



Inland Revenue
Te Tari Taake

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Charitable organisation and donee organisations

**A tax guide for charities, donee organisations
and other groups**

Introduction

Charitable organisations have a number of tax obligations.

If you are involved in administering or setting up a charitable trust, estate, society, association or any other type of charitable organisation, this booklet will help you. However, this is only a general guide—for more specific issues, please refer to other Inland Revenue publications (listed on page 38) or call us—see page 36.

A Charities Commission has been established to register and monitor charitable organisations and provide education and support to the charitable sector. For more information go to page 10 or go to their website www.charities.govt.nz or call 0508 242 748.

In this guide

- **Part 1** helps you work out what taxes your organisation will have to deal with.
- **Part 2** explains the exemptions, so you can find out whether your organisation is exempt from income tax. It also tells you about the tax benefits available to people who donate money or property to your organisation.
- **Part 3** sets out different types of income and explains whether each is liable for income tax or GST (goods and services tax).
- **Part 4** sets out the services Inland Revenue provides.

The information in this guide is based on current tax laws at the time of printing.

www.ird.govt.nz

Go to our website for information, services and tools.

- **Secure online services** – login to check your account information, file an employer schedule, confirm personal tax summaries and update your family details and income.
- **Get it done online** – complete and send us forms and returns, make payments, make an appointment to see us and give us feedback.
- **Work it out** – use our calculators, worksheets and tools to help you manage your tax business like checking your tax code, or your filing and payment dates.
- **Forms and guides** – download our guides, and print forms to post to us.

You can also check out our newsletters and bulletins, and have your say on items for public consultation.

How to get our forms and guides

You can view copies of all our forms and guides mentioned in this guide by going to www.ird.govt.nz and selecting “Forms and guides”. You can also request copies by calling 0800 257 773.

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Terms we use

Arm's-length transaction

A deal made between non-related parties, who are not associated persons.

Associated persons

These are:

- people related by blood, adoption, marriage or de facto relationships
- companies with mainly the same shareholders
- a partner and a partnership
- trusts and their association with trustees, beneficiaries and settlors.

The association rules are complex, therefore it is important that you seek professional advice if you think there is any possibility of an association applying to you.

Business

Any enterprise or activity intended to make a profit is classed as a business. If an organisation runs a business, it must pay tax on all profits after expenses (except those made on dealings with its members). However, if a charity runs a business, it may not be liable for income tax on any profits that it uses for charitable purposes within New Zealand—see page 25.

Charitable organisation or charity

This is an organisation (incorporated or not) that carries on charitable activities or exists exclusively for charitable purposes. Some charities may be registered by the Charities Commission.

Charitable purposes

These include:

- the relief of poverty
- the advancement of education
- the advancement of religion
- activities for the benefit of the community.

An organisation's purposes must fall within one of these categories to be charitable. Its activities or aims must be for public purposes and the benefit must be available to a large section of the community. In addition, it must not be carried on for the benefit or profit of any individual. If the beneficiaries are limited by blood ties the charitable purpose can still be met in some circumstances.

Many organisations consider themselves charitable because of the work they do or because they are registered under the Charitable Trusts Act 1957. As a result, they may also think they are exempt from income tax. However, from 1 July 2008, an organisation will only be tax-exempt if it is a registered charity. Such an exemption does not apply to GST or PAYE. The organisation must still account for these.

Charitable purpose of marae

A marae has a charitable purpose if:

- the physical structure of the marae is on land that is a Māori reservation, and
- the funds of the marae are not used for a purpose other than the administration and maintenance of the land and of the physical structure of the marae or another charitable purpose.

Charities Commission (the Commission)

This is an autonomous Crown entity formed under the Charities Act 2005, which provides:

- a registration and monitoring system for charitable organisations, and
- support and education to the charitable sector on good governance, and management.

Donee organisation

This is a special type of organisation, considered by Inland Revenue to have met the requirements set out in the Income Tax Act 2007. Individuals, certain companies and Māori authorities can get certain tax benefits by making gifts of money to a donee organisation—see page 28. A charity can also be a donee organisation.

Donor

A person, company or other organisation that gives money or property to another.

Incorporated organisations

Organisations registered with the Companies Office of the Ministry of Economic Development (such as under the Incorporated Societies Act 1908 or the Companies Act 1993) are classed as incorporated organisations. For more information about becoming incorporated, see www.societies.govt.nz

Non-profit body

A non-profit body is any society, association or organisation (incorporated or not):

- that is not carried on for the profit or gain of any member, and
- whose rules do not allow money, property or any other benefit to be distributed to any of its members.

Organisation

This is a general term, which covers all types of societies, institutions, companies, estates, trusts, funds, whether or not they have a charitable nature or are considered tax-exempt.

Payroll giving

Payroll giving is a voluntary scheme where employees can make donations from their pay to support approved donee organisations. People who donate through payroll giving receive immediate tax credits relating to the donations they make each payday.

Registered charity

A trust, society or institution that is registered as a charitable entity by the Charities Commission.

Residual income tax

Residual income tax is the amount payable for the year, after deducting any tax credits from income tax assessed, but before deducting any provisional tax paid.

Taxable activity

Any activity carried on continuously or regularly that supplies (or intends to supply) goods and services to others for some form of payment (but not necessarily for a profit) is a taxable activity. Businesses, trades and professions are all taxable activities. Charitable organisations of any type can carry on taxable activities.

Setting up a business is part of the taxable activity, as is the closing down and sale of a business.

Taxable activities do not include:

- employment as a salary or wage-earner
- hobby activities
- the occasional sale of domestic or private assets
- making GST-exempt supplies.

