



Australian  
**Charities** and  
Not-for-profits  
Commission

# Charities, not-for-profits and maintaining income tax exemption

Presented by:

Vladimir Klendo - ACNC Registration

Stewart McMillan - ACNC Education

July 2024

[acnc.gov.au/webinars](https://acnc.gov.au/webinars)





Australian  
**Charities** and  
Not-for-profits  
Commission

**The ACNC acknowledges the Traditional Custodians of country throughout Australia and their connections to land, sea and community.**

**We pay our respects to them and their cultures and elders, past and present.**



# Agenda

- Overview of the changes
- What does this mean for you?
- Who can register as a charity?
- Preparing your charity application
- Ongoing obligations



## What has changed?

There have been changes to the administration of not-for-profit organisations that self-assess as income tax exempt.

From 1 July, non-charitable NFPs with a registered ABN need to lodge an annual NFP self-review return confirming income tax exemption status.

[ato.gov.au/NFPtaxexempt](https://ato.gov.au/NFPtaxexempt)



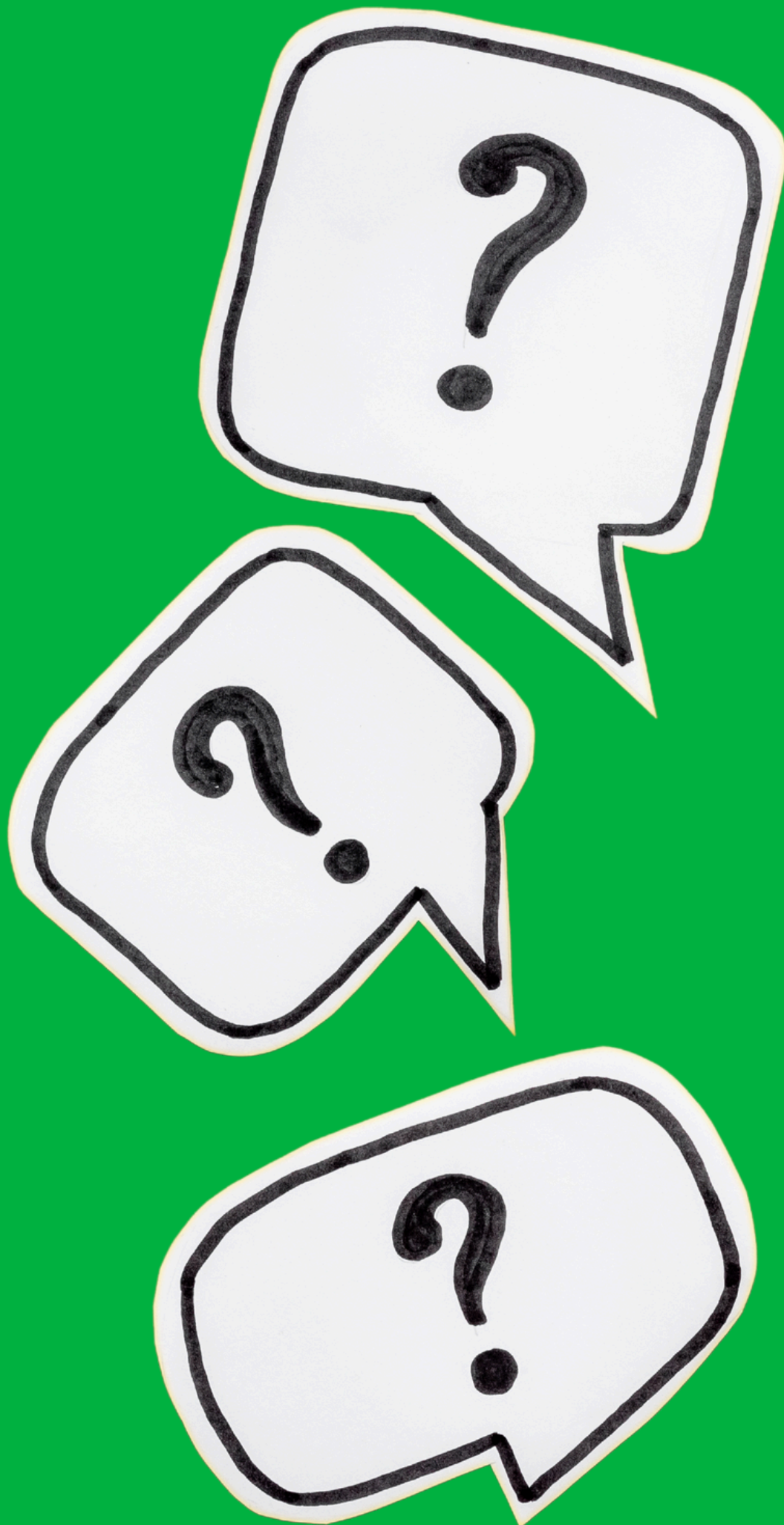
# Charity or not-for-profit?



