

March 2008

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ONLY THREE AND A HALF MONTHS UNTIL TAX LAWS CHANGE! HAVE YOU APPLIED TO REGISTER YET?

Registration update

Charities registered as at 10 March 2008: 3,121

Processing time

Our registration analysts are currently reviewing applications received from early November 2007.

If you don't hear from us straightaway after receiving confirmation that we have received your application, don't be concerned. We are concentrating all our efforts on processing applications as they reach the front of the queue, so you may not hear from us until you are registered. If we need further information from you, or when we have processed your application, we will be in touch.

Educational organisations' tax exemptions

Inland Revenue has recently advised us that universities and other tertiary education bodies (like polytechnics and wananga) cannot rely on falling within the definition of a "public authority" for exemption from income tax.

This means these education providers may need to register with us to maintain their tax exemption status.

It also means that in the future, people should check the Charities Register before making a gift of money or setting up bequests, as they may be liable for gift duty if the entity is not registered.

We are seeking further information from Inland Revenue about this and will publish an updated information sheet on our website when it is available.

Backdating of organisations' charitable entity status

The Commission is working hard to process all applications by 1 July 2008 so applicants can be sure about their tax commitments. However, with the number of new applications continuing to increase (currently around 360 per week), it is unlikely all charities will be registered until later in the year.

Please note, applications are processed in the order we receive them; so the sooner you get your application into us, the sooner it can be processed, and the sooner you can have certainty about your ongoing tax exemptions.

The Commission has the power to backdate an organisation's charitable entity status to the date it received its properly-completed application. This means an organisation that complies with the Act during the period which its application is being processed can claim the tax benefits of a registered charity for that period.

A properly-completed application includes a set of rules, at least one Officer Certification form, and a certified application form. For more information on backdating visit:

http://www.charities.govt.nz/news/fact_sheets/backdating.html

Advocacy and the Charities Act

Remember - the Charities Commission can only register organisations with a charitable purpose. It uses a common law approach to determine what is charitable. The Courts have found personal and

representational advocacy is charitable and that political advocacy is not.

The Commission recognises that some charities include advocacy as part of their charitable work. It will register these organisations if this advocacy work is directly related to its charitable purpose or if it is secondary (or ancillary) to its main charitable work.

Organisations with a primary purpose of advocacy are not considered charitable by the Courts (or by the Commission) and do not qualify for registration.

The Commission will send a notice that may lead to a decline to organisations whose rules do not clearly show their advocacy activities to be a secondary purpose. It will also monitor charities to ensure they comply with their rules and that their primary activities are charitable.

For more information visit

http://www.charities.govt.nz/news/fact_sheets/advocacy.htm

Notices that may lead to a decline

The Commission sends applicants a formal letter if it is not satisfied from the application provided they meet the Charity Act's criteria for registration. This letter is called a Notice that your charitable purpose/name/officers/private pecuniary profit/winding up may lead to a decline of your application for registration.

Such notices are rare, and usually relate to the organisation's charitable purpose or failure to prevent private pecuniary profit, as set out in their rules. They explain why the applicant does not meet the Act's criteria, and their options.

Applicants can then make a submission to the Commission stating their case for registration, or explaining what they want to do to meet the Act's criteria (for example, make a change to their rules). If the submission leads to the issue being resolved, the application is approved, but if not, the Commission will decline to register it.

A reminder: Language Line available

The Charities Commission Call Centre is a member of Language Line. Language Line is a free service which provides callers with help in 39 different languages including Maori, Tongan, Samoan, Cantonese, Mandarin, Japanese, Russian, and Somali Amharic. Simply call us our free information line, ask for the language you

want, and wait on the line. An interpreter to translate your conversation will be available within a few minutes.

To call the Commission's free information line, call 0508 CHARITIES (0508 242 748)

Registration workshops and seminars

The Commission is holding a series of registration workshops and seminars in the next few months. Workshops provide information to charities who are considering applying for registered charity status with the Commission. Seminars provide training for professional and community advisors on assisting organisations with their applications.

Upcoming seminars:

BLLENHEIM, 1 April 2008, 10.00am-12.00pm. To book contact Lyne Johnson at Marlborough District Council on (03) 520 7448 or lyne.johnson@marlborough.govt.nz

Tax exemptions for non-profit organisations

Organisations that are not charitable, but are non-profit, may nonetheless be eligible for tax exemptions. Some non-profit bodies, which don't meet the Charities Act criteria, can claim an income tax deduction from Inland Revenue of up to \$1,000 per year. These organisations include: associations established for community purposes that do not hold charitable organisation status, trade associations, social clubs, and sporting clubs that do not come within the tax exemption for amateur sporting bodies.

For more information visit

<http://www.ird.govt.nz/yoursituation-nfp/> or call Inland Revenue on 0800 377 774.

Reminder for funders

The Commission reminds funders that the Charities Register is unlikely to be fully populated until later this year, after the initial registration period is over.

For that reason, we suggest that it is too early for funders to be fully reliant on the Register for making decisions about the distribution of funding. Funders may wish to consider whether it is practical to require evidence of registration with the Commission from recently-formed charities as part of their decision-making processes, before the Register is more fully populated. After 1 February 2007, when the Register opened, Inland Revenue stopped issuing charities with a letter confirming their charitable-purpose tax exemptions.