

Inter Church Working Party on Taxation communication regarding IRD Donee Status



INTER CHURCH
WORKING PARTY
ON TAXATION

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IRD Donee Status and Registration with Charities Services

Some Guidelines for Churches

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

Donee status may be conferred by the IRD Commissioner regardless of whether the entity is registered as charitable. (Please see the IRD booklet, *IR 255 Charitable and donee organisations*, for additional guidance). A church or parish may hold donee status, even if it is not registered with Charities Services.

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 it is wise to have a clear audit trail, tracking cash coming in, being banked, the deposit allocated to the donor, and the donation receipt adding back to the ledger held by the parish. Donation rebates are given for gifts of money only.

Charitable status is separate and determined by Charities Services (formerly the Charities Commission) under the Charities Act 2005. Generally charities that were donee organisations prior to the Charities Act retained their donee status, even if they did not register with the Charities Commission.

Registration as a charitable entity does not mean automatic donee status, but the IRD will automatically consider whether it should be granted. Approval is usually given if most income is

from donations and the funds are used within New Zealand. Charities that mainly apply their funds outside New Zealand must be separately approved for donee status by Parliament.

Most churches hold donee status and are registered with Charities Services. Some churches initially registered as national entities, others as parish units. With the advent of the new Accounting Standards regime, as set by the External Reporting Board, to reduce compliance requirements most of those who registered as a national group have devolved single body registrations back to individual parishes. This means entities are more likely to fall into the Tier 3 or 4 bracket (annual expenditure between \$40,000 and \$2 million), and ward off requirement for audit and consequential large compliance costs. The new regime applies from 1 April 2015. More information can be found on the Charities Services website.

Benefits of charitable status

Tax exempt status

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

Fringe Benefit Tax

FBT did not initially apply to charities but this was reconsidered in the late 1990s. However, following submission by the churches and other charities, the government decided to retain the original FBT exemption for charities.

Please note that charitable organisations are liable for FBT to the extent that any fringe benefits are provided to an employee carrying on the charitable organisation's business activities that are outside its benevolent, charitable, cultural or philanthropic purposes.

In addition FBT applies to charities on the provision to an employee of short-term charge facilities, if the facilities provided to the employee exceed the lesser of \$1,200 or 5% of the employee's salary or wages. A short-term charge facility is an arrangement that enables an employee of a charitable organisation to obtain goods or services that have no connection with the organisation or its operations and where part, or all, of the liability for the goods or services is paid by the organisation, e.g. voucher schemes.

GST

If the value of the supplies (on which GST applies) of your entity exceeds \$60,000 the entity is required to be registered for GST. If you are registered for GST, it is important to have some outputs or you will find the IRD is inclined to ask questions and possibly remove your GST status.

GST does not apply to freewill gifts and donations to the church or parish.

A charity can voluntarily register for GST. Once GST registered Charities need to ensure that GST is added to or included in the sale or hire of goods and services, and collect and account for GST to the

IRD. This can apply to the sale of Christmas cards, Christian publications, etc. GST returns can then be made by each entity, (parish, social service organisation etc.), including the GST on 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.

Non-profit bodies are able to claim input tax on all goods and services (subject to documentation requirements) **other than those relating to exempt supplies**. Exempt supplies include the provision of domestic accommodation (e.g. clergy housing) and the sale of donated goods and services (e.g. charity shops selling donated clothing).

Deregistration from Charities Register

Difficulties can arise in the event of de-registration of an entity, whether deliberate or otherwise. If a charity is deregistered, it has a duty to notify Charities Services. There is a grace period of 12 months, during which all assets should be distributed to another charity or parish. If this is 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.

Clergy Housing Tax Provision

In 2014 the long-standing tax concession for housing provided to ministers of religion was formalised in the *Income Tax Act 2007*. Section CE 1 E, of the Act applies where clergy accommodation is an integral part of performing their duties and provides that the taxable benefit is calculated as:

$$\text{remuneration} \times (1 - \text{adjustment}) + \text{excess rental}$$

Remuneration is the amount that equals 10% of the stipend or salary a minister receives for the performance of their duties. *Adjustment* is the part of value of the accommodation apportioned to work-related use, which is wholly or mainly used for work or parish purposes.

Please refer to the separate ICWPT booklet, *The Taxation of Housing for Ministers of Religion*, published February 2015, for more information on taxation and Clergy housing.

RWT and Charities

Financial institutions and other interest payers are required to deduct RWT from the payments of interest unless the recipient has provided a RWT exemption certificate. IRD will issue a certificate of exemption from RWT to a charitable entity registered with Charities Services.

Please note

As New Zealand now has a more generous donations tax credit environment it is likely that the IRD will take an increasing interest in the annual accounts lodged with Charities Services. As public information, returns filed by the churches with Charities Services are also likely to attract increasing media attention. If there is a perception that part of a charity's income is business income, the IRD may well look more closely at revenue matters.

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