

## QUESTION WE'VE BEEN ASKED

QB 18/XX

### Income tax – state integrated schools and donation tax credits

*School boards, proprietors and administrators need to understand which payments parents make to state integrated schools qualify as gifts for donation tax credit purposes. If a payment qualifies as a gift, then the school or proprietor is able to issue a donation tax receipt to the parent.*

## Question

**What payments by parents to state integrated schools are gifts for donation tax credit purposes?**

## Answer

**Payments by parents to state integrated schools are gifts for donation tax credit purposes where the payment is voluntary and is:**

- **a payment made to the board of trustees to assist generally with funding the delivery of the school's curriculum; or**
- **a payment made to benefit the school as a whole, where there is not a sufficient link between any material benefit obtained in return for making the payment; or**
- **a specific payment to the board of trustees to assist with the school's cost of delivering individual subjects or activities forming part of the school's curriculum and in which the student may participate regardless of whether any payment is made, or**
- **a payment to a qualifying proprietor to assist the proprietor with its cost of supporting the delivery of the school's curriculum with special character.**

### Key provisions

Income Tax Act 2007, ss LD 1 to LD 3

Education Act 1989, s 3 and Part 33

### Key terms

**State integrated:** A state school that was previously a private school and which has been integrated into the state school system.

**Proprietor:** The proprietor owns (or leases) and maintains the school's land and buildings and is responsible for determining and maintaining the school's special character.

**Special character:** A particular or general religious or philosophical belief, as defined in the school's Deed of Integration with the

## Explanation

### Scope of this Question We've Been Asked

1. This Question We've Been Asked (QWBA) addresses payments parents make to boards of trustees and proprietors of state integrated schools. It does not address payments parents make to state non-integrated schools, partnership schools kura hourua or private schools in New Zealand. It also does not address payments made for international students to attend state integrated schools. State non-integrated schools and partnership schools kura hourua are addressed in QB XX/XX *Income Tax – State schools and donation tax credits*.

2. In this QWBA, the word “parents” includes guardians and caregivers of students who also make contributions to state integrated schools.

### **Donation tax credit rules**

3. Under the Income Tax Act 2007, a donation tax credit may be available for charitable or other public benefit gifts made by a parent to a state integrated school, if the requirements in ss LD 1 to LD 3 are met.
4. **The phrase “charitable or other public benefit gift” is defined in s LD 3(1) to mean a monetary gift of \$5 or more paid to a donee organisation.**
5. Since 2008, the boards of trustees of state integrated schools have been listed as donee organisations in s LD 3(2)(bb). Before 2008, state integrated schools qualified as donee organisations because the advancement of education was a charitable, benevolent, philanthropic or cultural purpose. As the boards of trustees of state integrated schools are donee organisations a person who makes a monetary gift of \$5 or more to the board may claim a donation tax credit for the payment amount.
6. A donation made to a proprietor of a state integrated school will qualify for a donation tax credit only if the proprietor is a donee organisation. The proprietors of state integrated schools may qualify as donee organisations, if they are not-for-profit organisations established for the purpose of advancing education.

### **Charitable or other public benefit gifts**

7. While the phrase “charitable or other public benefit gift” is defined in s LD 3(1), the term “gift” is not defined in the Act. In the absence of a definition, the Commissioner considers “gift” should be given its ordinary meaning. This is consistent with the Court of Appeal’s decision in *Mills v Dowdall* [1983] NZLR 154.
8. **The Commissioner considers a “gift” is a payment of money of \$5 or more:**
  - made voluntarily;
  - by way of benefaction;
  - in return for which the donor receives no material benefit or advantage.

See further *QB 16/05 Income tax – donee organisations and gifts*.

9. When deciding whether a payment by a parent to a state integrated school is a gift, the true nature of the payment is to be determined by considering the overall arrangements and transactions giving rise to the payment.