A not-for-profit is an organisation that does not operate for the profit, personal gain or other benefit of particular people.

**A registered charity is a type of not-for-profit.**

In addition to being not-for-profit, a registered charity must have only charitable purposes that are for the public benefit.



**Self-assess**

**Register as a charity**

**Taxable not-for-profit**

# Self-assess

Self-assess as income tax exempt and lodge an annual NFP self-review return to the ATO

- Only **non-charitable NFPs** can self-assess their eligibility for income tax exemption
- **Eight categories:** community, cultural, educational, employment, health, resource development, scientific and sporting organisations



# Register as a charity

**Register as a charity with the ACNC and be endorsed as income tax exempt by the ATO**

To be eligible to register, an organisation must meet the charity eligibility criteria, including having only charitable purposes.





# Taxable not-for-profit



**Taxable not-for-profits are required to lodge an annual income tax return**

Taxable not-for-profits include:

- NFPs that are not eligible to self-assess or to register as a charity with the ACNC
- NFPs that have only charitable purposes for the public benefit, but do not register as a charity.

# Sub-entities

If your organisation is a sub-entity for GST purposes, do not complete the NFP self-review return or lodge a charity registration application.

Read the [ATO's guidance on sub-entities](#), or call the ATO to discuss if your sub-entity should cancel its NFP self-review reporting obligations.





**If your organisation meets the definition of a charity, it cannot self-assess as income tax exempt.**

It must register as a charity with the ACNC and be formally endorsed as income tax exempt.

Otherwise, it will be considered a taxable not-for-profit.

## Not sure if you are a charity?



If you are still unsure by the due date for lodging the NFP self-review return, please lodge it anyway.

**Question 5:** Does the organisation have any charitable purposes?  
Yes / No / **Unsure**

Select 'Unsure' – the ATO will contact you to help determine if your organisation is charitable.

Already a  
registered  
charity?



# Registered charities

Your organisation is not affected by these changes to self-assessing income tax exemption

- Confirm charity registration: [acnc.gov.au/charity](https://acnc.gov.au/charity)
- Confirm current tax concessions: [abr.business.gov.au](https://abr.business.gov.au)





**Applying to  
register as a  
charity**

# Registering as a charity

1. Ensure your organisation is eligible
2. Review and update information and documents
3. Gather information required for your application:  
[acnc.gov.au/registration-checklist](https://acnc.gov.au/registration-checklist)
4. Submit an application online in the **ACNC Charity Portal** or submit a bulk application form as part of a group







**Eligibility to  
register as a  
charity**

# Legal meaning of charity



Your organisation must:

- be not-for-profit
- have only charitable purposes for the public benefit
- not have any disqualifying purposes
- not be an individual, political party or government entity.

[acnc.gov.au/charitydefinition](https://acnc.gov.au/charitydefinition)

# Charitable purposes



## The Charities Act defines 12 charitable purposes:

- advancing health
- advancing education
- advancing religion
- advancing culture
- advancing social or public welfare
- advancing the natural environment
- preventing or relieving the suffering of animals
- promoting or protecting human rights
- advancing the security or safety of Australia or the Australian public

[acnc.gov.au/charitablepurpose](https://acnc.gov.au/charitablepurpose)

# Charitable purposes



- promoting reconciliation, mutual respect and tolerance between groups of individuals that are in Australia
- other similar purposes ‘beneficial to the general public’
- promoting or opposing a change to any matter established by law, policy or practice in the Commonwealth, a state, a territory or another country (where that change furthers or opposes one or more of the purposes above)

[acnc.gov.au/charitablepurpose](https://acnc.gov.au/charitablepurpose)

# Your organisation's charitable purposes



You can determine your organisation's purposes by looking at:

- your organisation's governing document – it should set out its purpose or 'objects'
- its activities
- other information about your organisation, such as annual reports or financial statements.