Turnover

Turnover is the total gross value of all goods and services supplied, excluding GST. It includes:

- goods and services sold or provided in New Zealand
- exported goods
- grants, subsidies and barter arrangements.

It does not include:

- the sale of stock and assets because of the winding down or ceasing of business
- the sale of plant or replacement of assets
- GST-exempt goods and services
- unconditional gifts.

Unconditional gift

An unconditional gift is a donation or payment made voluntarily to any non-profit body, where there is no identifiable direct benefit to the donor or the donor's family.

Some unconditional gifts can be:

- donations or koha
- money from door-to-door appeals and street collections
- bequests
- voluntary school fees (but not school activity fees).

Subscriptions, payments from trading activities and payments made by the Crown or a public authority are not unconditional gifts for GST purposes.

Charities Act

The Charities Act 2005 established a Charities Commission (the Commission) which is an autonomous Crown entity. It provides:

- a registration and monitoring system for charitable organisations
- support and education of the charitable sector on good governance and management.

The Commission has published *A guide to the Charities Act* which you can download from www.charities.govt.nz or order a copy by calling 0508 242 748.

The Commission has also set up a Charities Register. Registration is voluntary but, since 1 July 2008, unregistered charities have not been eligible for tax exemptions on the grounds of charitable purposes.

Charitable organisations can apply for registration online at www.charities.govt.nz or by posting a completed application form, with a copy of their rules, to the Charities Commission. Send an officer certification form for each officer of the organisation.

You can get details about registration and copies of forms from the Charities Commission at www.charities.govt.nz or by calling 0508 242 748.

Part 1 – Basic tax information

Whatever type of charitable organisation you are setting up or running, you will usually have some tax obligations. These may include:

- making a number of tax payments each year—some of these may be for your organisation’s own tax liability, others may be on behalf of its employees
- filing various return forms each year—these may be for income tax, GST, PAYE and/or FBT
- calculating the profit from any business to work out how much tax is due—this is explained in our *Smart business (IR 320)* booklet and there is also some information in Part 3 of this booklet
- keeping certain business records—see page 22 for more information on this.

This part of the booklet explains all these obligations and gives you other general tax information you need to know.

Income tax

Charitable organisations are liable for income tax if:

- they operate with no written rules, constitution or trust deed
- they operate under a set of rules, a constitution or a trust deed that does not meet the requirements for income tax exemption (see pages 29 to 33)
- they use business income for charitable purposes outside New Zealand (see page 32).

From 1 July 2008 any charity not registered by the Charities Commission will be liable for income tax.

Benefits

The Income Tax Act 2007 and the Estate and Gift Duties Act 1968 set out a number of income tax and duty exemptions. Some of these exemptions give benefits to charitable organisations and some give benefits to people, certain companies, or Māori authorities who make donations to such organisations.

The “Tax benefits” section on page 24 of this booklet gives more detail on these main conditions. It also lists all the benefits available and the specific conditions an organisation must meet to get any particular exemption.

Only the income tax exemption will apply to charitable organisations. Your organisation may still be liable for other taxes, such as GST, PAYE and FBT.

If your organisation is not entitled to any tax exemptions, it will be liable for income tax on some types of income it earns. Part 3 of this booklet will help you work out which types of income are taxable.

Income tax rates

If a charitable organisation is incorporated under the Incorporated Societies Act 1908 or Companies Act 1993, it is considered to be a company for income tax purposes. If it doesn't qualify for a tax exemption, its income is taxed at the company rate.

Organisations that operate as trusts, including trusts incorporated under the Charitable Trusts Act 1957 and are not tax-exempt are liable for tax on trustee's income. Our booklet *Trusts and estates income tax rules (IR 288)* gives you more information about this.

Charitable organisations not incorporated under a specific Act are unincorporated charitable organisations. If such an organisation is not entitled to a tax exemption, it will be liable for income tax at the same rate as an individual taxpayer. However, it will not qualify for any of the tax credits that individual taxpayers can claim.

For more information on individual and PAYE rates go to www.ird.govt.nz (keywords: income tax rates).

If a non-exempt organisation's residual income tax for a financial year is more than \$2,500, it may have to pay provisional tax for the following year. For more information on provisional tax, read our booklet *Provisional tax (IR 289)*.

Filing income tax returns

Generally, if your organisation is a charity, it is exempt from income tax. You don't need to file an income tax return unless we request one or you have taxable income. From 1 July 2008 you will need to be registered by the Charities Commission to be eligible for an income tax exemption.

If your organisation runs a business it may be required to file a return. Our *Operational Statement 06/02 Interaction of tax and charities rules, covering tax exemption and donee status* gives guidelines for doing this when income is taxable. You must include a copy of the financial accounts with the tax return. Instead of accounts, you can use our *Schedule of business income (IR 3B)* or *Rental income (IR 3R)* form to work out the gross income and allowable deductions for these activities. We also provide an *Accounts information (IR 10)* form, which you can use instead of sending us a set of accounts. Using an IR 10 will speed up the processing of the organisation's tax return.

If required, or asked to, a company must file an IR 4 tax return, an estate or trust must file an IR 6 tax return, and any other society or association must file an IR 9 tax return. If your organisation doesn't receive a taxpack, you can order one by calling our 0800 self-service numbers—see page 36.

If your organisation has a balance date between October and March, you must send your tax return to us by 7 July. For other approved balance dates (see page 23), send us the return by the seventh day of the fourth month after your balance date.