#### **Also see:**

##### **Inland Revenue:**

QB 18/xx Income Tax – State schools and donation tax credits;

QB 16/05 Income tax – donee organisations and gifts; and

BR Pub 18/xx Payments made by parents or guardians of students to state schools – GST treatment.

##### **Ministry of Education:**

Circular 2013/06 - Payments by parents of students in state and state integrated schools

### **Voluntary payment**

10. To qualify as a gift, **a parent's payment to the** board of trustees or proprietor must be made voluntarily. This means something more than that the payment was made freely by choice or for benevolent reasons. A **parent's** payment is not voluntary if it is made under an arrangement (contractual or otherwise) where the payment is made **in return for** a material benefit or advantage. Similarly, a payment may not be voluntary where there is some agreement, understanding or expectation that the school or proprietor is to do or provide something in return for the payment. (The link between the payment and the material benefit is discussed from para [20].)
11. If pressure is applied to a parent to make a contribution (by the school, the proprietor or other parents), then that can affect whether a payment is voluntary.
12. According to the Education circular, the only compulsory payments parents are required to make to state integrated schools are attendance dues payable to the proprietor and payments where the parents have agreed to purchase goods and services from the school. All other payments parents may be asked to make to state integrated schools are voluntary in the sense that the school cannot compel parents to make the payments. However, just because these **payments are "voluntary" does not mean they are** automatically gifts for income tax purposes. A payment that is voluntary under the guidelines published in the Education circular still may not be a gift for income tax purposes.

### **Benefaction**

13. The requirement that a gift is made voluntarily is connected with the concept of benefaction and the belief that gifts usually proceed from a "detached and disinterested generosity". Benefaction is the idea that a gift is made to provide an advantage to, or to do good for, the recipient. Benefaction is an important element of a gift in its ordinary sense; when it is absent there can be no gift (*Leary v FCT* (1980) 32 ALR 221).
14. In the context of contributions made by parents to the board or proprietor of a state integrated school, benefaction is the idea that the **parent's payment** is made to do good for the school in some way. For example, a voluntary contribution to the proprietor to assist with the cost of building a new music studio for the school.

### **Material benefit in return**

15. **A parent's voluntary payment to** the board of trustees or proprietors of a state integrated school will not be a gift if it is made under an arrangement where the parent expects to obtain a material benefit or advantage **in return for** making the payment. No contractual or legal obligation is needed on the parent to make the payment. It is sufficient that an understanding or expectation (clear or implicit) exists between the parent and the school that the payment is being made in return for certain material benefits.
16. The Commissioner considers a **parent's** payment to the board of trustees or proprietor of a state integrated school will **not be a "gift" where:**
  - the **parent's payment is** made in return for a material benefit or advantage; or
  - the school is placed under a material obligation to do or provide something in return for the parent making the payment.

17. In the school context, the connection between a gift being a payment that is made voluntarily and being made in return for a material benefit or advantage can be seen if a school chooses to withhold something from a student until their donation is paid. By withholding something like a year book or ball ticket, the school creates a link between the payment and the thing being withheld. This, in turn, means the payment is not being made voluntarily. In that scenario, the payment will not qualify as a gift as it is being made in return for the year book or ball ticket.
18. A material benefit or advantage does not need to come directly from the school and does not need to be received directly by the parent who made the payment (for example, the student may receive the benefit) so long as under the arrangement the material benefit or advantage is in return for making the payment.
19. **A benefit or advantage will be considered "material" if it is of substance and can be valued and/or owned.** (Sometimes these benefits are referred to as pecuniary or proprietary benefits.) A benefit or advantage will not be material if it is intangible and cannot be valued or owned. Non-material benefits or advantages include such things as public acknowledgement (for example, when **a parent's** name is printed in a school newsletter to acknowledge their gift). This is different from a material benefit such as **where a parent's business is advertised in the school's newsletter in return for the parent making the payment.**