# Charitable or non-charitable?

- Can have more than one charitable purpose
- **All** purposes must be charitable unless they are ‘incidental or ancillary to’ charitable purposes
- Can engage in advocacy – must further or aid a charitable purpose



# Non-charitable organisations



- Some purposes are generally **not charitable** (social clubs, sporting organisations, professional bodies)
- If your organisation has non-charitable purposes that do not further its charitable purposes, it is unlikely to be a charity
- Cannot be charitable: political groups, or groups promoting / engaging in unlawful activities

# Additional requirements

To be eligible to register, your organisation must:

- have an active ABN
- comply with the ACNC Governance Standards
- comply with the ACNC External Conduct Standards, if operating overseas.

[acnc.gov.au/whocanberegistered](https://acnc.gov.au/whocanberegistered)





# ACNC Governance Standards



**Standard 1:** Purposes and not-for-profit nature

**Standard 2:** Accountability to members

**Standard 3:** Compliance with Australian laws

**Standard 4:** Suitability of Responsible People

**Standard 5:** Duties of Responsible People

**Standard 6:** Maintaining and enhancing public trust and confidence in the Australian not-for-profit sector

[acnc.gov.au/governancestandards](https://acnc.gov.au/governancestandards)



**TIME TO  
UPDATE**

**Updating  
information  
and documents**

# Australian Business Number (ABN)



Your organisation needs an active ABN to register as a charity.

Check your ABN details: [abr.business.gov.au](http://abr.business.gov.au)

- Legal name must be correct
- Entity type needs to match legal structure

Contact the Australian Business Register to update details

# Legal structure

All charities have a legal structure. It can be incorporated or unincorporated. The best structure will depend on several factors, including how the organisation operates.

Common structures for charities are incorporated associations, companies, co-operatives and unincorporated associations.



# Entity type and legal structure

ABR entity type	Legal structure
Other incorporated entity	State/territory incorporated association
Other unincorporated entity	Unincorporated association
Australian public company	Company limited by guarantee
Co-operative	Co-operative

# Governing document

Your organisation's governing document may be referred to as the constitution, rules or trust deed.

It is the formal document that sets out:

- your organisation's charitable purposes
- that your organisation operates on a not-for-profit basis
- how your organisation's governing body makes decisions and consults any members.



# Governing document

Before you apply, please review your governing document. It must include:

- organisation name
- objects (purpose)
- not-for-profit clause and winding up clause.

**Your governing document should reflect your organisation's legal structure.**



# Objects



## **What your organisation aims to achieve**

- Objects may also be referred to as your organisation's purpose, objectives or mission
- Objects and activities must be directed towards achieving a charitable purpose

The objects clause in a charity's governing document must reflect what the organisation was established for.



# Not-for-profit and winding up clauses



A **not-for-profit clause** sets out how the organisation's assets and income are to be used and distributed.

A **dissolution or winding up clause** sets out what happens to the organisation's assets if it dissolves or winds up. For registered charities, the clause must state that the assets go to another charity.

# Updating your governing document

You may need to update your governing document so it is appropriate for charity registration.

If you change your governing document, ensure you follow any governance or legislative requirements.