If a tax agent completes the return, we may extend the due date. This is because many of these people have extensions of time for filing their clients' tax returns.

GST (goods and services tax)

GST is a tax on the consumption of most goods and services in New Zealand. It is charged and accounted for by GST-registered businesses. They then calculate the amount of GST they have charged and pay it to us. They can also claim back the GST they incur as part of their business.

To check the current GST rate go to www.ird.govt.nz/GST

Registering for GST

If your charitable organisation runs a taxable activity with an annual turnover (total income before expenses) of \$60,000 or more, you must register for GST. Registration is voluntary for organisations with turnover under this figure—see page 15.

To work out turnover, only include income liable for GST, not income not liable for GST or exempt from GST—see the table on page 35. For example, include income from trading activities (both with members and non-members), subscriptions, grants and subsidies, but exclude income from donations, koha, bequests, residential rent, interest and dividends.

If, at the end of any month, the organisation's turnover for the past 12 months is more than \$60,000, it will need to register for GST. Also, if at any time you think the organisation's turnover for the next 12 months will be over \$60,000, it will need to register.

You can register for GST online by using our online GST registration form. You can find it at www.ird.govt.nz “Get it done online”. Alternatively, you can complete a *GST registration (IR 360)* form.

Registration of branches and divisions

Generally, if an organisation operates through separate branches or divisions, they may each register separately for GST. If the total turnover of all the branches or divisions is more than \$60,000 the organisation must register for GST.

Non-profit bodies (including charitable organisations) may apply to us in writing to treat each branch or division separately, and only register the individual branches with a turnover of more than \$60,000. However, branches with a turnover of less than \$60,000 may still register voluntarily.

To register separately, each branch or division must:

- have its own independent accounting system, and
- be separately identified by its location or by the different activities it undertakes.

Voluntary registration

The advantage of voluntary registration is that charitable organisations may get frequent refunds of GST. This happens when a charity runs a taxable activity and receives income liable for GST, but also receives donations or koha (unconditional gifts), which are not liable for GST. The charity can claim a GST credit for most of its expenses, but it only pays GST on its taxable activity income.

However, charitable organisations need to be aware of the possible disadvantages of voluntary registration.

- When you stop your registration you have to pay GST on the open (current) market value of any business assets you keep for private use. If you acquired the asset before 1 October 1986, the adjustment would be the lesser of cost price and the open market value.
- Accounting for GST becomes difficult if non-liable income is involved, or if some assets are used for exempt purposes and others for business purposes.
- If someone within the organisation completes the GST returns, there may be problems if that person's services become unavailable and their experience is lost.

For more help

You'll find more information on registering branches and divisions separately, or on voluntary registration, in our factsheet *GST – do you need to register?* (IR 365).

Employing staff

If your organisation employs staff, you must register with us as an employer. You can register online at www.ird.govt.nz “Get it done online” or complete an *Employer registration (IR 334)* form.

Your tax obligations as an employer are as follows:

- Ask new employees to fill in a *Tax code declaration (IR 330)*, which will tell you the tax code to use and the rate for deducting tax from their wages. If any employees don't fill in an IR 330, you must deduct tax from their wages at the no-notification rate of 45% (not including employees' ACC earners' levy).
- Deduct PAYE from your employees' wages, and pay it to us either once or twice a month, depending on the total amount of wages paid. PAYE includes the ACC earners' levy to cover the cost of employees' non-work injuries.
- Complete an *Employer deductions (IR 345)* form and send it with your payment by the due date. You can file your *Employer deductions IR 345/EDF* form electronically using ir-File. To register or see a demonstration of irFile go to www.ird.govt.nz “Secure online services”.
- Complete an *Employer monthly schedule (IR 348)* with the details of the amounts deducted for each employee. You can also file your IR 348 electronically using ir-File.
- Pay FBT on any fringe benefits (perks) you give your employees—see page 18.
- Deduct child support payments and student loan repayments from employees' wages if required.
- Automatically enrol new employees who are eligible to join KiwiSaver and deduct their KiwiSaver contributions from their pay.
- If you are making KiwiSaver employee deductions or employer contributions you need to send these to us with the PAYE.

Employees and contractors

If any members of your organisation carry out paid work, they are treated as employees. PAYE must be deducted from the payments they receive. If the organisation gives board and lodging rather than money to any employees for their work, you must work out the gross value of the benefit given to them, calculate PAYE based on this amount and pay it to us—see the “Allowances” section in the *Employer's guide (IR 335)*. Other benefits paid to replace wages may be liable for FBT—see page 18.

PAYE deducted from your employees' wages is money held in trust for the Crown. You do not need to keep it in a separate bank account, but it must not be used for anything other than payment to us.

If a self-employed contractor does a job for the organisation, this generally does not make the organisation an employer. However, if the job is one of those listed on the back of the *Tax code declaration (IR 330)*, you must deduct tax at the flat rate shown and pay this to us. You must also ask the contractor to complete the IR 330. If the contractor shows you a current *Certificate of exemption (IR 331)* or is a company (not in the agricultural industry), you don't need to deduct tax. If the type of work done is not listed on the IR 330, you don't need to deduct tax. In these cases, the contractor is responsible for paying the tax.

Some workers call themselves self-employed contractors or something similar, so their employers will not deduct PAYE. If the organisation (as the employer) has control over the work done, including what the person does and how, and where it is done, the worker is almost certainly an employee and is liable for PAYE. It is illegal to treat a true employee as self-employed to avoid deducting tax. If you're not sure whether a worker is a true employee, read Part 1 of the *Employer's guide (IR 335)* and our pamphlet, *Self-employed or an employee? (IR 336)*.

