Registrations have a default validity period of three years from the date of registration.

Registration must be renewed via myCAV at least 28 days before it expires if the organisation wants to continue fundraising.



A longer period can be provided by CAV on a case-by-case basis. You may consider requesting a longer duration if you have special circumstances that merit a longer period (for example, you fundraise in multiple jurisdictions and want to reduce your administrative burden). You would need to show that your fundraising will continue to be in the public interest throughout the longer time period.

The three-year validity period applies to ACNC-registered charities, which from 1 September 2020 no longer need to apply separately to CAV to fundraise in Victoria. After notifying CAV of their intention to fundraise in Victoria, ACNC-registered charities will continue to be recognised as a registered fundraiser unless they are deregistered by CAV or their ACNC registration is revoked.

A register of all fundraisers registered in Victoria is maintained by CAV and is available to the public on the [CAV website](#).



### Note

Penalties for failing to register as a fundraiser with the CAV can be up to \$19,800 for individuals, 12 months imprisonment for individuals, or both. Corporations may be penalised \$39,650.

## What are some other relevant permissions and laws to consider when fundraising?

Depending on the activity, you may require some other permission to fundraise and you may need to approach other organisations to get these permissions in addition to CAV.

Fundraising activities which may require other permissions include:

### Extra permissions needed

- **Door knock appeals** - you will require permission from the local council of the area in which the door knock is to be conducted.
- **Traffic intersection collections (highway collections)** - if CAV allows you to conduct highway collections, you will also require permission from the local council of the area in which you are collecting and a highway collection permit from Victoria Police.

Highway collection permits are available from Victoria Police Road Safety Awareness & Information Unit, 637 Flinders Street, Melbourne 3005, telephone (03) 9247 5779, or on the [Victoria Police website](#).

- **Large event taking place outdoors** - you should consider whether you need to contact other authorities such as the local council or Victoria Police and permits may be required. For more information, see our [webpage on events](#).
- **Running lotteries** – In Victoria, the rules regarding the conduct of lotteries, lucky envelopes and Calcutta sweepstakes are found in the *Gambling Regulation Act 2003 (Vic)* and the *Gambling Regulation Regulations 2005 (Vic)* (**Victoria's gambling laws**).

Victoria's gambling laws are administered and regulated by the Victorian Commission for Gambling and Liquor Regulation (**VCGLR**), which is a government agency under the Victorian Department of Justice. For more information, see the information on lotteries on our [fundraising webpage](#).

### Other relevant laws

- **Australian Consumer Law (ACL)** – It's also important to consider the ACL when fundraising, particularly when your fundraising involves the sale of goods or services (like merchandise or event tickets).

The ACL:

- prohibits conduct in trade or commerce that is misleading or deceptive, and
- prevents fundraisers from making false or misleading representations in relation to the sale of goods and services as part of a fundraising campaign

For more information, see our [guide to the laws of advertising and your community organisation](#).



- **The Telecommunications Telemarketing and Research Calls Industry Standard 2017**, published by the Australian Communications and Media Authority, sets out rules relating to telemarketing, including information to be provided in calls, timing of calls, caller identification and termination of calls (for more information, see the full Standard at [www.acma.gov.au](http://www.acma.gov.au))
- **Privacy laws** (state and federal), set out requirements relevant to the collection, use and disclosure of 'personal information' in connection with fundraising activities (for more information, see our [Privacy Guide](#)), and
- **Work, health and safety (WHS) laws** set out obligations around protecting the health, safety and welfare of employees and other people who are at, or come into contact with a 'workplace' (for more information, see our [WHS Guides](#)).

There are also a range of self-regulatory codes that fundraisers can sign up to that provide further requirements as well as guidance on properly conducting fundraising activities.

More information on self-regulation is available on our [fundraising webpage](#).



### Related resource

Organisations often engage third party commercial fundraisers to raise funds on their behalf.

To help charities identify and manage key issues associated with these arrangements, the ACNC has published a guide, '[Working with fundraising agencies](#)'. This guide is a useful resource for any not-for-profit organisation engaging third parties to assist with their fundraising.