### ***Sufficient link between payment and benefit***

20. Importantly, not every material benefit or advantage will necessarily disqualify a voluntary payment to the board of trustees or proprietor of a state integrated school from being a gift. Sometimes a voluntary payment may be a gift even if the parent obtains a material benefit. This happens when the connection between the payment and the benefit is too remote to prevent the payment from being a gift. The strength of the link between the **parent's** payment and the benefit determines whether the payment is a gift. This can usually be determined by considering all the circumstances surrounding the gift. In considering all the circumstances, it is important to remember gifts ordinarily proceed from a detached and disinterested generosity.
21. The strength of the link between a payment and the benefit was a point identified in the Canadian decision *Coleman v Canada* 2010 DTC 1,096 at [46] in the context of a donation to the Alzheimer Society:

When a taxpayer, whose spouse is suffering from Alzheimers, makes a donation to the Canadian Alzheimers Society, and, as a result of the Society funding research into the disease, the taxpayer's spouse is prescribed new medication which slows down the rate of deterioration for the disease, there has clearly been a benefit to the taxpayer. It may be difficult to put a value on that benefit; indeed, the taxpayer might suggest it is priceless, but no one would deny there is a benefit.
22. The court in *Coleman* found that the donor did obtain a benefit from making the payments, but the benefit was difficult to value, so the strength of the link was not sufficiently strong to prevent the donation being a gift. The court then distinguished at [47] **between this type of "self-interested" or "personal" gift where there is a benefit but it is too weakly linked to the payment and a gift made purely for a moral benefit:**

...pure moral benefit will not be sufficient to vitiate a gift. Where the only benefit from a donation is for pure moral benefit, it is unnecessary to proceed to the second stage of inquiry, as by its nature there is no substantive personal link between a donation and the resulting pure moral benefit. We give to the Haitian Relief Fund to benefit those in need: there is no personal element to the benefit.

23. This distinction shows that deciding whether a payment is a gift is a matter of degree, and it becomes harder to show a payment is truly a gift where the benefit obtained is more direct and more closely linked to the payment.
24. The strength of the link can usually be determined by considering all the circumstances surrounding the gift, including, in the case of schools, the statutory environment the payment is made in. When considering all the circumstances, it is also important to remember that gifts ordinarily proceed from an intention on the part of the giver to provide an advantage to, or to do good for, the recipient.

### State integrated school statutory environment

25. In New Zealand, students attending state integrated schools must be given free education on the same conditions as students enrolled at a state school (see s 441 of the Education Act 1989). Under the Education Act 1989, any reference to a state school includes any reference to a state integrated school (see s 414(2))
26. Section 3 of the Education Act 1989 provides:

#### **3 Right to free primary and secondary education**

Except as provided in this Act, every person who is not an international student is entitled to free enrolment and free education at any State school or partnership school kura hourua during the **period beginning on the person's fifth birthday and ending on 1 January after the person's 19th birthday.**

27. International students are generally any students who are not New Zealand citizens or residents.
28. The Education Act 1989 does not define what free education means for state integrated schools. The Education Act 1989 and the National Education Guidelines establish the overall framework for the delivery of education by schools in New Zealand. The central component of that framework is the national curriculum (comprising the New Zealand Curriculum and Te Marautanga o Aotearoa), which sets out a common direction for teaching and learning in New Zealand schools. The board of trustees of every state integrated school must develop a charter (or from 2019, a four year strategic plan and an annual implementation plan) and a detailed curriculum for its school that are aligned with the intent of the national curriculum, **the school's special character and the school community's values and expectations.** The **school's proprietor** supervises and ensures **the school's special character**, as it is defined in its Deed of Integration, is reflected in the **school's curriculum.** **The board of trustees is then required to implement its school's curriculum** in accordance with the priorities set out in the National Education Goals, the National Administration Guidelines and **the school's Deed of Integration.** Therefore, in the state integrated school context free education involves the delivery of the national curriculum with special character.

