



# Presbyterian Church of Aotearoa New Zealand

## FINANCE NEWSLETTER 172

**TO:** Parish Treasurers, Presbytery and Parish clerks  
**FROM:** Brendan Sweeney, Manager, Financial Services  
**DATE:** 31 March 2015

<b>1.</b>	<b>Update's from accounting standards presentations</b> <ul style="list-style-type: none"><li>a) The personal liability of church session members who sign the Charities Services application and self – certification forms.</li><li>b) The level of detail required in the Analysis of Statement of Financial Performance and Position reports.</li><li>c) Charities Services notification of charitable status.</li><li>d) Quantification of volunteer input</li><li>e) The charitable status of Presbyterian Women Aotearoa New Zealand</li><li>f) The payment of the ministers contribution to the Beneficiary Fund when using Thankyou Payroll</li><li>g) New Zealand registered charities</li></ul>
<b>2.</b>	<b>ICWPT Guideline regarding IRD Donee status and Charities Services Registration</b>
<b>3.</b>	<b>Police Checks</b>

### **1. Update's from accounting standards presentations**

Thank you to the 800 or so people who attended the 26 seminars on accounting standards and charities registration, held throughout New Zealand over the past few weeks. There is a final meeting planned in Whangarei in a few weeks time, and that will complete the roadshow. The meetings have been well attended and I get the sense that most churches will be able to register for charitable status by the June 30 deadline, and adapt to the implementation of accounting standards for tier three and four public benefit entities.

This is an update on some points that have been raised that I was not able to clarify at the meetings. Note these seven points are changes, corrections and clarifications I have at this time and if anything further comes to my attention, you will be advised in future newsletters.

**a) The personal liability of church session members who sign the Charities Services application and self – certification forms.**

This question has arisen several times and I have taken advice (attached, appendix 1) from Charities Law ( [www.charitieslaw.co](http://www.charitieslaw.co)) as to any additional personal liability attaching to officers who sign the application for registration and officer certification forms. Potential additional liability arising from registration for the most part rests with the church as the charitable entity in terms of potential fines or de-registration for repeated non-compliance with charities services requirements of:

- Duty to notify changes
- Duty to prepare annual returns
- Duty to assist
- Duty to supply registration number
- Other matters that may constitute grounds for registration

Please refer to the highlighted part of the document associated with the preparation of annual accounts (reproduced):

***The charitable entity and every officer commits an offence punishable by a fine of up to \$50,000 if the financial statements fail to comply with an applicable financial reporting standard and the charitable entity or officer knows that at the time the annual return is filed.***

This should be considered in context of the reasons for and consequences of publication of insufficient or incorrect information. It refers to a deliberate and most likely repeated failure of the entity to comply with the standards financial or non-financial information published on the charities website, or the distorting of that information. In the absence of statutory audit or review requirements (for entities with operating expenditure below (\$1,000,000 and \$500,000 respectively), a best endeavours approach may be taken to the publication of reports. The prosecution of the entity or its offices is unlikely if that approach is taken.

Note that Statutory Liability insurance taken out by churches with Crombie Lockwood covers both the entity and individual officers and extends to inadvertent or alleged breaches of law, including the Financial Reporting Act. This cover is in addition to Office Bearers Liability policy which all presbyterian churches have and which indemnifies session for any alleged breaches of fiduciary duty.

**b) The level of detail required in the Analysis of Statement of Financial Performance and Position reports.**

I have been advised by the External Reporting Board that there is flexibility in the level of detail required in the analysis reports that are required in the notes to accounts for both Tier 3 and Tier 4 reporting).

For example, the Tier 3 Statement of Financial Performance is a summary report requires a revenue line of "Offerings". The notes to accounts requires an "Analysis of Revenue" that asks for detail to support the offerings entry. I have suggested the analysis may include envelope offering, special offerings and fundraising. If this is appropriate, use this breakdown. However if your general ledger has 15 or 20 revenue lines that make up offerings, you don't have to report each line decide on a level of detail that is helpful to the reader of the report.

**c) Charities Services notification of charitable status.**

Charities Services have advised that when a church's application for registration is approved, the primary contact named on the application form will be sent an automatic email with the following information:

- Charities Services number
- Username and password to access the Charities website to update financial information.

Note that contrary to what I have been advising in seminars, they do not issue registration certificates because the registration is public on the Charities Register, and any organisation that would require proof of registration can access the register.

Also note that you may request that an officer's identity remain anonymous, but it is their Charities Services decision.

**d) Quantification of volunteer input**

The quantification of volunteer input should be recorded as part of the non-financial information of the entity. The suggested measures could be number of volunteers at balance date, the total hours of volunteer input in the month prior to balance date.