Superannuation fund contributions

An employer's superannuation contribution is any contribution to a superannuation fund that an employer makes for their employees' benefit. If your employees ask you to make deductions from their wages and pay them to a superannuation scheme, these are not employer's superannuation contributions.

Generally, any contribution an employer makes to a superannuation fund for the benefit of an employee is liable for tax. There are several options for how these can be taxed. Refer to our *Employer's guide (IR 335)*. Certain employer contributions to KiwiSaver and complying registered superannuation schemes are exempt—the *KiwiSaver employer guide (KS 4)* has more information about the exemption.

A "superannuation fund" is a scheme that has been registered under the Superannuation Schemes Act 1989.

For more detailed information about superannuation fund contributions, refer to the *Employer's guide (IR 335)*.

FBT (fringe benefit tax)

Charitable organisations are generally exempt from paying FBT on any 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 carrying out charitable work for the organisation, any private benefit arising is not subject to FBT.

The exemption does not apply to short-term charge facilities in some circumstances.

However, if your organisation operates a business which is outside its charitable, benevolent, cultural or philanthropic purposes and provides fringe benefits to any person employed in that business, FBT must be paid on those benefits.

For example, if the charitable organisation provides a car as part of a salary package, for use with its business activities, FBT must be paid on any private benefit.

Some benefits that are liable for FBT are:

- private use of an employer-supplied car
- low-interest loans
- subsidised transport
- goods or services supplied below market cost (there can be an exemption for this—see the following section)
- employer contributions to sickness, accident and death benefit funds.

When calculating your FBT to pay, you have a choice of FBT rates to use. You can choose to work out the FBT to pay using the alternate rate calculation process or you can apply the single rate. For current FBT rates go to www.ird.govt.nz (keywords: FBT rates).

For FBT purposes, charitable organisations include both charities and donee organisations—see pages 6 and 7.

FBT exemptions for some benefits

There is also an FBT exemption for other fringe benefits an organisation provides to its employees. For FBT purposes, “other benefits” are those that are not motor vehicles, low-interest loans, subsidised transport, retirement allowances, contributions to superannuation, sickness, accident or death benefit funds, or insurance premiums.

There is a \$300 exemption threshold per employee per quarter for other fringe benefits, up to a maximum of \$22,500 per annum. However, if the value of other fringe benefits to any one employee goes over \$300 for a quarter, the full value of fringe benefits given to that employee is liable for FBT—without first deducting the \$300 exemption. Similarly, if total other fringe benefits paid to all employees goes over \$22,500 in the current quarter and three preceding quarters, the organisation must pay FBT on all the fringe benefits it provides in that quarter—again, without first deducting any exemption. See our *Fringe benefit tax guide (IR 409)* for further information.

Filing FBT returns

If your organisation is providing benefits to staff, it will have to file FBT returns.

If your organisation does not (and does not intend to) provide fringe benefits, you can apply for nil status by completing a *Fringe benefit tax election (IR 414)* form. You can do this online at www.ird.govt.nz

Once your organisation has been granted nil status it will not have to file FBT returns unless it starts providing benefits in the future.

GST on fringe benefits

If an organisation is registered for both GST and FBT, it must make an adjustment for GST in its FBT returns for fringe benefits provided (unless the benefits are GST-exempt or zero-rated). See Part 8 of our *Fringe benefit tax guide (IR 409)* for more information.

FBT and entertainment expenses

Only 50% of entertainment expenses that are not subject to FBT are deductible for income tax purposes. For more information, read our booklet *Entertainment expenses (IR 268)*.

RWT (resident withholding tax)

If your charitable organisation has money deposited in a bank or other financial institution, RWT may be deducted from the interest before the organisation receives it.

At the end of the year, the organisation can claim a credit in its tax return for the RWT deducted from interest.

If your organisation considers it is exempt from income tax it may be eligible for a certificate of exemption from RWT on interest and dividends.

You can apply for an exemption using our *Application for exemption from resident withholding tax on interest and dividends (IR 451)* form. Fill it in and send it back to us along with any information we may ask for. We will issue you with a certificate of exemption from RWT, which means your organisation can receive interest without having RWT deducted. When you receive your certificate show it to your interest payer and they will stop deducting RWT.

From 1 July 2008 you will need to be a charity registered with the Charities Commission to be eligible for this exemption.

Charitable organisations can claim a refund if RWT has been deducted incorrectly, for example, if an interest payer deducted RWT before the organisation got its certificate. If the organisation doesn't have to file tax returns, it can get the refund by completing a *Resident withholding tax – refund request (IR 454)* form.

We can cancel a certificate if the holder is no longer entitled to it. If we do this the certificate must be returned to us.

If anyone other than a bank or financial institution has money invested in your organisation and the organisation pays interest of more than \$5,000 a year to these investors, it may need to register as an RWT payer.

For more help

Our booklet *RWT on interest – payer's guide (IR 283)* has the information you will need if your organisation pays interest and deducts RWT.

NRWT (non-resident withholding tax)

If your organisation pays interest, dividends or royalties to a non-resident, this is called non-resident passive income and your organisation must deduct NRWT.

