

ATO SELF-ASSESSMENT REQUIREMENT FOR INCOME TAX EXEMPT NOT FOR PROFITS

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SUMMARY

Most historical societies are either 1. a charity or 2. they are a not-for-profit (incorporated association) that *could be* registered with the ACNC as a charity but has not actually taken that step yet.

If you are not sure if your historical society is already a charity check the ABN Lookup website (<https://abr.business.gov.au/>) and do a search on your own historical society to see how it describes your organisation.

If your historical society is already a charity the changes to the tax laws will not affect you. You do not have to do anything.

However, if your historical society is not a charity you will have to lodge an annual NFP self-review return. The first return, for historical societies whose financial year ends on 30 June, needs to be lodged by the **31 October 2024**.

This is the [link to the page on the ATO website](#) where it outlines the steps you take to lodge the review. Whilst the review form itself is not too complicated the process of setting up access through MyGovID can be tricky. Start this process NOW – do not leave it until the last minute. [This page has worksheets](#) you can use before you complete the actual form.

The self-review return will:

- include questions like those provided in the current self-review worksheets. You can use these worksheets to [self-assess your tax status now](#)
- guide NFPs to consider their purpose and activities against specific eligibility requirements of an income tax exempt entity
- not include questions that are financial in nature, however, one question will relate to NFPs estimating their income range to indicate the size of the organisation.

NFPs will receive a notification that summarises their self-assessed eligibility for income tax exemption once the self-review return is lodged.

Following the first lodgment, NFPs will be able to annually confirm or update information on a pre-populated self-review return.

Penalties may apply under the ATO's penalty framework if an NFP self-review return is required to be lodged and is not lodged each year.

INTRODUCTION

From the 2023-24 income year, non-charitable not-for-profits (NFP) with an active Australian Business Number (ABN) need to lodge an annual NFP self-review return.

Most historical societies are incorporated associations which makes them a NFP organisation. And, we assume, all those historical societies which are incorporated associations have *not* been lodging income-tax returns each year because, until recently, they were able to self-assess as income-tax

exempt. No paperwork involved. The difference now is that the ATO wants to see *how* we self-assess as income-tax exempt so there is an annual on-line form that needs to be completed by *some* incorporated associations.

Some incorporated associations are exempt from this process which will be explained below.

BACKGROUND

On 11 May 2021, the Australian Government announced changes to the administration of NFP entities that self-assess as income tax exempt. This was announced as part of the 2021-22 Federal budget.

The changes require non-charitable NFPs with an active ABN to lodge an annual “NFP self-review return”, to self-assess as eligible for income tax exemption.

This annual reporting requirement came into effect on 1 July 2023. The first NFP self-review return that non-charitable not-for-profits will lodge covers the 2023-24 income year.

The new process is designed to enhance transparency and integrity in the system, by ensuring only eligible NFPs access income tax exemption.

INCOME TAX

You need to lodge a tax return if you carried on a business, even if your business hasn't earned any income. There's no threshold for business income, so you need to lodge an income tax return even if you only earn \$1. What you need to report and how you lodge your annual tax return for your business depends on your type of business entity.

All taxpayers, including persons and organisations, are required to pay tax on their income **unless they are granted an exemption by the ATO.**

Incorporated organisations along with other NFP organisations are subject to state and federal taxation requirements including Income Tax, FBT, GST, Land Tax, Payroll Tax and Stamp Duty. A number of exemptions are available to certain types of associations for these taxes or duties, but in each case the organisation must formally apply for exemption from the relevant authority.

The Income Tax Assessment Act affects both the income of an organisation and the donations made to it.

The most common income tax exemption for community organisations will either be as a 'charitable institution' or a 'society, association or club established for community service purposes (except political or lobbying purposes)'. There are other categories which can be found through the ATO.

You want to make sure that your historical society is income-tax exempt and doesn't need to lodge a tax return. You do this by lodging an annual NFP self-review return.

TRANSCRIPTION OF MOORE'S VIDEO

https://youtu.be/etMiffQ_T6g?si=4Nt7nT4t8XIKeyri

(this video is of 2 accountants from Moores Accountancy discussing the ATO's new self-assessment requirement. A transcript of the video follows).

What are the self-assessment requirements for income tax exempt NFPs?

The changes will affect organisations differently

Think about 4 categories

1st category is the simplest: A NFP that is a charity registered with the ACNC. These organisations don't have to do anything. Nothing is changing. Their tax concessions are not being affected and they can remain regulated as they currently are.

