

Contents	Page
What this ruling is about	1
Ruling and explanation	3
Date of effect	4
References	5

**Public Ruling**

**Taxation Administration Act:  
REGISTRATION OF COMMUNITY HOUSING  
PROVIDERS AS CHARITABLE  
INSTITUTIONS—ADMINISTRATIVE  
ARRANGEMENT**

*A public ruling, when issued, is the published view of the Commissioner of State Revenue (the Commissioner) on the particular topic to which it relates. It therefore replaces and overrides any existing private rulings, memoranda, manuals and advice provided by the Commissioner in respect of the issue(s) it addresses. Where a change in legislation or case law (the law) affects the content of a public ruling, the change in the law overrides the public ruling—that is, the Commissioner will determine the tax liability or eligibility for a concession, grant or exemption, as the case may be, in accordance with the law.*

## What this ruling is about

1. This public ruling sets out the terms of an administrative arrangement that enables community housing providers to be registered as a charitable institution under the *Taxation Administration Act 2001* (Taxation Administration Act) in certain circumstances where the constitution of the community housing provider does not expressly provide for certain matters required by the Taxation Administration Act.

### Registration of charitable institutions

2. Part 11A of the Taxation Administration Act provides for the registration of charitable institutions. Registration as a charitable institution is a pre-condition to certain exemptions under the *Duties Act 2001*, *Land Tax Act 2010* and *Payroll Tax Act 1971*.
3. Under s.149C of the Taxation Administration Act, there are several restrictions on registration. Section 149C(1) of the Taxation Administration Act provides an institution may only be registered if any of the following apply:
  - (a) It is one of the types of institutions mentioned in s.149C(2).<sup>1</sup>
  - (b) Its principal object or pursuit is fulfilling a charitable object or promoting the public good and is not a leisure, recreational, social or sporting object or pursuit.<sup>2</sup>

<sup>1</sup> Examples include certain religious bodies, public benevolent institutions, universities and schools.

<sup>2</sup> See s.149C(3) of the Taxation Administration Act.

# TAA149C.4.1

2 of 5

- (c) It is the trustee of an institution mentioned in (a) or (b), other than a university or university college.<sup>3</sup>
4. Additionally, s.149C(5) of the Taxation Administration Act provides that an institution generally<sup>4</sup> must not be registered unless its constitution, however described, expressly provides:
- (a) its income and property are used solely for promoting its objects
  - (b) no part of its income or property is to be distributed, paid or transferred by way of bonus, dividend or other similar payments to its members
  - (c) on its dissolution, the assets remaining after satisfying all debts and liabilities must be transferred:
    - (i) to an institution that, under s.149C, may be registered
    - (ii) to an institution the Commissioner is satisfied has a principal object or pursuit mentioned in s.149C(3)(a)<sup>5</sup>
- or
- (iii) for a purpose the Commissioner is satisfied is charitable or for the promotion of the public good.
5. Section 149C(6) of the Taxation Administration Act states a constitution includes a law, deed or other instrument that constitutes the institution and governs the activities of the institution or its members.

## Community housing providers

6. The National Regulatory System for Community Housing (NRSCH) is the national system for the regulation of community housing providers across Queensland, New South Wales, South Australia, Tasmania, the Australian Capital Territory and the Northern Territory (participating jurisdictions). Each participating jurisdiction has enacted consistent legislation to implement the NRSCH in their jurisdiction. In Queensland, the NRSCH is implemented under part 4A of the *Housing Act 2003* (Housing Act).
7. Under the NRSCH, community housing providers are registered on the National Register of Community Housing Providers and must comply with conditions for registration. Relevantly, if a community housing provider's registration is cancelled, it must generally transfer its community housing assets<sup>6</sup> to the government, another community housing provider or a

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<sup>3</sup> Section 149C(4) of the Taxation Administration Act

<sup>4</sup> Section 149C(5) of the Taxation Administration Act does not apply to institutions mentioned in s.149C(2)(a) or (c), being religious bodies, particular bodies controlled or associated with a religious body, universities and university colleges.

<sup>5</sup> Section 149C(3)(a) of the Taxation Administration Act refers to a principal object or pursuit that is fulfilling a charitable object or promoting the public good.