## What are our obligations after registering as a 'fundraiser'?

### Obligations after registration

Generally, when fundraising in Victoria (even if exempt from the requirement to register) organisations should:

- ensure fundraising campaigns are truthful, that no misrepresentations are made, and comply with requirements around adding licence or registration numbers to advertising materials, packaging or communications
- ensure any money raised is given to or used for the purpose for which it was raised
- ensure that high standards of governance and risk management are applied to any campaign, including considering whether people involved in administering the campaign are suitably qualified and of proper character (you may like to consider screening volunteers and staff – see our [webpage on recruitment and engagement of employees](#)), and whether appropriate safety measures have been taken to protect staff and volunteers involved
- ensure appropriate risk management for the involvement of children in fundraising appeals
- ensure people authorised to collect on their behalf are aware of particular obligations applicable to the fundraising activities
- provide people participating in an organisation's campaign with an identification badge including a unique identifying number, and keep records of collector identity and identifying numbers (see specific requirements below)
- properly account for funds received through fundraising activities, which may include issuing receipts (especially where donations are received in cash), and putting funds raised into a dedicated bank account
- ensure appropriate safeguards are in place for managing cash donations in regards to collection, storage and emptying of collection tins, boxes and envelopes
- meet reporting requirements in relation to funds raised



- apply funds to the intended beneficiaries or purposes for which they were raised
- conduct the fundraising appeal in accordance with the application approved by CAV and any directions given by CAV, and
- inform CAV of changes in circumstances within specified timeframes. These changes include:
  - a change to the name, address or contact person for the fundraiser
  - a change to the appeal manager or key staff
  - if the fundraiser employs the services of a commercial fundraiser
  - if new beneficiaries are added
  - if anyone involved in the financial functions or management of the fundraising or associates has been charged or convicted with certain offences (for example, fraud, dishonesty, violence) or has become bankrupt, insolvent or placed under administration, and
  - if there is a change of circumstances affecting your compliance with any registration conditions

[Further information about these obligations is available on the CAV's website.](#)



### Caution

CAV can issue your organisation with an infringement notice if you breach the Victorian fundraising laws. There are also penalties for individuals. Breaches may also cause CAV to refuse any future applications for registration as a fundraiser and may result in your organisation being de-registered as a fundraiser.

For example, if a fundraising collector doesn't wear a clearly visible identification badge, the penalty is \$1,650. You can find further information about CAV issued fines on the [CAV website](#).

## What are our obligations while conducting a fundraising appeal?

### Collection obligations

Even if your organisation is exempt from registration – if you are running a fundraising appeal which is not an exempt activity, you must meet certain general obligations, which include:

- for face-to-face collections, collectors must wear a clearly visible identification badge with:
  - their name
  - the name of the organisation or person conducting the appeal
  - a unique identification number where soliciting from a motor vehicle, and
  - the words 'Paid Collector' prominently displayed

There are specific requirements around the formatting of the badge. A sample badge is available on the [CAV website](#).

Other obligations include:

- collection receptacles must be secure, consecutively numbered and the person conducting the appeal must ensure the use and emptying is supervised. In addition, the receptacle must be clearly labelled with the name of:
  - the appeal, and
  - the name of the person conducting the appeal and the beneficiary
- disclose the exact dollar or percentage amount of funds to be passed on to beneficiaries when obtaining donations as part of the supply of goods or services, and
- if, on registration, it's estimated that less than 50% of fundraising proceeds will be distributed to beneficiaries, a public disclosure condition will apply to fundraising activities. The registered fundraiser



must tell prospective donors, either in person or in writing and clearly label all products offered for sale with the same message. For example, the fundraiser would be required to state that it estimates 40% of funds donated to the fundraiser will be distributed to beneficiaries).

### Financial and reporting obligations

Registered fundraisers must:

- deposit funds into a separate bank account that is used exclusively for money received in the course of fundraising appeals (which is either in the name of the beneficiary of the funds or has a name that indicates it contains fundraising proceeds)
- submit an annual statement in order to continue fundraising. The annual statement must be submitted on myCAV within six months of the end of the fundraiser's financial year. The annual statement must include details of all beneficiaries and the amounts distributed to each, a copy of the fundraiser's most recent financial statements, and other information. Full details can be found on the ['fundraiser responsibilities'](#) section of CAV's website, and
- submit an auditor's report on the accounts and records kept in relation to the appeal, **if directed to do so** by CAV (the auditor must be a registered company auditor in the meaning of *Corporations Act 2001* (Cth) or a person approved by CAV)



### Related Not-for-profit Law resources

In some situations community organisations may be required to report to government, in addition to reporting in relation to its fundraising obligations – such as annual reporting and to meet notification requirements (for example, change of directors).