I have advised that this information is required as part of the Entity Information report. It should actually be reported in the Statement of Service Performance, as output (description of volunteer work), and outcomes (quantification of volunteer work). As advised, this replicates information already required in the membership statistics form.

The Entity Information report does require information of the churches reliance on volunteers and donated goods and services, however the XRB guideline says that this information is limited to an overview of volunteer input and does not require quantification. The example they give is:

*“The entity relies on gifts of volunteer time and expertise to complete work in many essential roles such as national governance (boards and committees), fundraising administration and accounting”.*

#### **e) The charitable status of Presbyterian Women Aotearoa New Zealand**

I have been asked about the charitable status of Presbyterian Women groups associated with Presbyterian churches. Currently PWANZ groups are covered by the single PCANZ registration. Going forward the options are:

- for each of the 120 or so PWANZ groups affiliated with a Presbyterian church to have their activities noted and accounts consolidated with that of the church they are part of
- the consolidation of the accounts of each presbyterial (regional PWANZ groupings) under a single PWANZ registration.

These scenarios obviously create challenges for individual groups, presbyterials and for the national body. I am working with PWANZ and am advised that they are discussing the matter.

#### **f) The payment of the ministers contribution to the Beneficiary Fund when using Thankyou Payroll**

I have advised that Thankyou payroll as an accredited Inland Revenue agent will pay salary and stipend deductions on behalf of parishes. While that is correct for tax liabilities payable to IRD, it does not apply to ministers beneficiary fund contribution payable to AON. Should your church decide to utilise Thankyou payroll as a payroll agent, the process will be the return from them to you of the minister's contribution, and the continuation of the payment by direct debit from the church to AON.

### **g) New Zealand registered charities**

There are 26,800 registered charities in New Zealand, not 76,000. Sorry, my mistake.

## **2. Inter Church Working Party on Taxation communication on IRD donee status and registration with Charities Services**

Attached in appendix 2 is a communication from ICWPT, dated 18 March on church donee status and registration with Charities Services. It supports the messages I have been giving churches over the past month or so, and also provides an overview of churches charitable status with regards to Fringe Benefit Tax, Goods and Services Tax and tax on minister's housing allowances.

You may note the final paragraph regarding IRD monitoring of accounts lodged by churches on the Charities Services register, and on the potential for IRD and media attention on what may be perceived as business activity conducted by a church.

Please call me if there are any aspects of this communication you wish to discuss.

## **3. Police Checks**

As you may be aware the requirement for police checks on employees and others are processed by the police but requested via this office. I am advised that the Police vetting service is currently implementing a system upgrade, and is also experiencing a higher than normal volume of requests. This has resulted in delays in the processing of requests for police checks.

The police have asked for your patience in the processing of information and assure us they will get results to you as soon as possible. They, and we apologise for any inconvenience these delays may cause.

## **Appendix1: Charities Law advice on personal liability associated with charities registration (27 March 2015)**

### **Implications of signing the application for registration forms**

In order to apply for registration as a charitable entity, each parish must complete an application for registration form,<sup>1</sup> which must be signed by an officer of the entity. Also, each "officer" (as defined)<sup>2</sup> of the entity must sign an "officer certification form", certifying that they are qualified to be an officer of a charitable entity.

Obviously, the person signing each of these respective forms must be satisfied that they are correct in all respects before signing.

Once signed, and once the parish becomes registered as a charity under the Charities Act 2005, the Charities Act imposes obligations on the charity and on the officers of the charity. These are discussed below. Note that these obligations are additional to the obligations that already fall upon the officers of the respective charitable entities. For example, all officers are responsible for ensuring that the organisation is run in accordance with its rules and the general law.

<b>Additional obligations imposed by the Charities Act 2005:</b>	
1. Duty to notify changes	<p>If any of the following things about the registered charitable entity change, the change must be notified to the charities regulator within 3 months:</p> <ul style="list-style-type: none"><li>- Name, address for service, balance date, rules or purposes of the charitable entity;</li><li>- Any change in officers (whether as a result of an officer ceasing to hold office, the appointment of a new officer, or a change that disqualifies an officer from being an officer of a charitable entity)</li></ul> <p>Use the Notice of Change form: <a href="https://www.charities.govt.nz/im-a-registered-charity/update-charity-details/">https://www.charities.govt.nz/im-a-registered-charity/update-charity-details/</a>, unless the change can be notified in time in an annual return (discussed below). The penalty for failure to notify changes on time is \$100,<sup>3</sup> which is imposed on the charitable entity.</p>
2. Duty to prepare annual returns	<p>Every registered charitable entity must ensure that an annual return is completed, dated and signed on behalf of the entity, and sent to the charities regulator within 6 months after balance date. Use the annual return form: <a href="https://www.charities.govt.nz/im-a-registered-charity/annual-returns/">https://www.charities.govt.nz/im-a-registered-charity/annual-returns/</a>. A copy of the charity's financial statements must be attached. This information then becomes publicly available on the charities register.</p> <p>The penalty for failure to file an annual return on time is \$200,<sup>4</sup> which is imposed on the charitable entity. Failure to file annual returns can also lead the charities regulator to deregister the entity (which can have significant income tax and other consequences).</p>

<sup>1</sup><https://www.charities.govt.nz/apply-for-registration/apply-now/>.