Contact our Non-resident Centre in Dunedin if you want to know more about the New Zealand tax residency rules for deducting and paying NRWT:

Non-resident Centre
Inland Revenue
Private Bag 1932
Dunedin 9054
New Zealand

Email nonres@ird.govt.nz

Phone 03 951 2020

Fax 03 951 2216

For more help

These booklets will help if you have questions about residency or NRWT:

- *New Zealand tax residence (IR 292)*
- *Non-resident withholding tax – payer’s guide (IR 291)*
- *Visitor’s tax guide (IR 294).*

General information

Record keeping

You have to keep sufficient records to calculate the income, expenses and GST liability of your charitable organisation, and to enable us to confirm your accounts if necessary. The records you must keep are:

- receipt and payment account books
- bank statements
- invoices (including GST tax invoices)
- receipts
- any other necessary documents to confirm entries in your accounts
- stocktake figures for the end of the financial year
- wage records for all employees, including KiwiSaver records
- interest and dividend payment records.

Note

For GST you do not need to hold a tax invoice for items costing less than \$50 but you do need to maintain a record of such payments. For income tax, you should have invoices for all expenses, whatever the amount.

You must hold all records for seven years, even if you cease operating (except for incorporated organisations that have been wound up and dissolved). We can also extend the period you must keep records for if we intend to audit or investigate your organisation. If this is the case, we will write and tell you what records to keep.

All your records must be in English, unless we give you written approval to use another language.

Any charitable or donee organisation (see pages 6 and 7) must keep a record of:

- the sources of any donations made to it, and
- how its funds have been used, within New Zealand or overseas.

If we request it to, the organisation should be able to fill in a tax return and identify the source and end use of all its funds.

Note

If you file your tax returns electronically, you must keep a paper copy of the return (and supporting records) for seven years.

It's important to keep all this information as we routinely audit people's records.

IRD numbers

No matter what type of charitable organisation you are running, it will need an IRD number. You may also use that IRD number for GST, PAYE, FBT or RWT purposes.

To get an IRD number, you'll need to send us a completed *IRD number application – non-individual (IR 596)* form. If you are incorporating a new company online through the Companies Office website, you can apply for an IRD number at the same time. Or, you can complete the IR 596 form online, print, sign and send it to us. You'll need to provide a photocopy of one of the following:

- certificate of incorporation
- deed of trust
- certificate of registration.

You must also supply the names, addresses and personal IRD numbers of each shareholder, director, trustee or executive office holder.

Balance dates

For most taxpayers, the accounting year ends on 31 March—the balance date. If you want a balance date for your organisation other than 31 March, you must apply to us in writing, stating your reasons. We will usually only approve a change if there are sound business reasons for doing so, or if your business activity is in an industry where there is a recognised balance date other than 31 March.

Due dates

Some organisations will have to file returns and make payments to us, possibly for several tax types. To keep track of the due dates for payments and returns, use the calculator on www.ird.govt.nz or our *Tax due date calendar (IR 328)*.

Part 2 – Tax benefits

Tax legislation benefits charities by:

- allowing them income tax exemptions
- exempting certain gifts to charities from gift duty

It also allows a tax credit or deduction for donations by individuals, companies or Māori authorities to donee organisations.

Note that a charity may also be a donee organisation. A donee organisation doesn't have to be a registered charity.

This part of the booklet explains how these benefits work and the conditions an organisation must meet to get a particular benefit.

Charities

To qualify for an exemption from income tax, trustees of a trust must derive income for charitable purposes, and societies or institutions must be established and maintained exclusively for charitable purposes.

A charitable purpose is where the rules of an organisation clearly state that its purposes are for one or more of the following:

- the relief of poverty
- the advancement of education
- the advancement of religion
- any other matters that are beneficial to the community.

The organisation's aims must also be for a public purpose except where they are for the relief of poverty. The benefit must be available to a large part of the community and the activities must not result in the private benefit or profit of any individual.

You'll find further information about charitable purposes on the Charities Commission website at www.charities.govt.nz

Income tax and gift duty exemptions for charities

Non-business (investment) income

Charities are exempt from income tax on non-business income such as interest, dividends and rents.

They may use the income for charitable purposes in and outside New Zealand and still keep the exemption.

From 1 July 2008 the charity must be registered with the Charities Commission for its income to be eligible for this income tax exemption—see page 10.

Business income

The portion of a charity's business income which is used for charitable purposes in New Zealand is exempt from income tax. If an organisation uses its business income for charitable purposes outside New Zealand as well, only the New Zealand part is exempt.

Business income will not be exempt if anyone connected with the charitable organisation:

- receives or can receive any benefit or income from the organisation, and
- can determine or influence the nature or amount of any benefit they receive.

Page 32 has more details about the limitations to this exemption.

These exemptions only apply to the charitable organisation's income. They don't apply to any other earned income passed on to a charitable organisation for charitable purposes. The people or organisation who earned the income must pay tax on it. However, this income may qualify for a donation tax credit or deduction—see page 28.

From 1 July 2008 the charity must be registered with the Charities Commission for its income to be eligible for this income tax exemption—see page 10.

Charitable estates

The executor or administrator of a deceased person's estate may derive income from any money or assets left to charitable organisations while the will is being finalised. If the organisation benefiting from the will is entitled to an income tax exemption, the income derived while the funds are held awaiting finalisation is also exempt.

This exemption only covers the income derived from the money or assets of the estate that have been left to the charity. The estate must still pay tax on any income it earns from other assets or money.

The executors and administrators of a charitable estate formed after 1 July 2008 will not need to register with the Charities Commission until the end of the income year following the income year in which the deceased died, before its tax exemption is affected.

Example

Date of death	12 October 2008
Income year	31 March 2009
Register by	31 March 2010

If the trustees want to confirm their tax exemption they need to send us, during that intervening period, a copy of the deceased's will and the following details:

- the rights of the various beneficiaries under the will
- the net value (after debts and liabilities) of the estate available to be distributed to the beneficiaries
- the shares and the prospective shares of the beneficiaries in the income and assets of the estate.

