
E Tax concessions

This appendix outlines the types of tax concessions available to not-for-profit organisations (NFPs) from Australian governments and provides some estimates of the value of these concessions.

E.1 Australian Government tax concessions available to not-for-profits

The Australian Government gives NFPs a variety of different tax concessions. The main tax concessions are income tax exemptions, fringe benefits tax (FBT) exemptions, and goods and services tax (GST) concessions. Eligibility and the nature of the concessions are described in table E.1. In addition, NFPs may be endorsed to receive deductible gifts which allows donors to claim an income tax deduction for their donation.

Endorsement requirements for tax concessions vary. Charities, excluding religious institutions, and deductible gift recipients (DGRs) require endorsement from the Australian Taxation Office (ATO) to access Australian Government tax concessions. However, NFPs can receive DGR status by seeking endorsement from the Treasurer to be specifically named in the *Income Tax Assessment Act 1997*. Alternatively, organisations which wish to be listed on a specific DGR register need to apply to the relevant department or agency which determines eligibility and then the Treasurer, in consultation with the relevant minister, decides if an organisation is to be entered on the register. All other NFPs self assess their tax concession status for income tax, GST and FBT rebates (where eligible) and do not require endorsement from the ATO.

Table E.1 Australian Government not-for-profit tax concessions

<i>NFP tax concession</i>	<i>Description</i>
Income Tax	
Exemption	<p>Certain NFPs are exempt from paying income tax by the <i>Income Tax Assessment Act 1997</i>. The categories for income tax exemption are:</p> <ul style="list-style-type: none"> • Charity, education, science and religion • Community services • Employment • Government • Health • Primary and secondary resources, and tourism • Sports, culture, film and recreation. <p>To be eligible for the exemption, the organisation must have a physical presence in Australia, be listed as a DGR or be a prescribed organisation under the income tax assessment regulations.</p> <p>All charities, regardless of whether these organisations also fall under another exemption category, must be endorsed by the ATO to be exempt. Endorsement requires the organisation to be an entity, have an Australian Business Number (ABN) and make an application to the ATO.</p>
Tax free threshold	<p>For Australian resident NFPs, the income tax payable depends on the level of taxable income. No tax is payable if the taxable income is \$416 or less in a year and lodgement of an income tax return is not required. If the income is more than \$416, income tax is payable above this amount and an income tax return must be lodged. By comparison, other companies must pay tax from the first dollar of income and lodge a tax return, regardless of the amount of taxable income.</p>
Franking credits	<p>Taxpayers who receive assessable dividends from a company are entitled to a franking rebate for the tax paid by the company on its income.</p> <p>Certain taxpayers who receive franking rebates are entitled to a refund if their franking rebates exceed tax payable. Excess imputation credits will be refunded to resident individuals, complying superannuation funds and to endorsed charities and DGRs.</p>
Fringe Benefits Tax (FBT)	
Exemption	<p>The <i>Fringe Benefits Tax Assessment Act 1986</i> provides exemption for certain employers including:</p> <ul style="list-style-type: none"> • Public Benevolent Institutions • health promotion charities • private NFP hospitals, public hospitals and public ambulance services. <p>There is a cap on the value of fringe benefits provided to employees of eligible organisations. The level of the cap applying to PBI and health promotion charities is \$30 000 of grossed up taxable value per employee. The cap applying to public and NFP hospitals is \$17 000 of grossed up taxable value per employee. The caps do not include meal entertainment and entertainment leasing expenses. FBT exemption is also available to certain employees of religious institutions and live-in carers.</p>

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Table E.1 (continued)

