

# State tax exemptions

## Legal information for community organisations in South Australia

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### This fact sheet covers:

- ▶ state stamp duties and exemptions
  - ▶ state payroll tax and exemptions
  - ▶ state land tax and exemptions, and
  - ▶ other taxes
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**In addition to federal government taxes, community organisations that operate in South Australia may also have to pay state taxes. In South Australia, the main government agency responsible for state taxes is RevenueSA.**

This fact sheet describes some state taxes and exemptions or concessions that may be available to some community organisations. We recommend that you get advice on your organisation's state tax obligations.

## Stamp duties

### What are stamp duties?

Duties are taxes that the South Australian government charges on certain transactions ('dutiable transactions'). These duties are set out in the *Stamp Duties Act 1923 (SA)* (**Stamp Duties Act**). The most commonly known transaction that the South Australian government charges duty on is the transfer of land. However, duties are also charged on other transactions, including declarations of trust over property, motor vehicle registration and transfer, certain leasing transactions and acquiring an interest in property held by another person (a landholder).

In general, unless RevenueSA has exempted a not-for-profit community organisation from payment, the organisation will have to pay duties under the Stamp Duties Act in the same way that any other organisation or individual is required to.

### What exemptions are available for not-for-profit community organisations?

To qualify for an exemption from duties under the Stamp Duties Act, an organisation must be established wholly for charitable or religious purposes. Charitable and religious organisations are generally exempt from paying duties on the following transactions (where they would normally attract a duty):

- a transfer of property (eg. land)
- a declaration of trust over property, and



- motor vehicle registration or transfer and insurance policies (for vehicles used to convey people with disabilities where the organisation is a disability services provider endorsed as an income tax exempt charity under the *Income Tax Assessment Act 1997* (Cth))

To qualify for an exemption, your organisation must not use the property wholly or predominantly for commercial or business purposes (even if revenue from these activities is used for the charitable or religious purposes of the organisation).

Additional limited duty exemptions are set out in other legislation. For example, the *Associations Incorporation Act 1985* (SA) (**Associations Act**) allows certain exemptions from duty on the vesting of property in a body corporate when an association is dissolved or when two or more incorporated associations join under the Associations Act.

## What does our organisation have to do to get an exemption?

To obtain an exemption from state stamp duties, it is not enough for your organisation to be registered as a charity with the Australian Charities and Not-for-profits Commission (**ACNC**). RevenueSA will need to be satisfied that your organisation has charitable status under South Australian law.

Revenue SA does not issue a certificate of exemption for not-for-profit community organisations and your organisation must apply to RevenueSA for an exemption from duty for each dutiable transaction after the transaction is completed. The application is made in writing (there is no prescribed form), with documentation proving the organisation's charitable status under South Australian law (for example, your rules or constitution and documents showing the property is not used for commercial or business purposes). If you are not sure about your organisation's charitable status, you can ask RevenueSA for advice about this.

We have included a link to RevenueSA in the resources section at the end of this fact sheet.



### Caution

State and territory tax laws are separate from federal tax laws. An organisation may be considered to be a charity under the federal definition for 'charity' in the *Charities Act 2013* (Cth), but might not meet the definition of 'charity' under South Australian law.

Your organisation may need to get advice to make sure it meets both territory and federal requirements.

## Payroll tax

### What is payroll tax?

Payroll tax is a tax that the South Australian government charges on wages paid or payable by an employer to its employees. Payroll tax requirements are set out in the *Payroll Tax Act 2009* (SA) (**Payroll Tax Act**).

The Payroll Tax Act defines employee broadly and includes some workers that would be contractors under other legislation. The tax is calculated as a percentage of employee wages. Wages is also defined broadly and includes remuneration, salaries, commissions, bonuses, allowances and reimbursements, employer superannuation contributions, fringe benefits and termination payments.

Not-for-profit community organisations that employ people in South Australia must pay payroll tax if the amount they pay in employee wages exceeds the threshold amount set by the South Australian government.