### Education with a special character

29. State integrated schools provide education within the framework of a particular or general religious or philosophical belief – referred to as the **school's "special character"**. A state integrated school establishes a partnership with the Crown by its Deed of Integration, which defines the special character of the school. The special character **shapes the school's curriculum, enrolments, staffing processes and culture.** Types of

special character include such things as denominational and non-denominational Christian religions, Jewish or Islam religions or Steiner or Montessori philosophies.

30. Part 33 of the Education Act 1989 sets out the rules for state integrated schools. (Previously, these rules were in the Private Schools Conditional Integration Act 1975, which was re-enacted as an amendment to the Education Act 1989 in May 2017.) Section 414(1) of the Education Act 1989 defines "education with a special character" as:
- education within the framework of a particular or general religious or philosophical belief, and associated with observances or traditions appropriate to that belief
31. Like state schools, state integrated schools are governed by an elected board of trustees, but they differ from state schools in that they also have proprietors. Section 414 of the Education Act 1989 defines proprietor as:
- the body corporate that—
- (a) has the primary responsibility for determining the special character of a school registered under section 35A and for supervising the maintenance of that special character; and
  - (b) owns, holds in trust, or leases the land and buildings that constitute the premises of the private school or a State integrated school
32. The proprietor is a person or entity that provides and maintains the land and buildings and is responsible for determining and supporting the maintenance of **the school's special character**. The board of trustees of a state integrated school includes representatives of the proprietor.

### Ministry of Education guidance on fund raising by state integrated schools

33. The Education Act 1989 provides limited guidance on the payments proprietors may request from parents and no guidance about the types of payments boards of trustees of state integrated schools may ask for from parents. However, it is implicit that state integrated **schools cannot charge for something that is part of a student's statutory entitlement to free education**. The Ministry of Education confirms this in their *Circular 2013/06 - Payments by parents of students in state and state integrated schools* issued on 13 June 2013. According to *Circular 2013/06* all payments requested from parents by state integrated schools (whether requested by the board of trustees or the proprietor) must be voluntary, unless the payments are attendance dues payable to the proprietor or payments for the purchase of optional goods or services.
34. *Circular 2013/06* also explains that pressure must not be placed on parents to make contributions. No payments sought from parents of students attending state integrated schools are compulsory except for attendance dues payable to the proprietors and charges for optional goods and services that parents have decided to purchase. Schools cannot withhold education services from students if their parents choose not to make the requested donations.

### Proprietors

35. Part 33 of the Education Act 1989 provides guidance for proprietors on fund raising. Part 33 provides that the only payments proprietors of a state integrated school may **require parents to pay as a condition of a child's enrolment at the school are attendance dues** (see s 447(1) of the Education Act 1989). The amount of attendance dues that proprietors may charge parents is approved by the Ministry of Education. The

attendance dues must be applied for specific purposes; otherwise, proprietors are permitted to raise funds and request financial contributions from parents for the upkeep and so on of the **school's land and buildings**, but any financial contributions requested by proprietors from parents, other than attendance dues, must be voluntary.

### **Boards of trustees**

36. Boards of trustees of state integrated schools may ask parents for donations to assist with funding the **cost of delivering the school's curriculum**. **In this context the "school's curriculum" is the delivery of the education the board of trustees has agreed with the Ministry of Education to provide to its students and that aligns with the intent of the national curriculum, the school's special character and the school community's values and expectations.**
37. The donations requested may be general donations (that is, donations for an unspecified purpose) or specified donations (that is, donations for a particular purpose such as library books or sports equipment). In *Circular 2013/06*, schools are advised that if a specified donation is requested for an activity **forming part of the delivery of the school's curriculum**, students cannot be excluded from participating in the activity if the parent chooses not to make the contribution. Sometimes schools may offer for sale consumables, take-home items (such as items made in technology classes), stationery, clothing and activities that are not part of the delivery of the **school's curriculum**. Schools may charge for these things, but students are not obliged to buy them. Any payment for these consumables is not a donation.

