

## **GST, FBT and Tax Guidelines for Churches**

**An overview of some New Zealand taxation provisions,  
as applying to registered Charities and Churches**

**August 2017**

## **Charitable status**

Charitable status is initially determined by Charities Services (formerly the Charities Commission) under the Charities Act 2005.

While registration as a charitable entity does not mean automatic donee status, Inland Revenue will automatically consider whether it should be granted. Most churches do hold donee status and are registered with Charities Services.

If a church is **not** registered with Charities Services, it will **not** have charitable status. The church will therefore not have tax exempt status and could be liable for income tax, fringe benefit tax, resident withholding tax, etc. If operating under a Trust, the church would be liable for income tax at the rate for Trustees.

On the advent of the new Accounting Standards regime in April 2015, to reduce compliance requirements some national groups have devolved registrations back to individual parishes, which are more likely to fall into the Tier 3 or 4 brackets (annual expenditure between \$40,000 and \$2 million).

**More information can be found on the Charities Services website.**

## **Deregistration from Charities Register**

Difficulties can arise in the event of de-registration of an entity, whether deliberate or otherwise.

There is a grace period of 12 months, during which all assets should be distributed to another charity or parish. If not done within this timeframe, there are serious tax implications as the parish/charitable entity will be liable to be taxed retrospectively on the net value of its assets as income. This could prove expensive for the church.

Churches are advised to monitor the Charities Services register for entities within their organisation that have been de-registered.

## **Donee status**

Donee status is approved by the Inland Revenue and governed by the *Income Tax Act 2007*. A donee organisation means an entity whose funds are applied wholly or mainly to charitable, benevolent, philanthropic, or cultural purposes within New Zealand and whose activities are not carried on for the private pecuniary profit of an individual.

Donee status enables the donee organisation to issue receipts for donations of \$5 or more to parishioners/donors to claim donation tax credits from the IRD. For a church or parish to comply with the requirements of the Income Tax Act, the accounting records must be able to establish the source of the donations and how these donations have been applied.

Charities that mainly apply their funds outside New Zealand must be separately approved for donee status by Parliament. They may then be listed on Schedule 32 of the Income Tax Act 2007, enabling them to issue donations receipts.

Donee status may be conferred by the Inland Revenue regardless of whether the entity is registered as charitable. A church or parish may therefore hold donee status even if it is not registered with Charities Services.

(Please see the IRD booklet, IR 255 Charitable and donee organisations, for additional guidance).

Donation rebates are given for gifts of money only.

The Inland Revenue considers a “gift” to be a payment of money of \$5 or more:

- made voluntarily,
- by way of benefaction, and
- in return for which, the donor receives no material benefit or advantage.

The Inland Revenue considers that a payment will not be a gift where:

- it is made in return for a material benefit or advantage, or
- the donee organisation is placed under a material obligation to do or provide something in return for the payment.

Sometimes gifts are paid to a church for a specific purpose or project. The fact that an organisation seeks donations for a specific project will not, in itself, prevent the payment being a gift so long as the payment has the attributes of a gift and there is no material benefit or advantage provided in return for the payment.

For more details refer to the Inland Revenue website ([www.ird.govt.nz](http://www.ird.govt.nz)) under “Questions we have been asked QB 16/05 Donee Organisations and Gifts”.

### **Donee tax receipts**

The Inland Revenue requires that a donee tax receipt:

- includes the donor's full name
- is officially stamped with the name or branch of the donee organisation
- clearly shows that it's a donation and the amount
- shows the date the donation was received
- is signed by a person authorised to accept donations, and
- preferably includes the donee's organisation's IRD number and/or Charities Services registration number.

### ***Overseas Gifting***

The Income Tax Act requires that donee organisations (not listed on Schedule 32) use their funds **‘wholly or mainly** for charitable, benevolent, philanthropic purposes **within New Zealand’**. Currently it is considered that the funds going overseas must always, in total, be less than 50% of the parish's total expenditure although the Inland Revenue is reviewing this percentage.

A donor can make **an eligible donation** to the parish which is a registered donee organisation even if a portion of the parish funds are spent supporting overseas and other causes outside the parish. The parish administrator needs to ensure that the use of its funds does not breach the overseas funds threshold for donee organisations.

