

Tax implications of conservation covenants

Land that is protected with a conservation covenant through Trust for Nature may have different tax benefits or liabilities compared with land not protected by a covenant. This information sheet provides an overview of taxation issues that may be relevant for landholders with covenants.

The information in this brochure is general in nature and is intended as a guide only. You should always obtain your own legal, financial and taxation advice suited to your particular circumstances before making any decision. Trust for Nature accepts no responsibility for any actions taken in reliance on information in this brochure.

Victorian tax laws

Land Tax

All landholders with a Trust for Nature covenant are eligible to apply for a land tax exemption over the proportion of their land under covenant. Any part of the land that is not covenanted will retain its existing land tax liability (noting that not all land uses are liable for land tax).

To apply for the exemption, landholders need to provide the State Revenue Office with:

- customer number
- property address which relates to the covenant
- details of what the land is used for, e.g. your home, primary production land. If it is used for more than one activity, please include all activities.
- a copy of the registered deed of covenant entered into with Trust for Nature
- if possible, a recent title search confirming the presence of the registered covenant
- date of commencement of the covenant

Applications can be submitted online through My Land Tax (sro.vic.gov.au/my-land-tax), by contacting the State Revenue Office online or by writing to:

State Revenue Office
GPO Box 1641
Melbourne, VIC, 3001

More information is available at trustfornature.org.au/resources/tax-information-for-landholders

Council rates

Around one third of rural and regional councils provide rate rebates or discounts to landowners with a Trust for Nature covenant. Landholders can check with their local Council to see whether a rebate is provided in their municipality, or see trustfornature.org.au/resources/council-rebates-for-covenants

The Australian Valuation Property Classification Code (AVPCC) applied by municipal valuers to land with a covenant may influence how land is classified for rating and other land-based taxation purposes. If the AVPCC does not seem accurate for the land use, landholders can get in touch with their local Council to check the accuracy of the classification.

Other pathways for land tax and rates remission

The *Victorian Conservation Trust Act 1972* provides that Trust for Nature may make a report to its responsible Minister if it appears to the Trust that the preservation of the covenanted land in its natural state is not economically feasible and that such preservation is thereby endangered. On receiving this report, the Minister may take steps to make an order remitting all or part of the land tax and council rates payable by the owner in respect of the land. Please contact Trust for Nature if you would like further information about this pathway.

Commonwealth tax laws

Commonwealth tax laws cover areas such as income tax, capital gains tax (CGT), goods and services tax (GST), fringe benefits tax, tax offsets, tax deductions, capital allowances (akin to depreciation), and the Australian Carbon Credit Unit (ACCU) Scheme.

Income tax

What is likely to be treated as ordinary income for tax purposes?

Any payments a landholder receives under an agreement for managing land (for example, for identified conservation purposes) will be treated as ordinary income. These may be received in periodic payments, such as annual payments, or periodically in performance of parts of an agreement.

Can I receive an income tax deduction for entering into a Trust for Nature covenant?

To qualify for an income tax deduction for entering a conservation covenant you must meet various conditions, including:

- You must not receive money, property or any **other material benefit** for entering the covenant;
- The market value of your land must decrease as a result;
- The decrease in the market value of the land must be more than \$5,000 or you must have acquired the land not more than 12 months before entering the covenant.

You may claim an **eligible deduction** for a conservation covenant in the tax return for the year in which you entered the covenant. You must lodge a request for valuation with the ATO.

There may also be additional conditions which must be met in order to claim the deduction. Further information may be found at the [ATO website](#).

Landcare operations

'Landcare operations' are generally activities that combat land degradation, which include the types of activities frequently funded under environmental market programs. This may include erecting a fence to separate different land classes in accordance with an 'approved land management plan', control of invasive species, and revegetation used to combat salinity or erosion. Deductions relating to landcare operations may be available to landowners involved in primary production or taxpayers managing rural land for the purposes of producing assessable income (except the business of mining or quarrying).

Trust for Nature (Victoria)

5/379 Collins Street Melbourne Victoria 3000
+61 (0)3 8631 5888
Freecall 1800 999 933
ABN 60 292 993 543

trustfornature.org.au

Environmental market and incentive schemes

Environmental market schemes include offsets, the Australian Carbon Credit Units (ACCU) Scheme or the Nature Repair Market. If a landholder is participating in one of these schemes as a result of, or in addition to, covenanting, there may be taxation implications. Incentive schemes include stewardship payments that support permanent protection of conservation land.

Can I receive any income tax deductions from my participation in an environmental market scheme?

Income tax deductions may be available to landholders for expenses associated with entering into an environmental market agreement and for performing management actions. Income tax deductions may not be available if the amount derived by the landholder is a capital gain and not ordinary income, and the landholder is not carrying on a commercial business on the land. However, in an offset scheme the landholder may be able to include their expenses in the cost base of their credits for capital gains tax (CGT) purposes.

Preparing annual profit and loss statements for land-based activities regardless of whether or not the landholder is a primary producer, or carrying on a commercial business, may be helpful in dealing with these issues now and into the future.

Do I need to register for Goods and Services Tax (GST) if I enter into a market or incentive scheme?

Landholders may need to register for GST as a result of entering into an environmental market or incentive scheme. The creation of offset or biodiversity credits on entering into the agreement, the sale of credits and the receipt of annual payments may involve a GST liability for landowners who are registered for GST. Landowners who are registered for GST may also be able to claim input tax credits on the acquisition of goods or services when performing management activities.

Will I be liable for Capital Gains Tax if I participate in an environmental scheme?

The entry into a conservation covenant under an environmental scheme where the landholder receives payments (such as for an offset covenant) is likely to have CGT implications. These consequences are likely to arise at the time the agreement is entered into. A CGT exemption may apply where payments are subject to income tax assessment as ordinary income; or if the land was acquired before 1985. A deduction may apply where the land has been owned for at least 12 months before the covenant was entered into; or if the small business CGT concession applies.

How are Australian Carbon Credit Units taxed?

Under the Income Tax Assessment Act ([Div 420](#)), the cost of acquiring ACCUs may be deductible (with some exclusions), the proceeds of disposing of ACCUs may be assessable, and any increase or decrease in the value of ACCUs in an income year may be assessable or deductible. Further, it may be possible to claim **deductions** for capital expenditure for establishing trees as a 'carbon sink forest', if the landholder is carrying on a business.