2nd category is a NFP organisation that could be registered with the ACNC as a charity but has not actually taken the step of registering as a charity yet. For those organisations now is the time to become registered with the ACNC. The way Australian tax law works is, if you can be a charity, you must be a charity in order to be income-tax exempt. So for these organisations it is really important that you actually take the step of applying to the ACNC to register as a charity.

But how do organisations now if their NFP is in fact eligible to register as a charity with the ACNC? There are 2 tests that an organisation should look at

1. **The first test is to consider your purpose. Does my organisation have a purpose that is charitable?** Your organisation should look at its activities and its objectives to see whether it fits within any of these categories. For some organisations this will be easy and for others they may be on the periphery and may have to get advice as to whether they meet the requirement of being a charity. You'll find your purpose is often set out in your organisation's constitution or rules. You may have to change your purposes so that your charitable purpose is better expressed in order to improve your prospects of registration with the ACNC as a charity

ACNC list of charitable purposes (Charity sub-types)

- I. Advancing health
- II. Advancing education
- III. Advancing social or public welfare
- IV. Advancing religion
- V. Advancing culture
- VI. Promoting reconciliation, mutual respect & tolerance between groups of individuals that are in Australia
- VII. Promoting or protecting human rights
- VIII. Advancing the security or safety of Australia or the Australian public
- IX. Preventing or relieving the suffering of animals
- X. Advancing the natural environment
- XI. Other similar purposes 'beneficial to the general public'

2. **The 2nd key test is, of course, the requirement to have a purpose that it is not only charitable but is for the public benefit** and sometimes, again, this will be really obvious and for some organisations not so clear or you may have to do some advocacy with the ACNC to satisfy them that your purpose is actually for the public benefit.

3rd category. Those NFPs that are eligible for income-tax exemption but not as registered charities. For these organisations you've been flying under the radar and you haven't had to submit reporting to the ATO. That changed on 1st July 2024 when you will have to submit an online form confirming your eligibility for income-tax exemption. The eligibility criteria for these NFPs is set out in the Income Tax Assessment Act. There are different categories of NFPs that are eligible These organisations will have to submit the online form using an individual's myGov ID and through the

ATO's online portal. The forms are open for submission from 1 July each year and they are open for 4 months. On the form you will have to assess your eligibility against the criteria for income-tax exemption. You'll have to assess your activities and your purposes to see if they match up. If the answers on your form indicate that your organisation should be registered as a charity the ATO will encourage you to go and do that in order to maintain income-tax exemption. If the answers on the form confirm that you are meeting the requirements for a category of income-tax exempt NFP other than the charity category, of course, then you'll be fine.

NFPs that are eligible for income-tax exemption

- I. Community service organisations
- II. **Cultural organisations**
- III. Education organisations
- IV. Health organisations
- V. Employment organisations
- VI. Resource development organisations
- VII. Scientific organisations
- VIII. Sporting organisations

4th category. Otherwise you may find you fall into the 4th category. **This is a NFP that is NOT entitled to Income tax exemption.** Now, for these organisations you are going to need to pay income tax on your assessable income. But it is not all bad news. You only have to pay income tax on your *assessable* income. Income derived from your members may not be assessable income under the *mutuality principle*. If you are paying income tax I urge you get advice on calculating your assessable income.

The other reason you may not have to pay income tax is because you are below the assessable income threshold of \$416pa.

FINAL

The Australian Charities and Not-for-profits Commission (ACNC) is the national regulator of charities. The ACNC registers and regulates Australia's charities.

The not-for-profit (NFP) sector is vast and largely unregulated and the ATO want to push NFPs into becoming charities as then they are closely regulated by the ACNC. If a NFP chooses not to be a charity or cannot be a charity then it must lodge **an annual NFP self-review return** so that the ATO can decide whether it should be income-tax exempt or not.

There are many serious advantages to becoming a charity. Firstly your organisation is exempt from lodging annual NFP self-review returns. Secondly your organisation is eligible for Deductible Gift Recipient (DGR) status which means that anyone donating more than \$2 to your organisation may be able to claim a tax-deduction for that donation – making it much more attractive to donate larger sums of money.

However, you will probably have to make changes to your constitution to ensure that your organisation is charitable and this can take time and resources. Allow a year for this process.