

Frequently Asked Questions - Charities

How do I register as a Charity?

There is no legal framework for the registration of charities in Ireland. The Office of the Revenue Commissioners, Charities Section maintains a database of organisations to which they have granted charitable tax exemption. In granting tax exemption Charities Section give the body a CHY reference number. The full list of bodies granted exemption is published on the Revenue Commissioners website.

How should I set up a Charity?

All charitable organizations, if applying for tax exemption require a legal structure and a Governing Instrument. The form of Governing Instrument best suited to the function of any charity depends very much on the charitable purposes, the planned activities of the charity and how it is proposed to fund these activities.

Charitable organisations mainly take one of three legal forms:

- **an unincorporated association with a Constitution or Rules;**
- **a charitable trust established by Trust Deed;**
- **a company governed by a Memorandum and Articles of Association.**

It is recommended that intending charities take their own advise on this issue.

How should a governing document define an organisation's purposes?

An organisation must be constituted and operated exclusively for charitable purposes. In addition, it is a basic principle of charity law that an organisation's objects must be expressed in precise rather than broad or vague terms. This identifies as clearly as possible a recognized charitable purpose.

Exemption to tax will not be granted to organisations that have a mix of charitable and non-charitable purposes or where the objects of the body are considered to be either too vague or too broad.

What are charitable purposes?

While there is no legislation defining what is legally charitable it is generally determined by considering whether a particular purpose comes within one of the four broad categories:

- 1 Trusts for the Relief of Poverty
- 2 Trusts for the Advancement of Education

- 3 Trusts for the Advancement of Religion
- 4 Trusts for other purposes beneficial to the community

It is not unusual for a charitable body to come within more than one of the headings. It should be noted that not all purposes of benefit to the community would be considered a charitable purpose. In examining an application for tax exemption the Charities Section will examine the case with regard to the objects, the actual activity of the applicant body and with regard to established charity case law

How do I apply for charitable tax exemption?

Where a charitable organisation wishes to apply for exemption, **it must submit a completed application form, (i.e. CHY 1) Please click here to download form- <http://www.revenue.ie/leaflets/chy1.doc>** to Charities Section, Office of the Revenue Commissioners, Nenagh, Co. Tipperary. The following documents should be submitted in support of the application: -

- Copy of the Governing Instrument - in draft format for a charity being newly formed.
- Statement of activities to date and plans for next 12 months, including any trading activities being undertaken/proposed.
- Annual reports and other documentation, if applicable.
- Latest Financial Statements
- List of Names, addresses, occupations and PPS numbers of the Officers/Trustees/Directors.

Does a Charity have to apply for a tax exemption from the Revenue Commissioners?

No, it is only necessary for a charity to apply to the Revenue Commissioners for Charitable Tax Exemption if it may incur a liability to tax.

Will Charities Section advise upon draft governing documents?

Yes. In order that organisations can alleviate costs in time and money, Charities Section is prepared to consider draft governing instruments. In considering whether a body might qualify for exemption to tax all other documents and information required on the application form must also be provided. If all is in order Charities Section will advise the applicant to finalize the governing documentation in order to proceed with the granting of the claim to tax exemption.

What reliefs from tax are available on the income and property of Charities?

The tax code provides exemptions for charities as follows:

- Income Tax - Sections 207 and 208, Taxes Consolidation Act, 1997

- Corporation Tax (in the case of companies) - Sections 76 and 78 Taxes Consolidation Act, 1997
- Capital Gains Tax - Section 609, Taxes Consolidation Act, 1997
- Deposit Interest Retention Tax (DIRT) - Section 266 Taxes Consolidation Act, 1997
- Capital Acquisitions Tax - Section 54, Capital Acquisitions Tax Act, 1976 and Section 108(a), Finance Act, 1984
- Stamp Duty - Section 50, Finance Act, 1979
- Dividend Withholding Tax - Chapter 8A, Part 6, Taxes Consolidation Act, 1997.

We are a not for profit organization does that mean we are a charity and entitled to tax exemption?

No, the absence of profit motivation does not automatically make a charity entitled to tax exemption. In examining an application for tax exemption the Charities Section will examine the case with regard to the objects, the actual activity of the applicant and case law.

We are an unincorporated body and have been advised to change the legal structure of the organisation to an incorporated body governed by Memorandum and Articles of Association; will this affect charitable tax exemption?

No, if the ethos of the organisation does not change then a body that wishes to change its legal structure should write to Charities section prior to the change, notifying us of the reason for the proposed change and enclosing a copy of the new draft Governing Instrument.

Can a foreign charity be granted charitable tax exemption in Ireland?

A charity will only be granted charitable tax exemption if it is legally established in the State and has its centre of management and control herein. The majority of its directors must be resident within the State and the organisation must have a permanent establishment and conduct some operations within the State.

Can a Director/Trustee be paid as director/trustee?

In general no payments should be paid to Directors/Trustees other than out of pocket expenses. Specifically Directors/Trustees are not to be paid for holding such an office.

Can an organisation that has charitable tax exemption have paid employees?

Yes, a charity that has employees should note that charitable tax exemption does not relieve it of its obligations as an employer to operate the P.A.Y.E. system for its employees.

Is an organisation that has been granted charitable tax exemption exempted from VAT?

No. There is no general VAT exemption for charities. However, there are a number of specific reliefs from VAT which may relate to charitable activities and are outlined in our leaflet CHY 10 (<http://www.revenue.ie/publications/leaflets/chy10.pdf>), which can be obtained on our website.

We have charitable tax exemption, do we still need to get a Tax Clearance Certificate?

In the case of a body, which has been granted charitable exemption by the Revenue Commissioners, they will be issued with a Charity (CHY) Number. In certain instances it may be sufficient for a body just to quote their CHY number. Tax clearance would not be a requirement.

An applicant with charitable tax exemption who has secured a Public Sector Contract or requires tax clearance in connection with an application for the renewal of an Excise Licence or certain other licences (including authorization required under the Consumer Credit Act 1995 and the Criminal Justice Legal Aid (Tax Clearance Regulations 1999) should apply on form TC1 for a General Tax Clearance Certificate to the Office of the Collector General.

Does a body with Charitable Tax Exemption have to renew its tax exemption?

No. However, a charity must adhere to the conditions attaching to that exemption and is subject to review by Charities Section.

Can Charitable Tax Exemption be withdrawn?

Yes, tax exemption may be withdrawn (retrospectively if necessary) if the body does not comply with its charitable objects or to the conditions associated with the tax exemption. In such circumstances a charge to tax as determined by the Inspector of Taxes may be raised.

What accounts does a body with Charitable Tax Exemption need to keep?

Annual Accounts must be kept and made available to the Revenue Commissioners on request. In the case of a body with income in excess of €100,000 per annum audited accounts must be submitted.

Our charity is dissolving. What information/documentation do we have to provide to the Revenue Commissioners?

1. The date the organisation ceases to exist officially,
2. Final set of accounts of the organisation.
3. Confirmation of how any residual funds, at the time of dissolution, were distributed.

What tax reliefs apply in the case of donations to Charities?

All the information that you need is contained within our publication **CHY 2** (<http://www.revenue.ie/doc/chy2.doc>), “Scheme of tax relief for donations to eligible charities and other approved bodies, under Section 848A, Taxes Consolidation Act 1997”, which is available on request from Charities Section, Office of the Revenue Commissioners, Nenagh, Co. Tipperary. Telephone No. 067 –63400 or on our website .