# Templates



Sample charitable purpose clauses

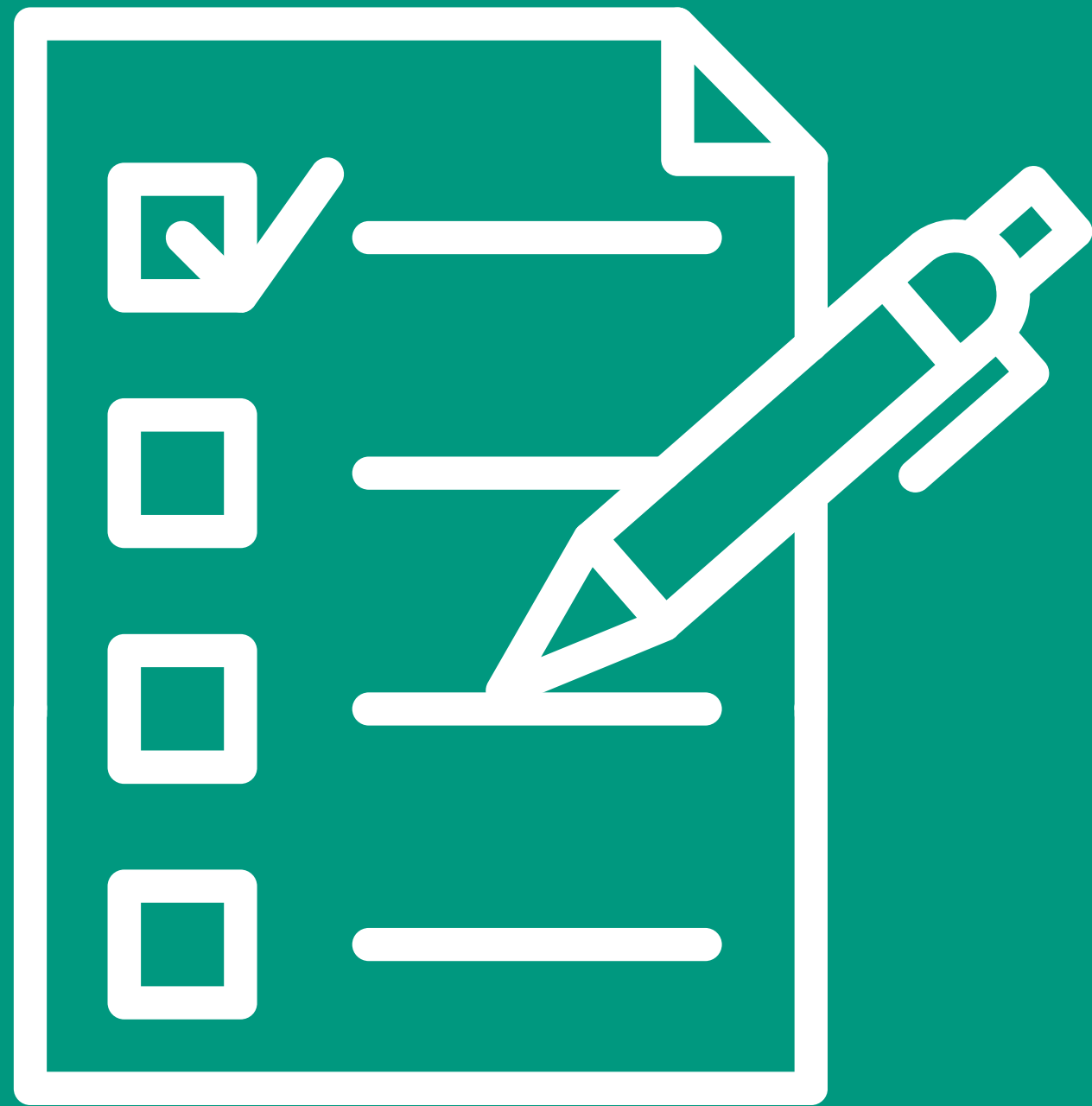
[acnc.gov.au/tools/templates/charitable-purpose-examples](https://acnc.gov.au/tools/templates/charitable-purpose-examples)

Not-for-profit and winding up clauses

[acnc.gov.au/not-profit](https://acnc.gov.au/not-profit)

Governing document for companies limited by guarantee  
and unincorporated associations

[acnc.gov.au/tools/templates/governing-document-templates-and-model-rules](https://acnc.gov.au/tools/templates/governing-document-templates-and-model-rules)



# Preparing your application

# Bulk registration

Peak bodies wishing to register 10 or more of their member organisations can submit a bulk application form.

This option is limited to groups of similar, non-complex organisations who have their records in order.