Depending on its structure, your organisation may need to report to:

- the ACNC (for charity annual reporting) (see the caution box below)
- the Australian Tax Office (in relation to tax), or
- the Australian Securities and Investments Commission (for organisations that are structured as Companies Limited by Guarantee)

See our [webpage on reporting to government](#) for more information.



### Caution - reporting for ACNC-registered charities

Following changes to Victoria's fundraising law which came into effect on 1 September 2020, CAV and the ACNC have agreed arrangements to remove dual reporting requirements for ACNC-registered charities. Charities which fundraise in Victoria now only need to report annually to the ACNC, and not to CAV.

**(Note** – this is in addition to the existing exemption for Victorian incorporated associations registered with the ACNC, which are already exempt from reporting annually to CAV and only have to report to the ACNC).



# Fundraising and tax

# Fundraising and tax

## Some not-for-profit organisations may be entitled to certain tax concessions in relation to their fundraising.

Your not-for-profit organisation must be registered with the ACNC to be classified as a charitable organisation and to be eligible to apply for tax concessions from the ATO. The Australian Tax Office (**ATO**) then determines whether your charitable organisation is entitled to any tax concessions. (The ACNC link in the resources section below provides further information on registering as a charity).



### Note

To undertake charitable fundraising in Victoria, registration with the ACNC is not compulsory. However, the purpose for which fundraising is undertaken must be charitable.

## What are some of the tax concessions available?

### GST

A not-for-profit organisation is required to register for goods and services tax (**GST**) when its annual turnover is \$150,000 or more, but can choose to voluntarily register if its turnover is less.

If your organisation is registered for GST, or is required to be registered, it may be required to pay GST on any goods or services sold (supplied) as part of its fundraising events. These GST amounts must then be remitted to the ATO.

An organisation registered for GST can choose to treat all sales made in connection with fundraising events as 'input taxed'. This means that its sales will not be subject to GST. However, the choice to treat the sales as 'input taxed' must be made before any sales take place. Additionally, the organisation will not be able to claim 'input tax credits' for the costs incurred in making the sales (ie. the GST component that was paid by the organisation in initially acquiring the supplies).

For more information about GST concessions that may be available to your organisation, see our [webpage on tax](#).

### Income Tax

An organisation operating as a charity must be endorsed by the ATO to be exempt from income tax. Unless it's exempt from income tax, an organisation may be required to pay income tax on money received as part of its fundraising activities. An organisation exempt from paying income tax will still have income tax obligations with respect to any employees (such as Pay As You Go (**PAYG**)).

For more information about income tax generally and whether your organisation is exempt, see our [tax webpage](#).

### Tax deductible donations

Your organisation can only offer 'tax deductible donations' (for example, claiming to the public that 'donations over \$2 are tax deductible') if it has been endorsed by the ATO as a deductible gift recipient (**DGR**) or if it has been listed by name in tax legislation as a DGR.

For more information about DGR status and tax deductible donations see the [ATO website](#) or visit our [DGR webpage](#).



Unless your organisation has received DGR status, members of the public who donate to your fundraising activity are not entitled to claim a tax deduction on their donations to you and you can't provide a tax deductible receipt.

**Note**

It is important that your organisation can identify whether a donor or contributor might be entitled to a tax deduction so that you can accurately inform a potential donor and provide appropriate receipts.

# Interstate and online fundraising

# Interstate and online fundraising

## This section covers:

- ▶ interstate fundraising, and
- ▶ fundraising online

## Interstate fundraising

The information in this fact sheet covers the laws on fundraising in Victoria only.

Each Australian state and territory has its own rules on fundraising activities, including different registration systems.

If your fundraising appeal will be conducted in more than one state or territory, or aimed at residents from another state or territory, then you will need to ensure that you are complying with the requirements in each of the other state or territories. This includes applying for a fundraising authority where necessary or ensuring you have a 'presence' (an address) in the state or territory.



### Related Not-for-profit Law resource

Our 'Guide to fundraising laws in Australia' on our [fundraising webpage](#) provides information to help organisations and people undertaking fundraising activities understand the requirements of the different regimes and assess whether they require additional permits in other states or territories.

The table below sets out the relevant departments in each state or territory and an overview of their general requirements for registration, approval or licencing with respect to fundraising activities. There are fundraising guides available for each jurisdiction on our [fundraising webpage](#).