If the trustees don't register with the Charities Commission by the end of the intervening period, any income will be liable for income tax—see page 10.

Gifts to charities

Any gift that is:

- used to create a charitable trust
- used to establish a society or institution exclusively for charitable purposes, or
- made to aid charitable organisations

is exempt from gift duty.

From 1 July 2008 the charity must be registered with the Charities Commission for gift donors to be eligible for an exemption from gift duty.

Donee organisations

When an organisation is considered a donee organisation for tax purposes, any gifts of money it receives from individuals and certain companies qualify for tax advantages. See page 28 for more information on these tax benefits.

An organisation does not have to be a registered charity to be eligible for donee organisation status.

A donee organisation must be a New Zealand society, institution, association, organisation, trust or fund. Its funds must be applied wholly or principally to charitable, benevolent, philanthropic or cultural purposes in New Zealand. This means that the organisation's aims or purposes should be carried out in New Zealand, even if this results in paying money outside New Zealand to achieve these purposes. Cultural purposes include dramatic, theatrical, operatic, ballet, choral or musical purposes.

Benevolent and philanthropic purposes basically mean doing good for other people. This includes organisations that are not charitable in the strict legal sense, but are popularly seen as charitable, for example, organisations whose proceeds or funds are used to benefit all or a large part of the public.

Another condition is that the organisation must not be carried on for the private benefit of any member or an associate of any member.

Charities that apply the principal part or all of their funds outside New Zealand must be approved for donee organisation status by Parliament. Approval is limited to organisations whose funds are mainly used for:

- the relief of poverty, hunger, sickness or the results of war or natural disaster
- the economy of developing countries (as recognised by the United Nations)
- raising the educational standards of a developing country.

Inland Revenue considers these applications and makes a recommendation to government.

Organisations that are approved are listed in the Income Tax Act. A donee organisation is still liable for income tax on any taxable income it earns from sources outside its own membership if it has no other income tax exemption.

There are government guidelines for organisations seeking charitable donee status for their overseas activities. For information on the guidelines go to www.taxpolicy.ird.govt.nz (keywords: overseas donee status).

Donation tax credit or deduction

Gifts of money by individuals

From the 2008–09 tax year, individuals who give cash donations of \$5 or more to donee organisations may claim a tax credit of one-third (33.33%) of the total of all donations, up to the amount of their taxable income. The maximum amount an individual can claim for other years is available at www.ird.govt.nz

To qualify for this tax credit:

- the gift must be made in money—gifts of goods or property do not qualify
- the gift can't be made under the will of a deceased person
- each gift must be \$5 or more.

However, you can still qualify for a tax credit if an arrangement is in place to make a gift of under \$5 through regular instalments throughout the year, and the total at the end of the year is \$5 or more (eg, if you give \$1 each week to your church, making the total contribution for the year \$52).

Where an employer offers payroll giving, they must make sure all donations are passed to the requested donee organisations by the PAYE payment due date closest to the end of the two months from the last day of the pay period when the donation was deducted from their employee's wage.

When receipts are issued by the donee organisation they should be in the employer's name and state the donation was made under the payroll giving scheme. The employee doesn't receive a receipt from the donee as they receive a tax credit reducing their PAYE at the time the donation was deducted from their wages.

Gifts of money by certain companies

From the 2008–09 tax year, a company (including an unlisted close company), can claim a donation deduction for cash donations it makes to donee organisations. A "close company" is one that has five or fewer shareholders. The maximum donation deduction that can be claimed is limited to the company's net income (ie, income, less expenses, but before the donation deduction is deducted).

For the 2007–08 and prior income years, a company (excluding an unlisted close company), could also claim a donation deduction. However, the maximum deduction that could be claimed was limited to 5% of the company's net income.

Gift of money by Māori authorities

A Māori authority may claim a deduction against its net income for cash donations it makes to a Māori association or a donee organisation.

From the 2008–09 income year, the maximum deduction allowed is limited by the Māori authority's net income (ie, income less expenses, but before the donation deduction is deducted). For the 2007–08 and prior income years, the maximum deduction is limited to 5% of the Māori authority's net income.

Receipts

You must provide the donor with a receipt that:

- shows the donor's full name
- is officially stamped with the name or branch of your organisation
- clearly shows that it is a donation and the amount
- shows the date the donation was received
- is signed by a person authorised by your organisation to accept donations

It's a good idea to include your organisation's IRD number and/or Charities Commission registration number.

Eligibility for exemption or donee organisation status

Charities registered with the Charities Commission

You don't need to apply to Inland Revenue to confirm your income tax—exempt status or gift duty exemption. When you register as a charity with the Commission, we'll send you information about your eligibility to the exemptions and any ongoing requirements you'll need to consider.

In most cases, charities with non-business income only, which are registered with the Charities Commission, will be eligible for the exemptions. Registered charities carrying out a business will need to consider some limitations and exceptions to the exemption, which are summarised on page 29–32, and self-determine their tax position. For more detailed information see our *Operational Statement 06/02 Interaction of tax and charities rules, covering tax exemption and donee status*.

The Charities Commission will pass on details of registered charities to us so you won't need to contact us separately.

These details will also show if you're applying for donee organisation status. We'll decide about your status based on this information, and advise you in writing. This is a valuable document for your organisation so keep a copy in a safe place.

