



Registering a charity in Australia

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Charities fulfil an integral role within the community and deliver vital services with a unique capacity to respond to a wide range of community needs. For their contribution, charities who register with the national regulator, the Australian Charities and Not-for-profits Commission (**ACNC**), are granted access to a range of attractive benefits. However, obtaining the correct registration can be a complex and challenging process.

Benefits of registration

All registered charities will have access to some benefit, most notably the exemption from income tax. There are, however, some benefits that can only be accessed by some types, or 'subtypes', of registered charities.

For example, charities of the subtype, 'health promotion' or 'public benevolent institution' can access fringe benefit tax rebates and exemptions that are not available to other subtypes. The benefits available, depending on subtype, include:

- income tax exemption;
- goods and services tax (GST) concessions;
- fringe benefit tax rebates and exemptions;
- payroll tax exemption;
- state and local government concessions;
- deductible gift recipient status;
- reduced company reporting obligations; and
- grants and regulatory exemptions.

It is important that organisations seek advice before registering in order to obtain the benefits required.

[For advice and assistance, FREECALL 1800 659 114](#)

Legal structure

A registered charity is a 'status' rather than a structure, and there are a number of different legal structures suitable for registration or that a prospective charity may adopt. The most common of these structures are incorporated associations and companies limited by guarantee. Each structure has its own advantages and disadvantages and can determine the success of the organisation.

You can read more about this structure in our article, 'Benefits of incorporating associations and clubs'.

Eligibility to register a charity

To be eligible for registration as a charity, an organisation must:

1. be not-for-profit;
2. have a charitable purpose for the public benefit (and no disqualifying purpose);
3. not be an individual person, political party or government entity; and
4. hold a current Australian Business Number (**ABN**).

A not-for-profit organisation is one that doesn't operate for profit or personal gain of its members. Instead, any net income is put back into the organisation to further and advance the purpose or aim (commonly referred to as the 'objects') of the organisation. Not all not-for-profit organisations are charities, but all charities are not-for-profit.

The *Charities Act 2013* (Cth) recognises twelve charitable purposes, which include:

1. advancing health;
2. advancing education;
3. advancing social or public welfare;
4. advancing religion;
5. advancing culture;
6. promoting reconciliation, mutual respect and tolerance between groups of individuals that are in Australia;
7. promoting or protecting human rights;
8. advancing the security or safety of Australia or the Australian public;
9. preventing or relieving the suffering of animals;

10. advancing the natural environment;
11. other similar or analogous purpose 'beneficial to the general public' (a general category); and
12. promoting or opposing a change to any matter established by law, policy or practice.

The charitable purpose of the organisation will determine their 'subtype', (for example, advancing health, public benevolent institution, health promotion charity, etc.) which may affect their eligibility to access certain benefits or concessions. Organisations should seek advice before choosing their subtype to ensure they optimise the benefits available to the charity.

Principally, whether an organisation meets the criterion of being 'not-for-profit' and 'having a charitable purpose' will be determined by the construction of the organisation's governing document (ie: constitutions, rules, and trust deeds). Generally, the governing document must indicate that the organisation operates on a 'not-for-profit' basis and align with one or more of the twelve charitable purposes referred to above.

In addition to determining the 'subtype', the construction of the governing document will also determine eligibility of other matters, including deductible gift recipient status.

How to register a charity

To register, an organisation must be able to provide the following:

1. their ABN;
2. the organisation's governing document; and
3. contact details and an address for service; and
4. financial documents (ie: annual returns, fundraising plans, etc).

In addition, an organisation must be able to inform ACNC, at the time of application, of their:

1. subtype;
2. charitable purpose;
3. date of establishment;
4. legal structure;
5. beneficiaries and responsible persons; and
6. the concessions they seek.

Continuing obligations to maintain charity status

Once a charity is registered with the ACNC, they must continue to meet certain obligations in order to maintain their registration. These ongoing obligations include:

- notifying the ACNC of any changes to the organisation, including alterations to the governing document and any change of responsible persons;
- keeping accurate and detailed financial records;
- reporting the charity's operations and finances annually (Annual Information Statement); and
- complying with the governance and conduct standards determined by the ACNC.

Get help when looking to register a charity

Obtaining registered status is a significant milestone for any charity, but the process of registration can be complicated and challenging to even the most discerning or experienced.

Hall Payne Lawyers have extensive experience and expertise assisting and advising registered charities and not-for-profit organisations. Whether you're looking to register your charity or are seeking general advice, contact us to arrange a consultation with one of our team.

Contacting Hall Payne Lawyers

You can contact us by phone or email to arrange your consultation; either face-to-face at one of our offices, by telephone or by videoconference consultation.

Phone: [1800 659 114](tel:1800659114)

Email: general@hallpayne.com.au