All Australian states and territories are part of the payroll tax harmonisation program. This program aims to make payroll tax provisions in key areas (like cross border workers, fringe benefits, grouping of businesses and timing to file tax returns) the same in all states and territories. But some aspects of payroll tax differ in different states and territories, for example the requirements to get an exemption from this tax.

For more information about payroll tax, see the resources section at the end of this fact sheet.



## What exemptions are available for not-for-profit community organisations?

Payroll tax exemptions are available to not-for-profit organisations with a sole or dominant purpose that is charitable. They are also available to certain religious or public benevolent institutions for wages paid to people who are exclusively engaged in work for a charitable, religious or benevolent purpose. If a person's primary, administrative or management work is predominately associated with the organisation's charitable work, this is generally accepted as being exclusively engaged in that work.

These exemptions are not generally available to schools, colleges, educational institutions, educational companies or certain organisations created under legislation. But schools, colleges and educational institutions (at secondary level or below) run by non-profit organisations, kindergartens and non-profit child care centres, and non-profit health services may qualify for payroll tax exemptions.

## What does our organisation have to do to get an exemption?

To get an exemption from paying payroll tax, it's not enough for your organisation to be registered as a 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.

To be recognised as a charity in South Australia, your organisation must be:

- not-for-profit
- for the public benefit, and
- 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

To apply for an exemption from paying payroll tax, your organisation must apply to RevenueSA (there is a prescribed form) with supporting documents (for example, the constitution, memorandum and articles of association or proof of incorporation and rules, latest annual report, details of the organisation's purpose and activities and the 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 fact sheet. You may need a lawyer's assistance to make the application.

## Land tax

### What is land tax?

Land tax is a tax that the South Australian government charges on the taxable value of land in South Australia. Land tax requirements are set out in the *Land Tax Act 1936 (SA)* (**Land Tax Act**).

In general, community organisations that own land subject to land tax must pay this tax.

### What exemptions or concessions are available for not-for-profit community organisations?

If an organisation gets an exemption from land tax, it doesn't have to pay tax on the land covered by the exemption. 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 established for charitable, educational, benevolent, religious or philanthropic purposes (and the land is used wholly or mainly for these purposes)
- associations 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 the land 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)



## What does our organisation have to do to get an exemption or concession?

To apply for an exemption from paying land tax, your organisation must lodge an application (using the prescribed form) with RevenueSA. Supporting documents, including the constitution, rules or articles of your organisation, evidence of any ATO endorsements, current lease agreements and documents evidencing any government grants or subsidies must be filed with your application. A link to the application form and an information sheet is in the Resources section at the end of this fact sheet.

If your organisation has received a land tax assessment notice, but you believe the organisation qualifies for a land tax exemption, your organisation must object to the assessment notice within 60 days from the date of the notice.

## Other taxes

Stamp duties, payroll tax and land tax are three of the main taxes that the South Australian government charges. Other state taxes may apply to not-for-profit community organisations.

To find out more about state taxes and whether your organisation may qualify for any exemptions or concessions, go to the RevenueSA website (listed in the resources section at the end of this fact sheet).



# Resources

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## Not-for-profit Law resources

The [Not-for-profit Law website](#) has further resources on the following relevant topics:

▶ [Getting started](#)

Our getting started page has information on incorporating and choosing a legal structure.

▶ [Tax](#)

Our tax page has information on 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 \(SA\)](#)

▶ [Income Tax Assessment Act 1997 \(Cth\)](#)

▶ [Charities Act 2013 \(Cth\)](#)

## Related resources

▶ [RevenueSA website](#)

▶ [RevenueSA – guides to legislation](#)

This page includes links to PDF Guides to land tax, payroll tax and stamp duty.

▶ [Stamp duty document guide](#)

▶ [Exemption from land tax](#)

This page includes a link to download the Application for Exemption pursuant to Section 4 of the Land Tax Act Form and the Section 4 Exemption Information Sheet.

▶ [Exemption from payroll tax](#)

This page includes a link to download the Application for Exemption from Payroll Tax form and the Payroll Tax Guide to Legislation.