Not registered with the Charities Commission

If you aren't registered with the Charities Commission and want Inland Revenue to consider you as a donee organisation, please send us:

- an up-to-date, signed copy of your rules, constitution, trust deed or other founding document
- a copy of your certificate of incorporation (if incorporated)
- a letter requesting donee status
- details of how the organisation has been (or will be) operating.

We'll consider your application and advise you in writing. The criteria that we look at for donee status is summarised on the following pages.

Inland Revenue's criteria

There are some specific requirements for your organisation to have donee organisation status and for charities claiming the income tax exemption on business income. Our Operational Statement 06/02 gives further guidance.

In addition to Inland Revenue's rules, your governing document needs to contain certain rules and clauses to register as a charity. For information about the registration criteria go to the Charities Commission website www.charities.govt.nz or call 0508 242 748.

Personal benefits

A donee organisation's funds can't be used to provide personal benefit to its members, trustees or associates.

Sometimes the aims or powers may allow benefits to members, but they may only benefit to a limited extent from their membership. Some acceptable benefits are newsletters, voting rights to appoint officers of the organisation and any benefit also available to the general public.

If any member can receive more than these benefits, the organisation cannot be considered as a donee organisation. Also, if a member can in any way influence the amount of any benefit they receive, the organisation will not qualify as a donee organisation.

The organisation may pay members for their services, as long as the payments are reasonable, not more than normal commercial rates and for services actually provided.

A member may also be reimbursed for reasonable expenses incurred on the organisation's behalf and earn interest on money lent to the organisation (provided the loan is at a normal commercial rate).

If an organisation's rules allow unrestricted benefits to members, a clause preventing this must be added before we will grant donee organisation status.

An example of such a clause is:

- “(1) Any income, benefit or advantage shall be applied to the purposes of the organisation.
- (2) No individual member or associated person shall receive any form of private income, benefit or advantage from the operations.
- (3) No member of the organisation or any person associated with a member shall participate in or materially influence any decision made by the organisation in respect of the payment to or on behalf of that member or associated person of any income, benefit or advantage whatsoever.
- (4) Any such income paid shall be reasonable and relative to that which would be paid in an arm's-length transaction (being the open market value).
- (5) The provisions and effect of this clause shall not be removed from this document and shall be included and implied in any document replacing this document.”

Altering the rules

An organisation may change its rules, constitution or trust deed through a rule alteration clause. To qualify as a donee organisation, this must be worded so any clauses dealing with purposes, benefit to members and winding up cannot be changed so that they would affect the requirements for donee organisation status.

If the rule alteration clause is not restricted, we won't grant donee organisation status. The following is a suitable restriction (proviso) for a rule alteration clause: "No addition to or alteration or removal of the rules shall be approved if it detracts from or alters the nature of the organisation."

If the organisation is a registered charity or intending to register it won't need a proviso (as above) because all alterations must be sent to the Charities Commission to comply with the Charities Act.

Purposes limited to New Zealand

An organisation seeking donee organisation status must be an institution, association, trust or fund that applies its funds wholly or principally in New Zealand to promote charitable, benevolent, philanthropic and cultural purposes.

If your organisation applies funds for purposes both within and outside New Zealand we advise you to record these separately in your accounts. Those funds applied overseas will not qualify for a tax credit or deduction unless your organisation has been approved as a donee organisation.

Some organisations (such as overseas charities) apply all or most of their general funds outside New Zealand. If the organisation sets up a separate fund for use in New Zealand that fund could qualify as a donee organisation.

Winding up

If an organisation's rules or constitution allows it to be wound up, the winding-up clause must prevent the funds or assets from passing to a private purpose. This means the rules for a donee organisation must have a clause stating that, on winding up, the income and assets will be held for charitable, benevolent, philanthropic or cultural purposes in New Zealand.

When a donee organisation is wound up, any remaining income and assets must be distributed to an organisation that carries on activities wholly or principally in New Zealand. The organisation receiving the distribution may be either a donee organisation or a charity.

However, if the donee organisation is a registered charity the clause must state that, on winding up, the income and assets must be used for charitable purposes in New Zealand.

Business activity

Only the business income of a registered charity used for charitable purposes in New Zealand is exempt from tax.

Any business income used overseas is liable for income tax. It will also be liable if anyone connected to the organisation:

- receives or can receive any type of benefit or any assessable income, and
- can determine or materially influence the amount of the benefit or circumstances in which they receive it.

However, there are two situations when an organisation may pay someone connected with it (or provide other benefits) without losing its exemption. If:

- the person is reimbursed on a reasonable basis for expenses incurred on behalf of the organisation
- the person lends money to the organisation, it may pay interest at normal commercial rates.

A person who provides services to the organisation as part of their professional practice cannot influence or determine the nature or amount of any benefit they receive. The Public Trustee, the Māori Trustee and any trustee company are deemed to be carrying on business as a professional public practice.

A person is considered connected to a charitable organisation that is carrying on a business if they are:

- the settlor or trustee of a trust
- a shareholder or director of a company
- a settlor or trustee of a trust who is a shareholder of the company
- an associated person of any of these people.

There are two further examples where an exemption will not apply.

- If someone transfers an asset to a trust but retains an interest in the asset, they are considered to be a settlor of the trust and to be gaining a benefit.
- If a person connected to the organisation transfers an asset to the organisation but retains an interest in the asset. If the organisation uses the asset to earn rental income, the person will be considered to be receiving a benefit since they still have an interest in the asset.