### **Gifting in the state integrated school environment**

#### **Voluntary payments for general unspecified purposes**

38. Boards of trustees of state integrated schools may ask parents for donations to assist with funding the cost of delivering the **school's curriculum**. Similarly, proprietors may request contributions from parents to assist with the cost of supporting the delivery of **the school's curriculum** with special character. Where the donations the board of trustees requests are general donations (that is, donations for an unspecified purpose), then the donations will be gifts for donation tax credit purposes if the payment is voluntary. The school may choose to issue a donation tax receipt in that case. Similarly, where proprietors request contributions to assist with the cost of supporting the delivery of **the school's curriculum** with special character, the Commissioner considers the donations are gifts for donation tax credit purposes if the payment is voluntary and the proprietor is a donee organisation. Again, a proprietor may choose to issue a donation tax receipt in that case.
39. General donations parents voluntarily make to assist the school with funding the cost of delivering the **school's curriculum** with special character are gifts, because students attending a state integrated school have a statutory right to free education. Students attending state integrated schools are entitled to free education on the same terms and conditions as students attending state schools (see ss 3, 414 and 441 of the Education Act 1989). In the case of state integrated schools, this means students are statutorily entitled to a free education with special character. Therefore, parents of students attending a state integrated school can expect their children to receive an education with special character regardless of whether the parent makes any requested payments. As a result, the Commissioner considers a sufficient link cannot be established between the **parent's** voluntary contribution and any benefit obtained, so it cannot be said the contribution is made **in return for** the benefit.

**Voluntary payments for specific projects**

40. Sometimes parents are asked to assist schools with funding special projects for a school (for example, to assist with developing a computer lab or for books for the school library). Gifts for specific purposes may not always be a contribution towards the cost of **delivering the school's curriculum**, so they can be different from general school donations in that regard. That the school seeks donations for a specific project will not, in itself, **prevent the payment being a gift. In the Commissioner's view, a** payment made for a specific purpose will be a gift so long as it has the attributes of a gift. Further, the fact the parent or their child may be among those who ultimately benefit from a project may not disqualify the payment from being a gift.
41. However, it is acknowledged that when boards of trustees or proprietors of state integrated schools request contributions for specific purposes rather than as a general unspecified donation, it may become more difficult to demonstrate that no link exists between the payment and any benefit generated by the payment sufficient to prevent the payment being a gift. The stronger the connection between a **parent's** payment and any material benefit or advantage obtained in return, the more likely it is that the payment will not qualify as a gift. This is particularly so where a school requests payment for an individual student or a narrow group of students rather than for the school as a whole.
42. Therefore, a gift made for a specific school-wide purpose may qualify for a donation tax credit even if it is not a contribution **towards the cost of delivering the school's** curriculum. The fact the parent or their child may be among those who ultimately benefit from a project may not disqualify the payment from being a gift. However, where the benefit obtained is more direct and more closely linked to the payment it becomes harder to show a payment is a gift.
43. Proprietors may request building contributions to assist with the cost of upgrading and maintaining the **school's** buildings and facilities, providing infrastructure and preserving the special heritage of the school. Contributions may be set aside for long-term capital developments. **In the Commissioner's view, on the whole, contributions to proprietors to assist with funding building costs will be gifts. It is unlikely a sufficient link exists between any benefit obtained by the student and the parent's donation. This is because,** usually, school buildings will be enjoyed by the wider school community as a whole and over many generations. This makes it hard to identify a sufficient link between a **parent's payment and any benefit obtained by their child.**

**Voluntary payments for individual subjects or activities**

44. Where a parent makes a voluntary contribution towards the cost of delivering an individual subject or activity **forming part of the school's curriculum with special** character, that payment will be a gift only if it can be clearly established that the student has a right to participate in the subject or activity **regardless of whether** their parent makes a requested payment. If a student has a right to participate in the subject or activity regardless of whether their parent makes a requested payment, then the payment is not necessarily made in return for the benefit.
45. For example, in the United States decision *Winters v Commissioner* 468 F 2d 778 (1972), the parents argued that the payments they made to an education fund established to support the religious school their children attended were gifts because the payments were not required and their children could attend the school even if they did not

contribute. However, the judge confirmed that the mere absence of a legal obligation to contribute did not establish that the payments were gifts. The judge concluded that the payments were not gifts as they did not come from a detached and disinterested generosity. The parents expected and received substantial benefits from making the payments. The judge said the record showed that the taxpayers realised they had to pay to keep the school in operation and that the amount of their payments was determined, at least to some extent, by what they believed to be the cost of educating their children.