<sup>2</sup><https://www.charities.govt.nz/apply-for-registration/considering-registering-as-a-charity/officers/>.

<sup>3</sup>See sections 40 and 58 of the Charities Act, and regulation 9(1) of the Charities (Fees and Other Matters) Regulations 2006.

<sup>4</sup>See sections 41 and 58 of the Charities Act, and regulation 9(2) of the Charities (Fees and Other Matters) Regulations 2006.

	<p>For accounting periods that commence on or after 1 April 2015, the financial statements accompanying the annual return must be prepared in accordance with financial reporting standards issued by the External Reporting Board. <b>The charitable entity and every officer commits an offence punishable by a fine of up to \$50,000 if the financial statements fail to comply with an applicable financial reporting standard and the charitable entity or officer knows that at the time the annual return is filed.</b></p> <p>From 1 April 2015, those financial statements must also be audited (if the total operating expenditure of the entity and all entities it controls is \$1 million or more) or audited or reviewed (if the total operating expenditure of the entity and all entities it controls is \$500,000 or more). The charitable entity commits an offence punishable by a fine of up to \$50,000 if it fails to comply with this requirement</p>
3. Duty to assist	<p>The charities regulator has the power to examine and inquire into charitable entities, and persons connected with charitable entities, including into: activities and proposed activities of the charitable entity or person; the nature, objects and purposes of the charitable entity; the management and administration of the charitable entity; the results and outcomes achieved by the charitable entity or person; and the value, condition, management and application of the property and income belonging to the charitable entity or person. It is an offence punishable by a fine of up to \$10,000 to refuse or fail to supply information or documents requested by the charities regulator, or to knowingly supply false or misleading information or documents.</p>
4. Duty to supply registration number	<p>If a collector who acts on behalf of a registered charitable entity is requesting funds, canvassing for subscriptions, selling raffle or lottery tickets, or appealing for donations, by means of the telephone or the internet, the collector must disclose the registration number of the entity if requested to do so by a member of the public.</p>
5. Grounds for deregistration	<p>Once a charitable entity is registered, the charities regulator has the power to deregister it in certain circumstances, including if:</p> <ul style="list-style-type: none"> <li>- if the entity is no longer qualified for registration as a charitable entity;</li> <li>- there has been a significant or persistent failure by the entity to meet its obligations under the Charities Act or any other Act;</li> <li>- there has been a significant or persistent failure by any 1 or more of the officers of the entity to meet their obligations under the Charities Act;</li> <li>- there has been a significant or persistent failure by any 1 or more collectors who act on behalf of the entity to meet their obligations under the Charities Act;</li> <li>- the entity has engaged in serious wrongdoing;</li> <li>- any person has engaged in serious wrongdoing in connection with the entity</li> </ul> <p>Serious wrongdoing, in relation to an entity, is defined to include any serious wrongdoing of any of the following types:</p> <ul style="list-style-type: none"> <li>- an unlawful or corrupt use of the funds or resources of the entity;</li> </ul>

	<ul style="list-style-type: none"> <li>- an act, omission, or course of conduct that constitutes a serious risk to the public interest in the orderly and appropriate conduct of the affairs of the entity;</li> <li>- an act, omission, or course of conduct that constitutes an offence;</li> <li>- an act, omission, or course of conduct by a person that is oppressive, improperly discriminatory, or grossly negligent, or that constitutes gross mismanagement.</li> </ul> <p>The Supreme Court also recently stated in <i>Re Greenpeace</i> [2014] NZSC 105 that a charity may be deregistered if it has an illegal purpose (and that such a purpose may be inferred from its activities).</p> <p>As discussed above, deregistration can have significant income tax and other consequences.</p>
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## **Appendix 2 : Inter Church Working Party on Taxation communication regarding IRD Donee Status**



INTER CHURCH  
WORKING PARTY  
ON TAXATION

PO Box 12-287, Wellington, New Zealand: Anglican House, 32 Mulgrave Street, Wellington:  
Phone 04-473-9369: Fax 04-473-9991: Email [office@acpb.org.nz](mailto:office@acpb.org.nz)

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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.

Inter Church Working Party on Taxation

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