<i>NFP tax concession</i>	<i>Description</i>
Rebate	<p>ATO endorsement for FBT exemption is required for all eligible institutions, except public and non-profit hospitals and public ambulance services that are not charities. Religious institutions that are not charities do not need endorsement.</p> <p>A FBT rebate is available to charitable institutions, religious institutions and certain other income tax exempt organisations, known as ‘rebateable employers’ (such as public education institutions and employer associations). The rebate is not available to those organisations that are eligible for FBT exemption.</p> <p>The FBT rebate is available at the rate of 48 per cent (subject to a cap of \$30 000 per employee). Eligible organisations require endorsement by the ATO, except in the case of religious institutions that are not charities.</p>
Goods and Services Tax (GST)	
Charities and DGRs	<p>Charities, DGRs and certain other NFPs (such as those operating school tuckshops) are entitled to a variety of concessions under the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (GST Act) including:</p> <ul style="list-style-type: none"> • the choice to account on a cash basis regardless of annual turnover • GST-free treatment of non-commercial supplies^a • GST-free treatment of raffles and bingo • the choice to treat certain (mainly one-off) fund-raising events as input taxed • the ability to claim input taxes credits when reimbursing volunteers for expenses incurred that are related to activities as a volunteer of the entity • NFP GST concessions.
Religious organisations	<p>Under the GST Act, a supply is GST-free if a service is supplied by a religious institution and is integral to the practice of that religion.</p> <p>Entities that are GST-registered and endorsed as exempt from income tax, and belong to the same religious organisation, can be registered as a GST group. Transactions between members of the group are then exempt from GST.</p>
Other NFPs	<p>The following concessions are available to NFPs (including endorsed charities, DGRs and government schools):</p> <ul style="list-style-type: none"> • a registration turnover threshold for NFPs of \$150 000 (compared to \$75 000 for for-profit businesses) • certain NFPs can lodge their GST returns quarterly regardless of the date on which they balance their accounts • supplies made by school tuckshops and canteens can be input taxed • charities, DGRs and certain other NFPs can choose to treat some or all separately identifiable branches or activities as separate entities for GST purposes.

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Table E.1 (continued)

NFP tax concession *Description*

Deductible Gift Recipients (DGRs)

Gifts to DGRs can be deducted from an individual's or company's income for the calculation of income tax.

To be tax deductible, a gift must be money or property covered by one of the following gift types:

- \$2 or more: money
- property > \$5000: property valued by the ATO at more than \$5000
- property < 12 months: property purchased during the 12 months before the gift was made
- shares ≤ \$5000: listed shares valued at \$5000 or less, and acquired at least 12 months before the gift was made
- trading stock: trading stock disposed of outside the ordinary course of business
- cultural gifts: property gifted under the Cultural Gifts Program
- cultural bequests: property gifted under the Cultural Bequests Program
- heritage gifts: places included in the National Heritage List, the Commonwealth Heritage List or the Register of the National Estate.

DGRs must be endorsed by the ATO or listed by name in the *Income Tax Assessment Act 1997* or *Income Tax Assessment Regulations 1997* (for Private Ancillary Funds).

^a Non-commercial supplies are defined in the GST legislation as supplies for nominal consideration and supplies of donated second-hand goods made by charities and DGRs. Accommodation supplies are non-commercial if they are supplied for less than 75 per cent of the market value or 75 per cent of the cost to the charity providing the good or service. Supplies other than accommodation are non-commercial when they are: supplied for less than 50 per cent of the market value; supplied for less than 75 per cent of the cost to the charity; or supplies of donated second hand goods (provided they retain their original character at the time they were donated to the charity).

Sources: ATO (2006, 2007b).

E.2 Tax concessions available to not-for-profits in other jurisdictions

In addition to the taxation concessions given to NFPs by the Australian Government, all state and territory governments give some level of tax exemption to certain NFPs. The main concessions relate to payroll tax, land tax, gambling tax and transfer/stamp duties (table E.2).

While most jurisdictions offer the same types of concessions, there are large variations in the types of organisations that are eligible for each concession. For example, land owned by PBIs; charities, NFP societies, NFP clubs, NFP associations, agricultural shows, and friendly societies is entitled to land tax concessions in Victoria. By comparison, in New South Wales all these organisational types plus NFP education providers, religious organisations,

employer and employee groups, and NFP child care providers are entitled to land tax concessions. In addition, the extent of these concessions varies.

