School Property
Tips & traps for using school land

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Agenda

1. Property taxes you should not be paying
2. Leasing property for school use
3. Buying property for school use
4. Hiring arrangements - letting others use school facilities

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Key messages

Education is usually ‘charitable’, exempt from property taxes

Some exemptions don’t come automatically – you have to ask

All exemptions come with strings attached

Non-education use of school facilities can put exemptions at risk

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Property taxes you should not be paying

Stamp duty

- Exemption for an entity that exists for ‘religious, charitable or educational purposes’.
- Depends on your purpose but SRO will ask about your activity.

Council rates

- Exemption for any part of land ‘used exclusively for charitable purposes’.
- Depends on your purpose AND your activity.

Land tax

- Exemption for land used and occupied by a charity exclusively for a charitable purpose.
- Depends on your purpose AND your activity.
- Exemption can also be given for land which is vacant but held for future charitable use.

Windfall Gains Tax

- WGT payable within 30 years of WGT event.
- Exemption for land owned and used by charity exclusively for charitable purposes for next 15 years.

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Leasing property for school use

Some property tax exemptions can still apply

- Council rates – ‘used exclusively for charitable purposes’.
- Land tax – ‘used and occupied by a charity, exclusively for charitable purposes’.

You are not an everyday tenant

- Standard form leases are not made for schools – don’t sign them without checking.
- School property can be ‘retail premises’.
- Your directors don’t want to give personal guarantees.

Related-party leases must comply with the ‘not-for-profit’ requirements

- Must not be a ‘prohibited arrangement’.
- Get rental valuation and instruct your valuer properly.
- Don’t pay rent for assets built at school cost.
- Keep your key information about school buildings.

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Buying property for school use

There are multiple ways to secure property

- Right of first refusal
- Right of first and last refusal
- Option to purchase (call option)
- Contract of sale
- Lease with option
- Lease with right of first/last refusal

Some property tax exemptions come immediately, others may not

- Duty exemption – on settlement
- Land tax and rates – when school use commences
- Don’t just “sit” on property – you might pay VRLT.

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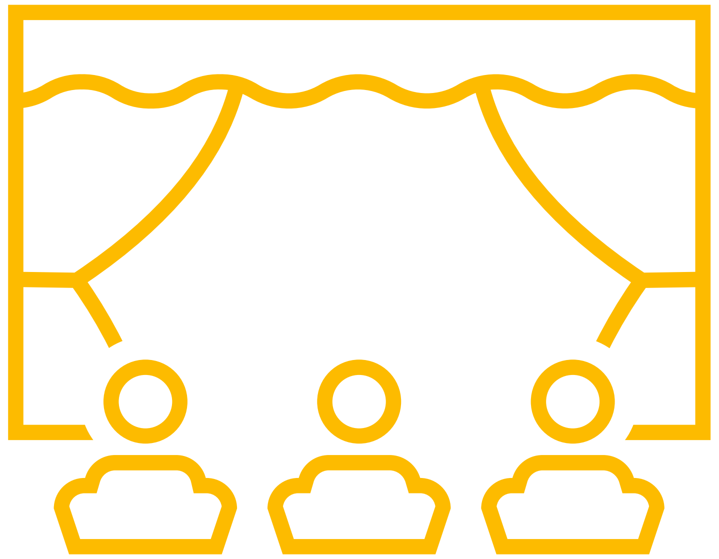
Hiring – letting others use school facilities

Purpose matters

- Third parties that are charitable are fine (churches, other schools, etc).



Activity matters

- Third party school program providers are part of school activities.
  eg, contracted school counsellor, canteen operator.
- Unrelated use by third parties can disrupt your use and occupation.
  eg, local fitness club, music group.
- Can impact land tax, council rates and WGT.

A hire agreement is a very useful thing

- Deal with the practicalities.
- Deal with the legalities.

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Questions?

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