

Landcare Victoria Inc.

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Queensland Water and Land Carers gratefully acknowledges the use of this document by Landcare Victoria. QWaLC has added QLD based information where relevant to assist our member groups. All changes are highlighted in Blue text.

Review your organisation's income tax status

Introduction

This guidance note has been prepared for landcare groups reviewing their income tax status. It is intended as general advice for groups wanting to understand how income tax may apply to environmental volunteering groups and the requirements to be endorsed as income tax-exempt. This information is intended as a guide only and is not legal or financial advice. If you or your organisation has a specific legal issue, you should seek legal advice. If you require financial advice, please contact an authorised financial services provider.

Background

The *Income Tax Assessment Act 1997* states that charities are only exempt from income tax if they are endorsed, and defines the types of not-for-profit (NFP) organisation which are eligible to self-assess as 'income tax-exempt'. An organisation eligible to self-assess can work out for itself whether it is income tax exempt or taxable.

Until recently, self-assessments undertaken by NFPs to determine their income tax status did not have to be submitted to the Australian Tax Office (ATO). However, in 2021 the Commonwealth Government announced reforms to the administration of NFPs that self-assess as income tax-exempt, requiring organisations to lodge an annual self-review return to access an exemption from the 2023/24 financial year onward.

As a result, it has become apparent that many landcare organisations have been self-assessing as income tax-exempt for years, but were not eligible to do so. Others have not undertaken a review of their tax status at all, assuming all NFPs are automatically exempt, which is not the case.

After consultation with stakeholders, reviewing the relevant Acts and publicly-available resources from the ATO, Australian Charities and Not-for-profits Commission (ACNC) and other sources, we have prepared this guide to help environmental volunteering organisations review their income tax status and obligations.

This guidance note will help landcare and environmental organisations to:

- review their income tax status
- understand the income tax rates and thresholds which may apply to not-for-profit organisations
- determine whether they may be a 'taxable NFP' or eligible to access an income tax-exemption
- determine whether they are eligible to be endorsed as a charity to access an exemption
- determine whether they are eligible to submit a self-review return to access an exemption

Undertaking an income tax status review

It is recommended that all landcare organisations conduct a review of their income tax status annually, or after any change to your organisation's governing document (also known as its rules, constitution, or deed of trust), its purposes (also known as objects or objectives), its not-for-profit status, its Australian Business Number (ABN) registration, or its activities. Undertaking a regular review will help to ensure your organisation is meeting its obligations in regard to income tax.

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Your organisation's obligation to lodge a tax return, its eligibility to access an exemption, and the process for accessing an exemption (charity endorsement OR self-review return) will depend on various factors. When undertaking your review, please start by considering the following three questions.

1. Does the organisation have an active ABN?

An ABN is a unique 11-digit identifier that makes it easier for businesses and all levels of government to interact. An ABN is required to:

- operate in the GST system, including claiming GST credits
- avoid pay as you go (PAYG) tax on payments you receive
- confirm your business identity to others when ordering and invoicing
- access government online services (linked to a myGovID)
- be endorsed as a deductible gift recipient (DGR) or a registered charity

If you're not sure whether your organisation already has an ABN, you can [search the Australian Business Register](#) to check. If you're not sure whether your organisation requires an ABN, please check with a registered accountant or the ATO for more information.

Option 1: Organisation has no ABN

If an organisation **does not have an ABN and is not required to have one**, then it is not in the scope of the new reporting requirements and does not need to report to the ATO. No further action needs to be taken by your organisation in regard to this matter.

Option 2: Organisation has an active ABN

If your organisation **does have an active ABN** (or will need one), please continue reading as you will need to take action to meet your obligations to the ATO. The ATO will contact an organisation about its tax obligations via the contact information associated with its ABN registration.

2. Is the organisation a not-for-profit?

A not-for-profit (NFP) organisation cannot operate for the profit or personal gain of its members or any other people. This doesn't mean the organisation can't make a profit, but rather that it cannot distribute any profits to members and other people. All profits made are put back into the organisation to keep it functioning and conducting activities in support of its purposes.

If your organisation is **incorporated** through [Consumer Affairs Victoria \(CAV\)](#) or an equivalent state/territory body, or it is a company limited by guarantee, it will have adopted a governing document when establishing its legal structure. A governing document is a written agreement with your members detailing how the organisation will be run.

Many landcare groups in [Victoria](#) use the *Model Rules for an Incorporated Association* provided by [CAV](#). Please note, the template must have been customised with your organisation's name, purposes and financial year, and then adopted by your members for this to be considered your organisation's governing document. In Queensland go to Office of Fair Trading <https://www.qld.gov.au/law/fair-trading> and click the 'Associations, charities and not for profits' box

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Check your governing document for a ‘not for profit clause’ and a ‘dissolution clause’ which prevent the organisation from distributing profits or assets for the benefit of specific people (while it operates and when it winds up). The presence of these clauses in your governing document (and following them!) confirms your NFP status.