No tax credit claims can be made for ‘conduit’ or ‘pass through’ donations, where the parish collects donations for another entity which does not qualify as a donee organisation (e.g. mission or overseas organisations not on Schedule 32).

In certain circumstances ‘conduit’ or ‘pass through’ donations can be collected where the recipient organisation is an approved donee organisation and the donor will receive a donation receipt directly from the entity, e.g. where funds are passed on to TEAR Fund which is then given a list of donors and asked to issue receipts directly to those donors. If the parish issues an acknowledgment for such a donation, the acknowledgement cannot also be used to claim a tax credit.

## **Fringe Benefit Tax**

Charitable or donee organisations are generally exempt from paying FBT on non-cash benefits provided to employees while they are carrying out the organisation's charitable activities. For example, if an employee has the use of a car while mainly carrying out charitable work for an organisation, any private benefit arising isn't subject to FBT.

The FBT exemption does not apply to:

- certain short-term charge facilities provided to employees of a charitable organisation, or
- fringe benefits provided to employees mainly in connection with their employment in a business that is outside an organisation's charitable, benevolent, cultural or philanthropic purposes.

A recent Inland Revenue ruling (PR Pub17/06) sets out examples of what is considered to be a business within or outside of an organisation's charitable, benevolent, cultural or philanthropic purposes.

### ***Short-term Charge Facilities***

Short-term charge facilities include arrangements with the provision of credit cards, charge cards, prezzie cards, vouchers, hire and similar arrangements where the employer provides some or all of the consideration for the goods or services acquired. It does not apply to employment related loans.

A fringe benefit will arise if the aggregate value of the short-term charge facility benefits provided by the charitable organisation to the employee in a tax year is more than the lesser of:

- 5% of the employee's gross salary or wages for the tax year, or
- \$1,200.

### ***Examples of Fringe Benefits***

Examples of benefits that would be a fringe benefit where provided to an employee working mainly in the charity's business outside the organisation's benevolent, charitable, cultural or philanthropic purposes are:

- availability of a car for private use ;
- low-interest loans;
- subsidised transport;
- goods or services supplied below market cost (subject to exemption for low value benefits);  
or
- employer contributions to sickness, accident and death benefit funds.

FBT could also apply where a charitable employer is running a business outside of its charitable purpose and has entered into certain arrangements through which goods are provided to an employee of this business at a discount by an unrelated person.

In accordance with public ruling (PR Pub17/06) on "Charitable and Other Donee Organisations and Fringe Benefit Tax" a charitable organisations may need to apportion fringe benefits where employees are engaged in business activities both inside and outside the organisation's benevolent, charitable, cultural, or philanthropic purposes.

For the current Inland Revenue FBT guide or for the ruling PR Pub17/06 go to [www.ird.govt.nz](http://www.ird.govt.nz) (search keywords: FBT guide or FBT rulings).

## **GST**

Church entities can voluntarily register for GST. However, if your charitable organisation or church runs a taxable activity with an annual turnover (total income before expenses) of \$60,000 or more, it must register for GST. Registration remains voluntary for organisations with turnover under this figure.

When a church entity is GST registered, its principal taxable activity should be considered to be the “the provision of religious services and care for the community”.

*This is an activity that should be carried on continuously and regularly by the church.*

### **Outputs and Inputs**

#### ***Output tax = GST on supplies you make to others***

In order to voluntarily register for GST, and to continue to be eligible to be GST registered, a church or parish **needs to ensure its activities include, or are intended to include, the regular supply of goods and services on which GST is payable.**

These supplies of goods or services (outputs) should be part of the church’s *continuous and regular* activity of “provision of religious services and care for the community”. This could include (but is not limited to); selling tickets to an annual conference or regular church women’s or men’s event, selling resources, charging a fee for a community service you regularly provide, renting/leasing the church building or hall to a third party, the sale of Christmas cards, Christian publications, wedding or funeral ‘fees’, camp charges or any other taxable activity you currently undertake.

The supply of donated gifts or services by a non-profit body, such as a church, is exempt from GST and no GST is payable on these supplies. Donated goods and services are goods and services which are gifted to the church and intended for use in the carrying on the purposes of the church.

