



Tax - how the Charities Act affects charitable tax status.



Background

The Charities Commission was established under the *Charities Act 2005 (the Act)* and one of its functions is to maintain a register of charities.

The Act allows a range of organisations to apply to register with us. We assess each application on a case-by-case basis to decide whether the organisation has a “charitable purpose” and whether its name and officers meet the requirements of the Act.

One of the benefits of registration under the Charities Act is that it qualifies entities to be eligible for tax exemptions on charitable grounds.

Change to the tax law

A change to the tax law that came into force on 1 July 2008 says that a charity must be a “tax charity” to be eligible for tax exemptions on charitable grounds. The key way to be a “tax charity” is to be registered with us (under the Charities Act).

While we decide if an organisation qualifies for registration as a charity, Inland Revenue will continue to administer charitable

tax exemptions. These include exemptions from income tax and exemptions from gift duty for people who give gifts to charitable entities. Generally, Inland Revenue accepts the Commission’s decision so that registration will, in most cases lead to tax exemption.

Many charities that are now registered with us previously had charitable tax exemptions and had letters from Inland Revenue confirming that they were tax exempt on charitable grounds. Because those letters pre-date the change to the tax law, those letters are no longer relevant.

Tax liability

Tax charities are eligible to be exempt from income tax and resident withholding tax, and donors of gifts to them don’t have to pay gift duty.

The requirement to be a “tax charity” came into effect on 1 July 2008, so charities that applied for registration after that date may be liable to pay income tax on income and resident withholding tax on their investment income for the period between 1 July 2008 and their date of registration.

If your organisation has not yet applied for registration or your effective registration date is later than 1 July 2008 you should contact Inland Revenue to talk about your tax liabilities. This applies to your charity even if you have a letter from Inland Revenue and have claimed tax exemptions in the past.

Detailed information about tax exemptions is available on Inland Revenue's website www.ird.govt.nz

Below we answer some common questions asked about the Charities Act and charitable tax status.

Do I need to include a letter from Inland Revenue with my application for registration with the Charities Commission?

No. You just have to provide your charity's IRD number, if it has one, when you apply for registration. Then, when we approve your application we will let Inland Revenue know that your charity has been registered.

How will I know that my charity has tax exemption?

When we register your charity we will send you a registration certificate. Inland Revenue has asked us to include its guide – *Tax information for charities registered under the Charities Act 2005* (IR256), with your certificate.

IR256 and more detailed information about tax exemptions are also available on Inland Revenue's website www.ird.govt.nz

In most cases, charities that are registered under the Charities Act and have non-business income only (for example, investment income such as interest and dividends), will be eligible for exemptions. Registered charities carrying on a business will need to refer to the information they receive from Inland Revenue.

Do I need to tell Inland Revenue when I've registered with the Charities Commission?

No. We will tell Inland Revenue when we register your charity. We will also tell them if your organisation is de-registered for any reason.

You'll only need to contact Inland Revenue if you need to file a tax return because you think you have taxable income.

You'll also need to contact them if you have any other tax matters – for example, goods and services tax (GST), PAYE, or you need to update your address or other records for any reason.

Is donee status affected by the Charities Act?

No. Inland Revenue will continue to administer donee status. Organisations don't need to be registered with the Charities Commission to get donee status.

Individuals can claim a tax rebate for a donation they make to an organisation that has donee status. Companies and Maori authorities can claim a deduction for donations to an organisation with donee status.

If your organisation would like donee status, and you don't want to register it under the Charities Act, you can apply for donee status directly to Inland Revenue.

If your organisation already has donee status, it doesn't need to register with the Commission to continue to be treated as a donee organisation by Inland Revenue.

However, if you are going to register with us you won't have to make a separate application to Inland Revenue for donee status.

This is because there is a question in our application form relating to donations. If you get or intend to get donations you can tell us that in your application by ticking the appropriate box. Inland Revenue will use that information to work out or reconfirm your donee status and send you a letter about it.

What about RWT certificates of exemption (COE)?

Resident withholding tax (RWT) is the tax you pay on interest earned from bank accounts or other investments. If you are eligible for income tax exemptions, you are also entitled to an RWT certificate of exemption (COE) from Inland Revenue.

From 1 July 2008 charities must be "tax charities" to be eligible for exemption from RWT.

If you already have a COE, and you've registered with us you don't need to reapply for one.

If you don't have a COE, you can apply for one by completing Inland Revenue's form IR451.

You can get this from www.ird.govt.nz or by calling Inland Revenue on **0800 377 774**.

There is a clause in our rules that says I must tell Inland Revenue about certain changes. Is this still relevant?

No. Some organisations have a clause in their rules that stops them making changes to their charitable objects, personal benefit and winding-up clauses without first getting Inland Revenue's approval. However, Inland Revenue has agreed that these types of clauses can be removed.

You should note that:

- removal of these clauses from your rules is not a requirement for registration under the Charities Act
- once you are registered, to comply with the Charities Act, you'll need to advise the Charities Commission of any rule changes after they have been made.

Further information

For more information about the Charities Register or registration under the Charities Act, please visit www.charities.govt.nz

You can also call our free information line – **0508 242 748**.

For more information about tax benefits available to charities, refer to Inland Revenue's *Charitable organisations* (IR255) booklet, available at www.ird.govt.nz or by calling **0800 377 774**.



This information sheet was first published in November 2006 and updated in March 2009.
Please refer to www.charities.govt.nz for any new developments or updates.