Local governments may also provide NFPs with concessions on general rates and other charges. However, these concessions are not estimated in this appendix as there is little information available about them.

Table E.2 Interstate comparison of main not-for-profit tax concessions^a

<i>Tax</i>	<i>NSW</i>	<i>VIC</i>	<i>QLD</i>	<i>WA</i>	<i>SA</i>	<i>Tas</i>	<i>NT</i>	<i>ACT</i>
Payroll Tax	✓	✓	✓	✓	✓	✓	✓	✓
Land Transfer Duty (as known as Contracts and Conveyances Duty)	✓	✓	✓	✓	✓	✓	✓	✓
Land Tax	✓	✓	✓	✓	✓	✓	n.a. ^b	✓
Motor Vehicle Registration Duty and Transfer Fee	✓	✓	✓	✓	✗	✗	✓	✓
Motor Vehicle Registration Fee (and Tax)	✓	✓	✓	✓	✗	✗	✗	✗
Mortgage and Insurance Duties	✓	✗	✓	✓	✗	✗	✗	✓
Gaming Machine Tax	✓	✓	✓	n.a. ^c	✓	n.a. ^c	n.a. ^c	n.a. ^c

^a This table lists whether the state or territory gives certain NFPs a concession or exemption. However, it does not list which types of NFPs are eligible for each concession as eligibility varies considerably between jurisdictions. ^b Land tax is not levied in the Northern Territory. ^c NFPs do not operate gaming machines in Western Australia, Tasmania and the Northern Territory, while in the Australian Capital Territory only NFPs operate gaming machines.

E.3 Value of tax expenditures available to not-for-profits

Estimates of the value of tax concessions given to NFPs have been made for some concessions by the Australian Treasury and some state and territory treasury departments.

The estimates have been made using a tax expenditure methodology. This estimates the foregone revenue of concessions provided to NFPs. According to the Australian Treasury:

This approach measures the difference in tax paid by taxpayers who receive a particular concession, relative to similar taxpayers who do not receive the concession. It compares the current or prospective treatment to the ‘benchmark’ treatment, assuming taxpayer behaviour is unchanged. The setting of the benchmark against which tax expenditures are measured involves an element of judgement. Hence, the benchmark can vary across jurisdictions ...

Aggregate estimates of tax expenditures ... are not necessarily reliable indicators of the revenue cost of tax expenditures, because different tax expenditures may overlap and there may be interactions between the behavioural responses to the removal of different expenditures. Tax expenditure estimates cannot be readily compared across different jurisdictions, due to differences in tax rates and tax benchmarks. (Treasury 2008a, p.32)

There is some debate as to whether NFP tax concessions should be considered tax expenditures (box E.1). While the approach has shortcomings, it is, nevertheless, a useful policy tool by which to estimate the value of indirect support given to NFPs and to compare alternative policy options.

Box E.1 Should not-for-profit concessions be considered tax expenditures?

There is some debate about whether NFP tax concessions should be considered tax expenditures.

On one hand, the Australian Treasury believes that concessions given to NFPs form part of the government's support for the sector and should be considered tax expenditures. This view was shared by the Industry Commission (1995) which concluded that the tax expenditure framework is the most appropriate way to view government support for community service organisations.

On the other hand, some of the sector argue that deductions and exemptions given to these organisations represent an appropriate adjustment of the tax base and should not, as a result, be considered expenditures as they fall outside the realm of taxable income. For example, Flack argued:

The relatively recent Treasury practice of constructing tax-deductibility of gifts to DGRs as a 'tax expenditure', as if the tax deductions are a subsidy, is conceptually flawed. The notion that because a group of transactions is not taxed, it is being subsidised to the value of the tax foregone is not a sustainable argument. There are many transfers that take place inside families for example, that are not subject to income tax or GST — they are simply outside the taxable economy. (sub. 29, p. 13)

On balance, considering NFP concessions as tax expenditures is useful from a policy perspective as it allows policy options, such as direct funding, loan guarantees and interest rate subsidies, to be analysed to ascertain the most economically efficient way of allocating resources to support the sector.