46. In New Zealand, students who attend state integrated schools have a statutory right to free education with special character. This means parents of students attending a state integrated school can expect their children to receive from their school the education that the school has agreed to provide **regardless of whether** the parent makes any requested payments. **In the Commissioner's view, this means parents of students attending state integrated schools do not have the same level of expectation as the parents in *Winters* that they would need to pay to obtain the education they had chosen for their children.**
47. Therefore, on balance, the Commissioner considers that a state integrated school **student's statutory right to free education** with special character means there is generally no sufficient link between **a parent's** voluntary payment for an individual subject or **activity forming part of the delivery of the school's curriculum** and any benefit obtained by the student. This is on the basis that the student is statutorily entitled to obtain the benefit **regardless of whether** the parent chooses to make the payment, or even if no parents make the payment. In that circumstance, the Commissioner considers the payment will not be made **in return for** the benefit, and if the payment is, in fact, made voluntarily, it will be a gift. If the payment is not made voluntarily by the parent, then the contribution will not be a gift – **even if it relates to the delivery of the school's curriculum.**

### ***Payments for non-curriculum activities***

48. Where a parent makes a voluntary contribution to the board or proprietor of a state integrated school to assist with the cost of delivering an activity or thing that does not **form part of the school's curriculum, that payment will be a gift only if it is, in fact,** voluntary, it is to do good for the school and a sufficient link does not exist between the payment and the activity or the thing. The statutory right to free education does not apply in those circumstances to weaken the link between the payment and the benefit. Therefore in many cases payments for the right to participate in non-curriculum activities will not be gifts. This is because those payments are made **for** the right to participate in the activities, or for the thing.

## Examples

49. The following examples help explain the application of the law to state integrated schools. They are based on the advice in *Circular 2013/06*.

**Example 1: Annual donation to the board of trustees**

50. Along with the first newsletter for the school year, Charlotte receives a printed statement from her son's state integrated primary school showing a request for an annual donation of \$350 to assist the board of trustees with its general operating costs for the year. Charlotte **wants to help her son's school but on top of having to buy a new school uniform she cannot afford the full requested amount so she pays \$200**. This is a gift for donation tax credit purposes, so the school issues Charlotte with a donation tax receipt for \$200.

**Example 2: Books for the library**

51. Thomas has two children, Dermot and Bill, at the local church state integrated primary school. The school is trying to improve literacy throughout the school and has asked families if they would like to donate towards the school purchasing books for the school library. Dermot and Bill are excellent readers, and Thomas is supportive of the initiative. The family particularly likes the idea that the books will be an enduring benefit for the whole school to enjoy. Thomas happily donates \$50 to the school for books. This is a gift for donation tax credit purposes, so the school is able to issue Thomas with a donation tax receipt. The fact the gift is for a specific purpose (to purchase books) does not prevent the payment being a gift. Also, the fact Dermot and Bill may benefit from the gift also does not prevent the payment being a gift because there is not a sufficient link between the payment by Thomas and the benefit his children may obtain by being able to borrow books from the library.

**Example 3: School stationery pack**

52. At the beginning of the school year, **Julie's daughter Aroha's** school, a state integrated primary school, offers parents the choice of purchasing a stationery pack from the school or taking a stationery list and purchasing the stationery from a local store. Julie chooses to purchase a stationery pack from the school for her daughter Aroha. While Julie can voluntarily choose to purchase the pack from the school, the payment for the pack is not a gift to the school. It is a payment made in return for a stationery pack. The school does not issue Julie with a donation tax receipt, but issues a tax invoice for the amount of the stationery pack.