<sup>6</sup> Generally, a 'community housing asset' is land transferred from the government to a community housing provider or land acquired by a provider with funding from the government. See, for example, schedule 4 of the Housing Act. Other participating jurisdictions have similar legislative definitions.

prescribed entity.<sup>7</sup> In addition, the community housing provider's constitution must provide for such a transfer on its winding-up.<sup>8</sup>

8. Victoria and Western Australia are not participating jurisdictions but maintain their own equivalent regulatory frameworks consistent with the NRSCH.<sup>9</sup>
9. It is recognised community housing providers may not satisfy the requirements of s.149C(5)(c) of the Taxation Administration Act as a result of their constitutions providing for the transfer of community housing assets in accordance with the above requirements.
10. Consequently, pursuant to the administrative arrangement, a community housing provider will not be refused registration as a charitable institution under the Taxation Administration Act solely because its constitution provides for the transfer of community housing assets on its dissolution in accordance with the NRSCH or equivalent regulatory framework.

## **Ruling and explanation**

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### **Entitlement to registration**

11. A community housing provider that is an institution<sup>10</sup> may be registered as a charitable institution if it is entitled to be registered under s.149C of the Taxation Administration Act.
12. To be entitled to registration, a community housing provider generally must have a constitution that complies with s.149C(5) of the Taxation Administration Act. However, despite s.149C(5)(c) of the Taxation Administration Act, a community housing provider will not be refused registration solely because its constitution provides for the transfer of community housing assets on its dissolution in accordance with the NRSCH<sup>11</sup> or equivalent regulatory framework.<sup>12</sup>
13. To remove any doubt, if the Commissioner registers a community housing provider in accordance with paragraph 12, the date of registration may be a date before the date of effect of this public ruling.

### **Validation of registrations**

14. Paragraph 15 applies if a community housing provider was registered as a charitable institution before the date of effect of this public ruling.
15. Despite ss.149C(5)(c) and 149I of the Taxation Administration Act, the Commissioner will not cancel the community housing provider's registration as a charitable institution, solely because its constitution provides for the transfer of community housing assets on its dissolution in accordance with the NRSCH or equivalent regulatory framework.

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<sup>7</sup> See, for example, s.37H of the Housing Act. Note that no other entities are currently prescribed. Other participating jurisdictions have similar legislative provisions.

<sup>8</sup> See, for example, schedule 3, s.2 of the Housing Act. Other participating jurisdictions have similar legislative provisions.

<sup>9</sup> *Housing Act 1983 (Vic)* and *Community Housing Regulatory Framework (WA)*

<sup>10</sup> See s.149C(2) to (4) of the Taxation Administration Act.

<sup>11</sup> A reference to 'NRSCH' in this public ruling includes a reference to a law of a participating jurisdiction that applies, implements or gives effect to the NRSCH in that jurisdiction.

<sup>12</sup> *Housing Act 1983 (Vic)* and *Community Housing Regulatory Framework (WA)*

**Previously refused applications**

16. Paragraphs 17 and 18 apply if, before the date of effect of this public ruling, a community housing provider's application for registration as a charitable institution was refused on the basis its constitution provides for the transfer of community housing assets on its dissolution in accordance with the NRSCH or equivalent regulatory framework.
17. If the Commissioner is satisfied the community housing provider is entitled to be registered in accordance with paragraph 12, the Commissioner must approve the application and register the community housing provider.
18. The date of registration must be the date the community housing provider would have been registered had the Commissioner approved the application in the first instance, in accordance with paragraph 12. To remove any doubt, the date of registration may be a date before the date of effect of this public ruling.

**Reassessments following registration**

19. If a community housing provider was assessed with a liability for tax before registration as a charitable institution under the terms of the administrative arrangement, the Commissioner has a general power to make a reassessment of the tax liability under s.17 of the Taxation Administration Act. Section 17 is subject to s.21 of the Taxation Administration Act, which provides a reassessment decreasing a taxpayer's liability for tax must be made in the limitation period (i.e. 5 years after the assessment notice for the original assessment was given).

**Restrictions that must be included in an institution's constitution**

20. This public ruling is to be read in conjunction with Public Ruling TAA149C.1—*Registration of charitable institutions—restrictions that must be included in an institution's constitution*.<sup>13</sup> Relevantly, paragraph 6 of that ruling states that 'to qualify for registration as a charitable institution<sup>14</sup>, an institution's constitution<sup>15</sup> need not contain the exact words in s.149C(5)(a) to (c) of the Taxation Administration Act. It is sufficient for an institution's constitution to contain similar words that have the same effect'.

**Date of effect**

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21. This public ruling takes effect from 3 April 2025.

Simon McKee  
Commissioner of State Revenue  
Date of issue: 10 April 2025

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<sup>13</sup> [Public ruling TAA149C.1](#)

<sup>14</sup> 'Institution' ordinarily includes a statutory body.

<sup>15</sup> 'Constitution' is defined in s.149C(6) of the Taxation Administration Act to include a law.

## References

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Public Ruling	Issued	Dates of effect	
		From	To
TAA149C.4.1	10 April 2025	3 April 2025	Current