Part 3 – Income

Charitable organisations can receive many types of income, including subscriptions, grants, subsidies, donations or koha, fees, raffle money, trading profits and proceeds from selling assets. Some grants made to non-profit bodies fall within the meaning of an unconditional gift or donation (see page 9) especially if given by charitable trusts. These are not liable for GST. If you're not sure please contact us to discuss. The table on page 35 shows whether the different types of income are liable for:

- income tax (for organisations not entitled to an exemption), and
- GST (for those organisations registered for GST).

You'll notice that income "exempt from GST" is different from income that is "not liable for GST". This is important when working out your claim for GST input tax credits on goods and services bought to run your organisation.

GST-registered non-profit bodies (including charities) may claim input tax credits on expenses incurred in deriving income that is either liable or not liable for GST, but not in deriving income that is exempt from GST.

Example

A GST-registered charitable organisation receives income from:

a government grant	liable for GST
trading activities	liable for GST
donations	not liable for GST
renting a residential property	exempt from GST

The charitable organisation can claim a GST input tax credit for all the expenses except those incurred in deriving the rent, which is exempt from GST.

Income exempt from GST includes:

- income from financial services, including interest from banks and dividends from public companies
- proceeds made by a non-profit body from selling goods and services that were donated to it
- rent received from residential accommodation.

Table of income types

	Liable for income tax	Not liable for income tax	Liable for GST	Not liable for GST	Exempt from GST
Subscriptions		✓	✓		
Donations		✓		✓	
Koha		✓ [†]		✓	
Bequests		✓		✓	
Grants		✓	✓		
Unconditional gifts		✓		✓	
Subsidies		✓*	✓		
Suspensory loans	✓		✓		
Trading activities	✓		✓		
Raffles or housie proceeds		✓*	✓		
Admission fees	✓		✓		
Affiliation fees	✓		✓		
Sale of donated goods or services		✓			✓
Sale of purchased goods	✓		✓		
Sale of assets or equipment		✓	✓		
Insurance receipts		✓	✓*		
Hall or equipment hire	✓		✓		
Rent received (residential)	✓				✓
Rent received (commercial)	✓		✓		
Penalty payments (fines)	✓		✓		
Advertising or sponsorship	✓		✓		
Interest or dividends	✓				✓
Gaming machines	✓		✓		

* Liable in certain situations

† The tax treatment of koha depends on what it is. See our booklet *Payments and gifts in the Māori community (IR 278)*.

Part 4 – Services you may need

Need to talk to us?

You can call us on these numbers:

General tax, tax credits and refunds	0800 227 774
Employer enquiries	0800 377 772
General business tax	0800 377 774
Overdue returns and payments	0800 377 771

We're here to take your call between 8 am and 8 pm Monday to Friday and Saturday between 9 am and 1 pm. Remember to have your IRD number with you when you call.

For more information go to www.ird.govt.nz (keywords: contact us).

0800 self-service numbers

This service is available seven days a week (any time, except between 5 am and 6 am) for a range of self-service options. Remember to have your IRD number with you when you call.

For personal information, such as account balances, you'll also need a personal identification number (PIN). You can get a PIN by calling 0800 257 777 and following the step-by-step instructions.

Order publications and taxpacks	0800 257 773
Request a summary of earnings	0800 257 778
Request a personal tax summary	0800 257 444
Confirm a personal tax summary	0800 257 771
All other services	0800 257 777

Customer service quality monitoring

As part of our commitment to providing you with a quality service, we record all phone calls to and from our contact centres. Find out more about this policy or how to access your recorded information at www.ird.govt.nz

Tax Information Bulletin (TIB)

The TIB is our monthly publication containing detailed technical information about all tax changes. You can find it on www.ird.govt.nz under “Newsletters and bulletins” and subscribe to receive an email when each issue is published on our website.

Privacy

Meeting your tax obligations means giving us accurate information so we can assess your liabilities or your entitlements under the Acts we administer. We may charge penalties if you don't.

We may also exchange information about you with:

- some government agencies
- another country, if we have an information supply agreement with them
- Statistics New Zealand (for statistical purposes only).

If you ask to see the personal information we hold about you, we'll show you and correct any errors, unless we have a lawful reason not to. Call us on 0800 377 774 for more information. For full details of our privacy policy go to www.ird.govt.nz (keyword: privacy).

If you have a complaint about our service

We're committed to providing you with a quality service. If there's a problem, we'd like to know about it and have the chance to fix it. You can call the staff member you've been dealing with or, if you're not satisfied, ask to speak with their team leader/manager. If your complaint is still unresolved you can contact our Complaints Management Service. For more information go to www.ird.govt.nz or call us on 0800 274 138 between 8 am and 5 pm weekdays.

If you disagree with how we've assessed your tax, you may need to follow a formal disputes process. For more information, read our factsheet, *If you disagree with an assessment (IR 778)*.

Inland Revenue publications

These publications will give you more information.

Depreciation (IR 260)

Education centres (IR 253)

Employer's guide (IR 335)

Fringe benefit tax guide (IR 409)

Gaming machine duty (IR 180)

Grants and subsidies (IR 249)

GST guide (IR 375)

GST – do you need to register? (IR 365)

Inland Revenue audits (IR 297)

Payments and gifts in the Māori community (IR 278)

Payroll giving (IR 317)

Provisional tax (IR 289)

Resident withholding tax on dividends (IR 284)

RWT on interest – payer's guide (IR 283)

Self-employed or an employee? (IR 336)

Smart business (IR 320)

Tax information for charities registered under the Charities Act 2005 (IR 256)

Taxpayer obligations, interest and penalties (IR 240)

Tax Information Bulletin

Operational Statement 06/02 Interaction of tax and charities rules, covering tax exemption and donee status