### Note

The Northern Territory does not have laws on general fundraising activities.

State or territory	Body	Definition of 'fundraising'	Requirements for registration
New South Wales	NSW Fair Trading	Soliciting or receiving money, property or some other benefit with the representation that it will go in whole or part to a charitable purpose.	Any person or organisation that fundraises in NSW must apply for an 'authority to fundraise' licence or enter an arrangement with a holder of a licence to fundraise on that holder's behalf, unless exempt.



<b>Victoria</b>	Consumer Affairs Victoria (CAV)	Soliciting or receiving money or some other benefit with the representation that it is not solely for the profit or commercial benefit of that person or any other person.	A person or organisation that fundraises in Victorian must submit a registration application to CAV, unless exempt. If registered with the ACNC, a charity will only need to notify CAV of its intention to fundraise in Victoria in order to be considered a registered fundraiser, (ie. it will not need to apply separately to CAV).
<b>South Australia</b>	Consumer and Business Services	Collecting or attempting to collect money or property wholly or partly for a "charitable purpose".	Any person or organisation that fundraises in SA must apply for a licence or obtain authority from a holder of a licence to fundraise on that holder's behalf, unless exempt. ACNC-registered charities that have notified CBS of their intention to fundraise in SA are automatically licenced.
<b>Queensland</b>	QLD Office of Fair Trading  Office of Liquor and Gaming Regulation	Any appeals for support for a charitable and/or community purpose.	Any person or organisation that fundraises in Queensland must be registered as a charity, have a sanction to fundraise for a charitable or have community purpose or an authority to fundraise on behalf of a registered charity, unless exempt.
<b>Tasmania</b>	Consumer Building and Occupational Services	Soliciting for goods, services or donations for a charitable purpose.	Any person or organisation based outside Tasmania that fundraises in Tasmania, or an unincorporated Tasmanian body, must apply for approval to fundraise.
<b>Western Australia</b>	Department of Mines, Industry Regulation and Safety (Consumer Protection Division)	Collecting money or goods from the public for a charitable purpose.	Any organisation that fundraises in Western Australia must obtain a licence or authority to fundraise on behalf of a holder of an existing licence, unless exempt. Individuals and unincorporated groups must also obtain authority to fundraise on behalf of an existing licence holder.
<b>Australian Capital Territory</b>	Access Canberra	Collecting money or benefit in whole or in part for charitable purposes.	An organisation collecting for charitable purposes must apply to Access Canberra for a licence or obtain authority from an existing licence holder to collect on their behalf, unless the organisation is registered with the ACNC or is otherwise exempt.



### Caution

If your organisation is using raffles, lotteries or other gaming activities to fundraise, there may be other laws and obligations that apply in each state or territory. We recommend you seek advice on each state or territory's particular laws.



### Related Not-for-profit Law resource

Not-for-profit Law supports a new framework for a nationally consistent approach to charitable fundraising regulation. For more information about our position, go to our [Law and Policy Reform page](#).

## Online fundraising

Organisations often use or obtain assistance from online fundraising websites to raise money for their cause. These online websites may help your organisation in fundraising from guiding you on setting up a website for fundraising to acting as a portal to securely receive donation funds on your behalf.

Your organisation might use the internet or electronic communications to undertake fundraising activities such as:

- through a website or charity portal that may direct donations from shopping or other third party websites
- by updating or sending out fundraising appeals by email or SMS
- by adding podcasts, wikis and blogs to your fundraising activities, or
- by using social networking to fundraise, such as Facebook, Twitter or YouTube

New technologies create new challenges for fundraising regulation and may require careful consideration and assessment of the risks and benefits before use.

For example:

- **nuisance and spam** – there is potential for nuisance or spam to be created if internet or electronic communications are used for fundraising activities and are over used. For example, it's against the law to send mass emails to people if they have not agreed to it under the *Spam Act 2003* (Cth).
- **privacy and data protection issues** – to enable the sending of mass communications to potential donors (for example, SMS, emails) and the collection, storage and use of people's information may subject your organisation to compliance with privacy laws where such information is considered 'personal information' (for example, name, address, telephone numbers, email addresses)
- **reputational issues and fraud** – the public may find it difficult to verify the identity of fundraisers operating on the internet. Others may claim to be affiliated with or collect funds on your organisation's behalf fraudulently.
- **compliance with State and Territory laws and laws in other jurisdictions** – when donations are received online, the person donating may be from another State or Territory (or even outside Australia). By creating your own online donations service you may need to be aware of the laws of other States and Territories. The laws governing this area can be quite unclear.