If your organisation is **unincorporated**, it may not have a governing document, but is likely still considered an NFP. If your organisation operates like a not-for-profit by ensuring profits and assets are not distributed to members or other persons (other than as reimbursement for services they have provided or for expenses incurred on behalf of the organisation), then it is an NFP – it just may not have the documentation to back it up (yet!).

Please note, unincorporated organisations will usually have a documented Statement of Purpose which lists the purposes/objectives of the organisation (sometimes known as a Mission Statement). A governing document includes an organisation’s purposes, but a Statement of Purpose on its own does not qualify as a governing document.

Option 1: Organisation is not an NFP

If an organisation has an ABN but **does not operate as a not-for-profit**, then it is not in the scope of the new reporting requirements which are aimed at NFPs. Your organisation should contact the ATO to determine its reporting obligations.

Option 2: Organisation is an NFP

If your organisation has an ABN and **does operate as a not-for-profit**, you will need to take action to meet your obligations under the new requirements. The ATO recognises two types of not-for-profit organisation: charities and other NFPs. Depending on the type of NFP, your organisation may be eligible for a range of tax concessions including income tax-exemption.

3. Is the organisation a charity?

The definition of a charity is set out in the *Charities Act 2013*. Simplified, a charity:

- is a not-for-profit entity
- has purposes which are ‘charitable purposes’ that are ‘for the public benefit’ (and may also have incidental or ancillary purposes which further its charitable purposes)
[Note: the organisation’s governing document, activities and any other relevant matters may be considered when determining its purposes]
[Note: The requirement that a purpose be for the public benefit does not apply in some circumstances]
- does not have ‘disqualifying purposes’
- is not an individual, a political party or a government entity

A purpose is considered ‘for the public benefit’ if achievement of the purpose would be of public benefit, and the benefit would be available widely (i.e. the general public or a sufficient section of the general public would benefit from the purpose being achieved). Please note, activities undertaken on private land may still have a public benefit – we all get to enjoy cleaner air and water, increased biodiversity and other benefits from landcare work on private land.

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Consider the reason(s) your organisation was created and what it is trying to achieve. As mentioned above, your purposes will be set out in its governing document (if it has one), or in a Statement of Purpose.

Note: Purposes are not ‘set-and-forget’ - they should be considered whenever your organisation undertakes an activity to ensure the actions you are taking align with your objectives. If your organisation wishes to expand its operations and undertake an activity outside the scope of its original purposes, its documented purposes should be updated accordingly.

There are 12 ‘[charitable purposes](#)’ set out in the *Charities Act 2013*, including:

- [Advancing the natural environment](#)
- Advancing education

The wording of the purposes in your governing document does not need to be exactly the same as “advancing the natural environment” – if the statement is worded differently, but means the same thing, then it would be considered a charitable purpose. In accordance with the Act, the term ‘advancing’ includes “*protecting, maintaining, supporting, researching and improving*”.

Disqualifying purposes include engaging in or promoting activities that are unlawful or against public policy, and promoting or opposing a political party or a candidate for political office (noting that [advocacy in support of a charitable purpose](#) is allowed).

Putting all of this together...



If an organisation is an **NFP**, its purposes align with one or more **charitable purposes** (e.g. it exists to ‘protect and enhance the natural environment’ and/or ‘educate the general public on sustainable land management practices’), it operates for the **public benefit** (the achievement of its purposes will be of benefit widely), and no disqualifying purposes or other disqualifiers apply, **then the organisation is a charity** (whether it has registered with the ACNC or not).

Most landcare organisations would meet these criteria, particularly if you are a Member Group of Landcare Victoria. One of the requirements of joining our association is that your organisation is an NFP, and another is that your purposes are ‘the same or similar’ to our own. Landcare Victoria’s purposes are considered charitable (‘advancing the natural environment’) and for the public benefit by the legislated definition - so unless your organisation has veered away from its initial purpose, it is very likely it is a charity too. [QWaLC member groups will also most likely meet these criteria. QWaLC is already a registered Charity.](#)

Option 1: Organisation is not a charity

If an organisation **does not qualify as a charity**, but it is still an NFP with an ABN, then it will be considered a ‘non-charitable NFP’ and will be impacted by the new reporting requirements. Non-charitable NFPs may be considered ‘taxable’ or be eligible for an exemption – both types must report annually to the ATO.

Option 2: Organisation is a charity

If your organisation **qualifies as a charity**, it may be eligible for tax concessions including income tax-exemption. However, the concessions do not apply automatically – the organisation must register as a charity with the ACNC to be endorsed as ‘income tax-exempt’.