[registration@acnc.gov.au](mailto:registration@acnc.gov.au)



# Information you need to provide



- ABN
- Organisation name
- Contact details
- Legal structure
- Governing document
- Date of establishment
- Requested registration date
- Operating locations
- Charity subtype
- Activities
- Beneficiaries
- Responsible People
- Financial information
- Governance
- Tax concessions and DGR
- Withholding information

# Information you need to provide



## **Charity subtypes**

Charity subtypes are categories that reflect a charity's charitable purpose. You can select one or multiple subtypes.

## **Activities**

Provide details about the types of activities your organisation undertakes to pursue its charitable purpose.

# Information you need to provide



## Responsible People

- Board or committee members, trustees
- Provide details of **all** Responsible People
- Only name and position will be on the Register
- Must meet minimum requirement for legal structure and governing document

[acnc.gov.au/responsiblepeople](https://acnc.gov.au/responsiblepeople)



# Date of registration

**You can request to backdate your registration.**

The ACNC can only register an organisation on or after the latest of these dates:

- the organisation's establishment date
- the date the organisation's ABN was made active
- the date on which it meets the requirements to be registered as a charity
- 3 December 2012 (the ACNC's establishment).



## Date of registration

The ATO intends on taking a practical compliance approach, focusing its resources on ensuring organisations are assessing their income tax exemption correctly from **1 July 2023 onwards**.

If your organisation has previously been registered with the ACNC but its charity registration was revoked, you can reapply to be registered from the revocation date.



# Applying for income tax exemption

- Your organisation can apply for charity tax concessions (including income tax exemption) in your ACNC charity registration application
- ACNC will pass this information on to the ATO for assessment



# Registration application tips

- Do not submit a draft governing document
- Make sure your governing document includes all the required information
- List the correct number of Responsible People
- Choose the charity subtype that matches the objects in your governing document
- Provide information about managing conflicts of interest and finances



# Ongoing obligations of registered charities



# Ongoing obligations

Charities have ongoing obligations to the ACNC that they must meet in order to remain registered.

- Keep charity status
- Notify the ACNC of changes
- Report annually
- Keep financial and operational records
- Comply with the ACNC Governance Standards and External Conduct Standards





**What do you  
need to do  
right now?**



**Check your eligibility to register**



**Review and update your documents**



**Apply for charity registration**



## ACNC resources

Charity registration criteria:

[acnc.gov.au/whocanberegistered](https://www.acnc.gov.au/whocanberegistered)

ACNC Charity Portal: [charity.acnc.gov.au](https://charity.acnc.gov.au)

Information about the changes to self-assessing  
income tax exemption: [acnc.gov.au/selfassessing](https://www.acnc.gov.au/selfassessing)



## ATO resources

Guidance on reporting requirements to self-assess income tax exemption: [ato.gov.au/NFPtaxexempt](https://ato.gov.au/NFPtaxexempt)

**1300 130 248**

ATO not-for-profit advice phone line  
8am to 6pm, Monday to Friday



# Stay in touch



- Monthly newsletter - [acnc.gov.au/#subscribe](https://acnc.gov.au/#subscribe)
- Web guidance - [acnc.gov.au](https://acnc.gov.au)
- Webinars - [acnc.gov.au/webinars](https://acnc.gov.au/webinars)
- Podcasts - [acnc.gov.au/charitychat](https://acnc.gov.au/charitychat)
- Contact us - [acnc.gov.au/contact-us](https://acnc.gov.au/contact-us)

 [facebook.com/acnc.gov.au](https://facebook.com/acnc.gov.au)

 [@acnc\\_gov\\_au](https://twitter.com/acnc_gov_au)

 [youtube.com/ACNCvideos](https://youtube.com/ACNCvideos)

 [linkedin.com/company/australian-charities-and-not-for-profits-commission](https://linkedin.com/company/australian-charities-and-not-for-profits-commission)

# Thank you

View this or previous webinars, and register for future sessions, at [acnc.gov.au/webinars](https://acnc.gov.au/webinars)

Questions, comments, feedback:  
[education@acnc.gov.au](mailto:education@acnc.gov.au)

