

Currently religious organisations receive tax-exempt status because advancing religion is presumed to be of public benefit within the Charities Act 2013... Religious organisations are also exempt from standard accounting and record-keeping obligations. – **Australian Sex Party website**, June 2016.

The Australian Sex Party is fielding candidates for seats in both the House of Representatives and the Senate in the 2016 federal election. Under one of the policy headings on its website, “[Religious Tax Exemption](#)”, it says religious organisations receive tax-exempt status due to the public benefit presumed to be derived from the advancement of religion, and that religious organisations are exempt from standard accounting and record-keeping obligations.

Is that right?

## Checking the source

We asked the Australian Sex Party for the source of its statements but it did not get back to us before publication. But it is possible to test the statements against current Australian legislation.

## Are religious organisations tax-exempt?

Yes. Religious organisations have always been tax-exempt in Australia. This includes large bodies such as the Anglican and Catholic Churches, through to smaller ones such as the Church of Scientology, Seventh Day Adventist Church, and the Exclusive Bretheren.

This is explicit under the [Charities Act 2013](#). It defines a charity as “a not-for-profit entity” – which can’t be an individual, a political party or a government entity – with one of the following 12 “charitable purposes”:

a) advancing health; b) advancing education; c) advancing social or public welfare; d) advancing religion; e) advancing culture; f) promoting reconciliation, mutual respect and

tolerance between groups of individuals that are in Australia; g) promoting or protecting human rights; h) advancing the security or safety of Australia or the Australian public; i) preventing or relieving the suffering of animals; j) advancing the natural environment; k) any other purpose beneficial to the general public that may reasonably be regarded as analogous to, or within the spirit of, any of the purposes mentioned in paragraphs a) to j); (l) the purpose of promoting or opposing a change to any matter established by law, policy or practice in the Commonwealth, a State, a Territory or another country...

But it's slightly more complicated when it comes to how some religious bodies have to report their finances.

### What are “basic religious organisations”? And how much do they have to report?

A [basic religious organisation](#) is a special sub-group of charities, for instance individual parishes, that exist for the purpose of advancing religion.

Until a few years ago, there was no statutory financial requirement for any charity to publicly report on its finances. But in 2012, the then Labor government [established](#) a national regulator of charities, the Australian Charities and Not-for-profits Commission ([ACNC](#)).

The ACNC has brought accountability and transparency to the non-for-profit sector. Since then, a reporting regime has been phased in but some smaller charities – notably basic religious organisations – remain exempt from financial reporting obligations.

“Basic” religious charities [do not have to answer financial information questions](#) in annual information statements given to the ACNC, or submit annual financial reports to ACNC (regardless of its size), or comply with the ACNC governance standards.

Basic religious charities are the only type of charity to receive this level of exemption from reporting obligations. That is why small churches, such as local parishes, are exempt.

However, if the religious charity runs a school or accepts government grants or runs other fee-for-service operations then it *is* required to report. This is because it is capable of being registered for more than one charitable purpose and is thus not a *basic* charitable organisation.

The ACNC has been the subject of [opposition](#) by religious organisations, in particular by the Catholic Church, which [lobbied](#) the federal government to abolish the organisation as an unnecessary added bureaucracy.

The Australian Catholic Bishops Conference, in its [submission \(number 76\)](#) in favour of a 2014 bill that was intended to abolish the ACNC, argued that the body placed an unreasonable burden upon the church and its associated organisations. These, also covered in a separate [submission \(number 58\)](#) in favour of the same bill by Catholic Health Australia, include hospitals and aged care. However, in March 2016, after extensive consultation, the government [announced](#) it would retain the ACNC.

## Reporting by charities

Even when charities report their data, what is provided is often inconsistent. The ACNC [acknowledges](#) this in a section on its website under the subheading [Presentation of financial reports](#) :

All charities have to prepare their financial reports in accordance with Australian Accounting Standards and present a true and fair view. However, the way one charity presents information in a financial report may be different from how another charity presents its information. As long as it is a true and fair view this is acceptable.

Charity finance staff and their advisers use their professional judgement to decide how accounts are treated and financial reports are prepared. For example, a charity may provide a detailed breakdown of expenses (such as ‘stationary expenses’) whereas another charity may include

smaller items (such as stationary) as part of 'other expenses'. The way charities allocate and classify costs can also vary quite significantly. For example, some charities may focus on program allocation of costs but other charities may group costs according to their nature (such as 'employee expenses', 'administration' and so on).

To date the reporting of financial statements remains inconsistent in presentation. A [2014 study](#) found "a lack of comparability and inconsistencies in financial reporting disclosures relating to fundraising revenues and expenses" among Australian non-profits. Despite Australian accounting standards providing an overall framework for the preparation of annual financial statements, [the study's](#) analysis of 13 award-winning annual reports from charities revealed a wide variation in terms:

Eleven [reports] had 34 different terms or combinations of terms to describe fundraising income and expenses, as well as other issues which thwarted any attempt at meaningful comparison.

But without the ACNC we would know nothing at all about happenings in the sector. Some data is better than no data. Each year since 2012, reporting is becoming more robust and standardised.

In any case, there is now a standard charter of accounts. The vast majority of charities submit financial reports and provide a reporting framework in the form of a standard charter of accounts. Because of the ACNC the public can now [view financial information](#) for 2014 from almost 23,000 Australian charities. We have even had a better picture of the number, types and activities of Australian not-for-profits.

## Verdict

The Australian Sex Party is correct on both claims. Religious organisations do receive tax-exempt status. And "basic" religious organisations do remain exempt from standard accounting and record-keeping obligations.

However, many Australians wouldn't know what a "basic" religious organisation is, so that's important to clarify. Large faith-based organisations, such as Anglicare or Catholic schools, are not considered "basic religious charities"; it's more likely to be a small church or local parish. And what's also not clear from the Australian Sex Party's website is that public reporting in this sector has improved greatly since 2012, when a national charities regulator was set up.

The Party's [argument](#) that religious charities are not *entitled* to tax exemptions because advancing religion is not a charitable cause is a subjective position, rather than a statement that can be fact checked.

– **Bronwen**

**Dalton**

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## Review

I agree with the author's verdict on the Australian Sex Party's claims.

It is true that a not-for-profit entity that has the purpose of "advancing religion" falls within the definition of charity in the Charities Act. This was also the case before the introduction of the Act. In fact, such organisations have been tax exempt since the introduction of income tax in 1915. The courts take a broad view of "religion", so it is not just the large, well-known religions that benefit, but also smaller or more marginal religious entities.

The presumption of public benefit is also of long standing but the Charities Act does indicate that the presumption can be rebutted by evidence to the contrary, so presumably evidence of harmful practices might indicate the entity is not entitled to be registered as a charity (and so not entitled to tax concessions).

In relation to basic religious entities it is also worth noting that entities with income of less than \$250,000 per annum do not have to provide detailed financial information to the ACNC and many parishes etc would also be covered by these tiered reporting requirements.

Finally, I would note that the ACNC has released a report based on data collected from the first couple of years of reporting requirements and this provides very useful analysis of the charitable

sector generally. I agree with the author that the information gathered by the ACNC is a valuable resource and the greater transparency is also of benefit to the sector, as it will increase public confidence in it. – **Ann O'Connell**

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