### Caution

When you fundraise on the internet and receive funds from persons in different States and Territories in Australia, you will need to comply with the fundraising laws in those jurisdictions, including potentially applying for multiple fundraising permits or registrations.

A strategy to manage this tricky issue may be to choose a limited number of states and territories for your campaign, making clear on your campaign materials which states and territories the campaign relates to, and requiring donors to confirm they are in those states and territories before making a donation. That way, you only need to comply with fundraising regulation in the states and territories listed.



### Tips – if your organisation fundraises online

If your organisation does fundraise online we recommend you take the following precautions:

- seek advice on each state and territory's requirements on online fundraising to see whether your organisation requires a licence or authority
- use a safe and trusted third party website through which to organise your donations
- ensure your online fundraising website has clear information on how the funds raised will be used
- ensure your online fundraising website is secure to protect personal information such as credit card details, and
- keep a clear account of the funds collected



### Tips - if your organisation uses third party online fundraising sites to promote or conduct your fundraising activities

It's worth checking:

- if those third party sites charge any fees, as some charge a percentage of any donations
- what payment systems are in place for your donors and security
- what payment options are available and commissions payable for credit card facilities
- how, and how quickly, you receive the money from the third party, and
- reviews of such online fundraising sites to see whether they have a good track history or whether donors have complained about them



### Related resource

For guidelines on how to fundraise online ethically see the [Fundraising Institute of Australia's Standards](#) on 'Electronic Fundraising' and 'Social Media Fundraising'.



# Resources

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## Not-for-profit Law resources

The [Not-for-profit Law website](#) contains many fact sheets on different topics. The following topics contain further relevant information:

▶ [Running the organisation](#)

This page contains resources to assist those running not-for-profit organisations to understand and comply with legal requirements.

▶ [Fundraising and Events](#)

This page contains resources on the main legal issues when fundraising in other states and territories.

▶ [Communications and Advertising](#)

This section offers information on advertising and promotions and social media, such as Facebook and twitter.

▶ [Registering as a charity](#)

This page provides information on how to register as a charity and what's involved.

▶ [Tax](#)

This page includes information about accessing tax concessions, including Deductible Gift Recipient endorsement.

## Legislation

▶ [Fundraising Act 1998 \(Vic\)](#)

▶ [Fundraising Regulations 2019 \(Vic\)](#)

▶ [Gambling Regulation Act 2003 \(Vic\)](#)

▶ [Australian Charities and Not-for-profits Commission Act 2012 \(Cth\)](#)

## Other related resources

### [Consumer Affairs Victoria \(CAV\)](#)

▶ [Consumer Affairs Victoria – What is a Fundraiser](#)

Provides examples of 'fundraising appeals'

▶ [Consumer Affairs Victoria – Register as a fundraiser](#)

▶ [Consumer Affairs Victoria - Exemptions from Fundraising Registration](#)

▶ [Consumer Affairs Victoria - Fundraiser Responsibilities](#)

### [Australian Charities and Not-for-profits Commission \(ACNC\)](#)



- ▶ [Australian Charities and Not-for-profits Commission – Charity Tax Concessions available](#)
- ▶ [Australian Charities and Not-for-profits Commission – Applying for Charity Registration](#)
- ▶ [Australian Charities and Not-for-profits Commission – Ongoing Obligations to the ACNC](#)

These ACNC pages provide an overview of all present, and future obligations of registered charities and not-for-profits.

### **Australian Taxation Office (ATO)**

- ▶ [Australian Taxation Office – Fundraising](#)

### **Fundraising bodies of other states and territories**

- ▶ [Australian Capital Territory, Access Canberra – Charitable collections licensing](#)
- ▶ [New South Wales Fair Trading – Charitable Fundraising](#)
- ▶ [South Australian Consumer and Business Services - Charities](#)
- ▶ [Queensland – Charities and Fundraising](#)
- ▶ [Tasmanian Consumer, Building and Occupational Services - Charities](#)
- ▶ [Western Australia Department of Mines, Industry Regulation and Safety](#)

### **Other useful links**

- ▶ [Fundraising Institute of Australia - FIA Code](#)

A voluntary code of conduct for best practice fundraising in Australia.