Once the church is GST registered, GST is payable on the sale of any goods or services excluding any donated goods and services. This would include the sale of goods that have been purchased for a church fair. GST input tax can be claimed on these purchases.

It is possible that the payment received by a church is not only for the goods or services received, e.g. payments from church families for weddings or funerals could also include a cash donation. If the payer wants to receive a tax credit for the donation, separate payments should be made for the services provided and for the donation. A donation receipt should then be issued in the normal manner.

You should ensure that GST is added to or included in the sale or hire of goods and services.

GST returns will be required to be filed by the registered entity, (parish, social service organisation, etc.), including the GST on the outputs and inputs e.g. the purchase of goods and services. The IRD will refund the GST where the GST inputs on the purchase of goods and services exceed the outputs. Otherwise, a GST payment will be required.

If your church or church trust is not making any taxable supplies (i.e. not ‘selling’ anything that has a GST component) then you need to discuss with your local accountant whether you should or should not be registered for GST.

*NB: If you do not have some continuous or regular outputs, the IRD may ask questions and possibly remove your GST status.*

#### ***Inputs***

For a non-profit body all GST (input tax) is claimable, **except** for the GST on the goods or services used for making exempt supplies such as:

- the supply of a vicarage/manse, as it is a private dwelling. There is no GST output tax on any vicarage/manse rental received;
- the supply of donated goods; or
- the supply of donated services.

Input tax can only be claimed where a valid tax invoice is held or where the goods are secondhand goods acquired in New Zealand from an unregistered person.

### **Property and GST**

The GST implications of the sale of a church entity's properties must be carefully considered where the church entity is GST registered.

The sale of land and buildings by a GST registered church entity is a zero rated where the supply:

- is made to another registered person,
- the recipient acquires the land and buildings with the intention of using them for making taxable supplies, and
- they are not intended to be used as a principal place of residence by the recipient or any associated persons.

To be a zero-rated supply, the above conditions for zero-rating must be satisfied at the time of settlement of the transaction. If any of these conditions are not satisfied at the time of settlement, 15% GST would be payable on the sale by the church.

An exception to this GST treatment is where the land or building has been gifted to the church. The subsequent sale of property that has been donated to the church is an exempt supply for GST purposes.

### **Deregistration for GST**

A GST registered church entity may voluntarily deregister for GST purposes where the value of its taxable supplies is expected to be less than \$60,000 over the next 12 months. The Commissioner of Inland Revenue is also able to cancel an entity's GST registration where satisfied that the registered entity is not carrying on a taxable activity.

GST costs can arise on deregistration for GST due to the GST payable on the deemed sale of any assets held at the date of deregistration.

Immediately prior to the date an entity's GST registration is cancelled, there is a deemed supply of any goods and services forming part of the assets of a taxable activity carried on by that entity. GST is payable on the value of the assets held. If the assets were acquired prior to 1 October 1986, the assets are deemed to be valued at the lower of market value or cost. The deemed sale arising on deregistration for GST of property that has been donated to the church should still be an exempt supply for GST purposes.

Please note that we understand that the Inland Revenue is currently considering the GST issues arising on deregistration of a non-profit body for GST purposes.

**Cautionary Note:**

In registering for GST you are moving all the church's property including any 'religious purposes' assets (excluding the vicarage) into the GST net. You cannot claim input tax for these assets, but you must return output tax on assets retained when (or if) you ever deregister. Deciding to register and then changing your mind a year or two later and deregistering can be a very expensive exercise! In registering you are committing your church to staying registered (and doing the paper work) until your parish is deregistered or wound up and sold.

A handwritten signature in blue ink that reads "CBethwaite". The signature is written in a cursive style with a large initial "C".

Chris Bethwaite

**Chair**

InterChurch Bureau

August 2017

*Disclaimer: This material is provided for information purposes by the InterChurch Bureau. It is not a substitute for commercial judgement or professional advice, which should be sought prior to acting in reliance on it. To the extent permitted by law the InterChurch Bureau disclaims liability and responsibility to any person for any loss or damage that may result from any act or omission by any person in relation to this material.*