Almost all tax concessions extended to NFPs are considered to be tax expenditures by those Australian treasury departments that estimate tax concessions. Income derived from mutual organisations is not considered to be a tax expenditure because mutual income is not taxable under the income tax legislation.

Some tax expenditure categories do not relate solely to the NFP sector; that is, they include other organisations. For example, the Australian Government does not provide a separate estimate of the capped FBT exemption for both public and NFP hospitals. As a result, a few tax expenditure estimates are overestimated. However, such cases are relatively few in number, and do not significantly affect the overall magnitude of the estimates.

There are also some caveats on the reliability and accuracy of the tax expenditure estimates. The Australian Government (2009e, p. 22) notes that:

The estimates vary in their reliability, depending upon the quality and detail of the underlying data that is used in the estimates, the frequency of that data, the extent to which calculations are based on assumptions, the sensitivity of the results to those assumptions and whether future taxpayer behaviour is reasonably predictable.

Only 13 of the 22 Australian Government tax expenditure categories with some relation to the NFP sector have sufficient data available to quantify the tax expenditure. Of the 13 categories quantitatively estimated, the reliability of the estimated tax expenditure is considered low in four categories, medium to low in four categories, medium in four categories and medium to high in one category. All except one of the larger tax expenditure estimates (over \$100 million) are considered to be of low or medium to low reliability. State and territory governments do not indicate the reliability of their tax expenditure estimates.

Moving beyond these caveats, the value of tax concessions given to the NFP sector and donors of deductible gifts is estimated to be at least \$4 billion in 2008-09 for those concessions that have been quantified. However, there are a number of significant concessions in all jurisdictions that have not been quantified which, if included, could feasibly double the \$4 billion estimate.

The value of Australian Government tax expenditures attributable to the NFP sector is estimated to be in excess of \$2675 million in 2008-09 (table E.3). The value of tax expenditures attributable to the sector rose by around 9 per cent between 2006-07 and 2008-09 for quantitatively estimated expenditures.

It is also estimated that state and territory governments provided at least \$1692 million worth of tax concessions to NFPs in 2008-09 (table E.4). This estimate only includes the four jurisdictions which publish tax expenditures estimates (New South Wales, Victoria, Queensland and South Australia). Queensland provided additional information which clarified the tax expenditures apportioned to NFPs, while Tasmania provided an estimate for land tax at the request of the Commission but was unable to quantify the value of other concessions. Other jurisdictions were unable to provide estimates of NFP tax concessions.

Table E.3 The value of Australian Government tax concessions to not-for-profit organisations

(\$ millions)^a

<i>Tax expenditure category [Category reference]</i>	<i>2006-07</i>	<i>2008-09</i>	<i>Reliability</i>
Income tax exemption for distributions to charitable funds (also includes exemptions for public auxiliary and prescribed private funds) and refund of franking credits for eligible funds [A58, A59, A62]	**	**	
Deductions for donations to PPFs [A70]	160	280	Medium–low
Deductions of gifts to approved donees [A71]	700	800	Medium–low
Interest withholding tax and dividend withholding tax exemptions for overseas charitable institutions [B3]	**	**	
Income tax exemption for not-for-profit private health insurers [B17]	240	380	Low
Income tax exemption for public and not-for-profit hospitals [B18] b	*	*	
Income tax exemption for religious, scientific, charitable or public educational institutions [B22]	***	***	
Income tax exemption for industry-specific not-for-profit societies [B29]	25	25	Medium
Income tax exemption for recreation-type not-for-profit societies [B30]	20	20	Medium
Exemption for radiocommunications taxes for not-for-profit community or government entities [B47] b	5	5	Medium
Income tax exemption for trade unions and registered organisations [B50]	10	10	Medium–low
Deduction for certain co-operative companies [B99]	**	**	
Capped FBT exemption for public and not-for-profit hospitals [D6] b	280	260	Medium
Capped FBT exemption for public benevolent institutions (except public and not-for-profit hospitals) [D8]	750	670	Low
Capped FBT exemption for charities promoting the prevention or control of disease in human beings [D28]	40	45	Medium–high
Exemption for certain benefits provided to live-in employees who provide domestic services and are employed by religious institutions or religious practitioners [D29]	**	**	
Exemption for fringe benefits provided to employees of religious institutions [D30]	175	135	Low
Partial rebate for certain not-for-profit, non-government bodies [D48]	25	20	Medium–low
Removal of capital gains tax threshold for testamentary gifts [E26]	*	*	
GST – Supplies by charitable institutions and not-for-profit bodies [H5]	**	**	
GST – Religious services [H18]	20	25	Low
GST – Registration thresholds (small business concessions incorporating small not-for-profits) [H20] b	***	***	
Total (excluding tax expenditures not estimated)	2 450	2 675	