**Example 4: NCEA level 2 biology contribution**

53. Cameron is in year 12 at his state integrated college and has chosen to study NCEA level 2 biology. The college has requested the following voluntary payments from **Cameron's** parents in respect of his biology subject selection:
- \$20 to assist the college with the cost of the biology field trip to mud flats (attendance is a compulsory part of the course requirements for the internal achievement standard);
  - \$30 for a biology work book (optional but recommended).

54. Cameron's parents agree to purchase the workbook and make the requested payment to the college to assist with the cost of the field trip. The school administrator issues a donation tax receipt to **Cameron's** parents for \$20 and a tax invoice for \$30. The college provides Cameron with a biology workbook. The voluntary payment towards the **college's** field trip is a gift, but the \$30 payment for the optional workbook is not a gift.
55. The reason the contribution towards the field trip is a gift is because there is not a sufficient link between the payments and the benefits obtained by Cameron. Under the Education Act 1989, Cameron is entitled to a free education. Participating in the field trip **is part of the delivery of the school's curriculum**, so Cameron cannot be prevented from attending if his parents choose not to make the payment. The field trip will go ahead regardless of whether Cameron's parents or any of his **classmate's parents make the** payment. The payments are **not made in return for** the biology tuition.

**Example 5: High-performance sports coach**

56. Krish is a member of his state integrated **secondary school's premier hockey team**. His coach has organised for the team to have a skills training session with a high-performance coach. All team members are expected to attend the session, and parents have been asked to contribute \$80 each towards the cost of the session. Even though **the training session does not form part of the delivery of the school's curriculum**, the school office has helped by adding the requested amount to each team member's school account. The parent's payments are **in return for** the training session. This payment is not a gift.

**Example 6: Special character contribution**

57. **Edward's** state integrated school undertakes to provide students with a Christian education. The **school's** proprietor asks each family for an annual \$100 voluntary contribution towards the cost of chaplaincy services, religious education and pastoral support. Because **the voluntary payment relates to the delivery of the school's curriculum with special character, as defined in the school's Deed of Integration**, the payment is a gift for donation tax credit purposes, so the proprietor is able to issue **Edward's parents** with a donation tax receipt for \$100. This is on the basis that Edward is statutorily entitled to an education with special character regardless of whether his parents choose to make the payment, or even if no parents make the payment.
58. The school also asks for a \$25 voluntary contribution towards the cost of providing a religious education work book. This book is compulsory and comprises part of the delivery of the **school's** curriculum. Edward will receive the work book regardless of whether his parents make the voluntary contribution. The work book stays at school and is not taken home. The contribution towards the cost of the work book is a donation, so the school is able to issue a donation tax receipt. If the workbook had been optional and not part of the delivery of the curriculum, then the school could have charged **Edward's** parents for the cost of the workbook if they chose to purchase it.

*Draft items produced by the Office of the Chief Tax Counsel represent the preliminary, though considered, views of the Commissioner of Inland Revenue.*

*In draft form these items may not be relied on by taxation officers, taxpayers, and practitioners. Only finalised items represent authoritative statements by Inland Revenue of its stance on the particular issues covered.*

## References

### Legislative references

Education Act 1989, ss 3, 414, 441, 447, Part 33

Income Tax Act 2007, ss LD 1 to LD 3

Private Schools Conditional Integration Act 1975

### Case references

*Coleman v Canada* 2010 DTC 1,096

*Leary v FCT* (1980) 32 ALR 221

*Mills v Dowdall* [1983] NZLR 154 (CA)

*Winters v Commissioner* 468 F 2d 778 (1972)

### Other references

Ministry of Education, *Circular 2013/06 Payments by Parents of State and State integrated Schools*

We would appreciate your initial feedback on this item, which you can provide through [three quick questions](#)

Detailed submissions can be emailed to [public.consultation@ird.govt.nz](mailto:public.consultation@ird.govt.nz)