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I've answered all three questions – what comes next?

Great work! If your organisation is an NFP with an ABN (or will need an ABN), but is **not** a charity, please see the guidance below for **non-charitable NFPs**. If your organisation is an NFP with an ABN (or will need one) and qualifies as a charity, please see the guidance below for **charitable NFPs**.

Non-charitable NFPs – Taxable or eligible for an exemption?



This section only applies to organisations which **do not qualify for charity registration**. If you have determined above that your organisation is a charity, the non-charitable NFP advice is not relevant.

Not all not-for-profit organisations are exempt from income tax. Some non-charitable NFPs are eligible to self-assess as 'income tax-exempt' under the new reporting requirements by lodging an annual self-review return with the ATO. Other non-charitable NFPs may be required to lodge a tax return each year the organisation's taxable income is above the tax-free threshold for 'NFP companies'.

Your organisation can self-assess that it is exempt from income tax if it is **not** a charity **and** meets the requirements of one of the following categories:

- [Community service organisations](#)
- [Cultural organisations](#)
- [Educational organisations](#)
- [Health organisations](#)
- [Employment organisations](#)
- [Resource development organisations](#)
- [Scientific organisations](#)
- [Sporting organisations](#)

The above categories of non-charitable NFP must lodge a self-review return annually with the ATO to access an income tax exemption, starting from the 2023/24 financial year.

If your organisation is not a charity and its purposes are environmental rather than any of the categories above, it will be considered a 'taxable NFP' by the ATO, or more specifically, a 'not-for-profit company'. The tax-free threshold and tax rates which apply to NFP companies are different to those for 'other taxable companies'.

A not-for-profit company is **not eligible** to self-assess as 'income tax-exempt' and must lodge a company tax return if its taxable income (minus deductions) is greater than the relevant threshold (currently \$416). If the organisation's taxable income is \$416 or less, it only needs to lodge a tax return if specifically requested by the ATO.

The tax rates applying to not-for-profit companies in 2022/23 were:

Income category	Rate
Taxable income: \$0 – \$416	Nil
Taxable income: \$417 – \$915	Nil for first \$416, then 55% on all income between \$417 and 915
Taxable income: \$916 and above	30% on all taxable income

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Charitable NFPs – Taxable or eligible for an exemption?

A charitable NFP is not eligible to self-assess as ‘income tax-exempt’, so it cannot complete the ATO’s annual self-review return. This option is **only** open to **non-charitable NFPs** in any of the eight categories listed in the previous section.

If you have determined that your organisation meets the requirements to be considered a charity (i.e. it is a charitable NFP), then to access an income tax-exemption, it **must register as a charity**. Charity tax concessions, including income tax-exemption, are only available to charities registered with the Australian Charities and Not-for-profits Commission (ACNC) – there is no other way to access an exemption.

If your NFP organisation is a charity that chooses **not** to register with the ACNC, it will **not** be exempt from income tax. A not-for-profit organisation without charity endorsement must lodge a company tax return if its taxable income is greater than the relevant threshold. Please refer to the previous section on non-charitable NFPs for the threshold and rates which apply to not-for-profit companies.

Further information and resources

For more information on income tax obligations and exemptions for environmental volunteer organisations, please contact a registered accountant (preferably with expertise in tax and not-for-profit accounting), registered tax agent, or the Australian Tax Office.



ATO - Not-for-profit Premium Advice Service

Phone: 1300 130 248 (available 8.00am - 6.00pm, Monday to Friday)

Suggested links

[ATO – Does your not-for-profit need to pay income tax?](#)

[ATO – Getting help for not-for-profits](#)

For more information on charity registration, please contact the Australian Charities and Not-for-profits Commission.



ACNC – Advice phone line

Phone: 13 22 62 (available 1:00pm – 5:00pm, Monday to Friday)

Suggested links

[ACNC – Organisations that have been self-assessing as income tax exempt](#)

[ACNC – Charity registration application checklist](#)

You may also like to watch a recording of [Landcare Victoria and ACNC’s webinar on income tax and charity registration for environmental organisations](#), or read Landcare Victoria’s guidance note on ‘Preparing for charity registration’.

If you have any questions about this guidance note, please contact [Landcare Victoria via \[info@landcarevictoria.org.au\]\(mailto:info@landcarevictoria.org.au\) or call 03 9034 1940](#). [QWaLC](#), info@qwalc.org.au, phone: 07 3096 0451

Income tax reporting requirements for landcare groups

This flowchart has been prepared as a supplement to Landcare Victoria’s guidance note on reviewing the income tax status of landcare groups. It is intended as general advice for groups wanting to understand how income tax may apply to environmental volunteering groups, the reporting requirements for different types of organisation, and the requirements to be endorsed as income tax-exempt. This information is intended as a guide only and is not legal or financial advice.

