



DEATH AND TAXES, FICTION AND FACT

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Benjamin Franklin is quoted as saying there is nothing in this world that can be said to be certain except death and taxes. Herman Wouk, a Pulitzer Prize recipient stood aside from the certainty of taxes when he wrote that income tax returns are the most imaginative fiction being written today.

However, there is nothing fictitious about the amendments to the *Taxation Administration Act 2001* (Qld) (**TAA**) (pronounced "ta", perhaps an unintended expression of thanks).

The TAA was amended on 30 October 2018 by the *Revenue and Other Legislation Authority Amendment Bill 2018 (Qld)* and makes it clear that Queensland charitable institutions should ensure that certain provisions are expressly stated in their governing documents to be eligible for exemptions from state taxes and duties.

Of course, this should not prompt immediate panic because there is a transition period to get the house in order. The transition period ends on 9 November 2020.

The Office of State Revenue has also published some public rulings and it is time for charities to review their constituent documents and obtain legal advice if unclear about the ramifications of the changes to the law and whether documents comply.

Some important things to remember are:

- income and property must be used solely for promoting the objects of the charity;
- members cannot receive benefits, bonuses or dividends;
- when the charity is dissolved, the charity's assets must be transferred to another institution eligible for registration or which has charitable objects or promotes public good.

Revenue rulings help to determine relevant qualifications of registration as a charitable institution and wording that is required. For example, the Australian Charities and Not For Profits Commission template rules for a charitable unincorporated association will satisfy requirements.

In the ACPNS Working Paper No. 65, published with data correct at 31 October 2014, there were over 8,000 charities in Queensland making approximately 18% of total Australian charities. No doubt the number will have increased since then.

Not all charities are established in the same way. Some charities are incorporated associations regulated by Queensland law as well as the ACNC. Other charities may be companies limited by guarantee, regulated by their constitution, the Corporations Act and the ACNC.

If you need guidance on these matters, contact:

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Our lawyers understand and support charities:

- Stuart Rees co-founded the Sporting Hasbeens 25 years ago and in that time he has worked at raising much-needed funds for the registered charity Backstop Inc. dedicated to supporting respite care to disabled sportsmen and women.
- Michael Byrom is a board member of the Chain Reaction Challenge Foundation, a registered charity supporting children in need.
- We act for not-for-profit and charitable organisations.