^a Some expenditures are not estimated because data is limited or because of the nature of the tax expenditure itself. However, * indicates expected tax expenditure to be between \$1–10 million; ** indicates expected tax expenditure to be between \$10–100 million; and, *** indicates expected tax expenditure to be between \$100–1000 million. A more detailed explanation of tax expenditure estimate ranges can be found on page 57 of the *2008 Tax Expenditure Statement*. ^b These concessions are not solely given to NFPs and, as such, may over estimate the level of concessions given to the sector.

Source: Treasury (2009).

Some estimates, such as for land tax in Queensland, are overestimated as the value reported includes exemptions other than for the NFP sector. Other estimates, such as for payroll tax in Queensland, are underestimated as only the concessions related to charitable organisations are reported but other NFPs receive payroll concessions under the broad section 13 grouping which are not included in the estimate.

Tax expenditure estimates would be improved if there was more data available about the income and expenditure of NFPs, particularly those that receive substantial tax concessions. Currently the Australian Government does not require NFP to submit financial accounts (or tax returns) which could provide the information necessary to more accurately estimate tax expenditures. The introduction of a Standard Chart of Accounts for NFPs and regular reporting requirements would facilitate the production of more reliable estimates.

Table E.4 Estimated value of tax expenditures for State and Territory concessions, 2008-09

\$ millions

<i>Tax concession</i>	<i>NSW</i>	<i>VIC</i>	<i>QLD</i>	<i>SA</i>	<i>WA</i>	<i>Tas</i>	<i>NT</i>	<i>ACT</i>	<i>All jurisdictions</i>
Payroll tax	194	386	155 ^a	31	n.a.	n.a.	n.a.	n.a.	766
Land taxes	20 ^b	56	66 ^c	n.a.	n.a.	6	n.a.	n.a.	148
Gambling tax	518	77	121	8 ^d	n.a.	n.a.	n.a.	n.a.	724
Other taxes ^e	50	n.a.	4	n.a.	n.a.	n.a.	n.a.	n.a.	54
Total	782	519	346	39	0	6	0	0	1 692

^a Estimate includes exempt charitable institutions but does not include section 14 NFP exemptions.

^b Estimate does not include all NFP land tax exemptions. ^c Estimate includes all section 13 exemptions, not just NFPs. ^d Estimate does not include NFPs where gambling revenue does not exceed \$75 000. ^e Does not include estimates which are considered be less than \$1 million.

Sources: NSW Budget Statement 2009-10 (Appendix E); Victorian Statement of Finances 2009-10 (Chapter 5); QLD Budget Strategy and Outlook 2009-10 (Appendix A); QLD Treasury (pers. comm., 21 December 2009); SA Budget Statement 2009-10 (Appendix E); Tasmanian Treasury (pers. comm., 18 September 2009).

Reference

Australian Government 2009, *Tax Expenditures Statement 2008*, Department of the Treasury, January.