



## 8. FACT SHEET ON TAXATION

*This fact sheet provides an overview of some of the main tax rules that apply to various types of organisations. It also explains how organisations can become tax-exempt.*

Managing taxation can be an extremely complex exercise, and one that is very much specific to each type of organisation. Inland Revenue or an accountant will be able to provide further advice about tax obligations.

### TAX OBLIGATIONS OF ORGANISATIONS

This section explains the tax obligations that apply to different types of organisations, if they are not exempted.

#### Incorporated societies and charitable trust boards

Incorporated societies and charitable trust boards are liable for tax on all income unless they come within a specific exemption (see below).

The tax rate that generally applies to these organisations is 30 per cent.

#### Companies

A company is taxed at 30 per cent on all taxable income that it derives unless it comes within a specific exemption (see below).

A number of complex rules apply to the taxation of companies. The dividend imputation regime allows New Zealand companies to attach tax credits to dividends paid to shareholders. This eliminates the double taxation of company profits (at both company and shareholder levels) that would otherwise occur.

Companies can also take advantage of rules that allow them to group and carry forward losses. For these rules to apply, the company must meet certain requirements about shareholder continuity. See a tax adviser for more information.

#### Unincorporated Trusts

An unincorporated trust's income is separated into two parts for tax purposes: beneficiary income and trustee income. The tax on these two parts is then calculated separately, to arrive at the total tax payable on the trust's income.

**Beneficiary income** is all income derived by a trustee of the trust during any income year that either:

- vests absolutely in the beneficiaries during that income year, or
- is paid or applied for the benefit of the beneficiaries within six months after the end of that income year.

**Trustee income** is all income the trust earns in its income year that:

- does not vest absolutely in the beneficiaries during that income year, or
- is not paid or applied for the benefit of the beneficiaries within six months after the end of that income year.

These general rules only apply to “qualifying trusts” – that is, where all trustee income derived by the trustee has been subject to New Zealand income tax and the trustees have satisfied their NZ tax obligations. Most New Zealand trusts are qualifying trusts. The rules for non-qualifying trusts are less advantageous.

Trustee income is taxed at 33 per cent. Beneficiaries (resident in New Zealand) pay tax on beneficiary income at their personal tax rate.

### TAX EXEMPTIONS AVAILABLE TO ORGANISATIONS

#### Income tax exemptions for charitable organisations

Depending on the nature and scope of a charitable organisation, the following exemptions may be available to them if they are approved as being tax-exempt by Inland Revenue:

- An exemption for non-business income derived by an organisation established exclusively for charitable purposes or by the trustees of a charitable trust
- An exemption for income from businesses carried on in New Zealand by an organisation established exclusively for charitable purposes or by the trustees of a charitable trust.

#### Income tax exemptions for non-charitable, non-profit organisations

If a non-charitable organisation does not carry on business for the profit of any member and its rules prohibit it from making distributions to

members, a deduction of up to \$1000/year may be available. Tax exemptions are not automatic. Groups need to apply to Inland Revenue in writing, and include with their application a copy of the certificate of incorporation or trust deed (where appropriate) and a copy of their rules and constitution.

### Other tax obligations not affected

The exemptions for charitable and other non-profit organisations apply only to income tax. Your organisation may still be liable for other taxes, such as PAYE, GST and fringe benefit tax (FBT): see below.

## APPLYING FOR TAX-EXEMPT STATUS

### No automatic tax exemption

All charitable organisations need to apply to Inland Revenue for a tax exemption – they are not automatically exempt from standard taxation rates. From 2007, registration with the Charities Commission will be required for any organisation to be tax-exempt, but the final decision on tax exemption will still be made by Inland Revenue. See *Fact sheet 7 – Charities Commission and Fact sheet 8 – Taxation.*

### The application process

There is no set form or process to follow when seeking tax-exempt status from Inland Revenue. An organisation applies by letter with the supporting documents.

Inland Revenue will consider your organisation's constitution or rules to determine whether the criteria specified in the Income Tax Act are satisfied. Once Inland Revenue is satisfied of this, your organisation will be granted tax-exempt status.

### Criteria for tax-exempt status

The main criteria that Inland Revenue look for are that:

- your organisation is limited to charitable or non-trading purposes, and
- its members and officers are not able to profit from its operations or if it winds up.

Inland Revenue also requires the following specific restrictions in the organisation's constitution or rules:

- Any alteration to the rules must not change the organisation's exclusively charitable nature.
- If income is paid to a member for services provided to the group, and the group would otherwise have had to have paid a tradesperson or person outside the group, the payment must be reasonable and related to that which would be paid in an arm's length transaction.
- On liquidation (winding-up), surplus assets must be distributed to approved charitable purposes or as the High Court directs.

Inland Revenue's requirements when the Charities Commission has begun to operate are likely to be similar.

## TAX OBLIGATIONS OF EMPLOYERS

### Employment

Organisations employing staff must register with Inland Revenue as an employer, and decide if its staff are employees or independent contractors, as these are treated differently for tax purposes. (see *Fact Sheet 9*).

Employers are required to make the following deductions from payments made to employees (but not independent contractors):

- PAYE
- ACC earners levy (included as part of PAYE)
- Fringe Benefit Tax (FBT)

Employers may also be required to deduct

- Student loan repayments
- Child support payments
- KiwiSaver contributions

Organisations employing independent contractors may need to deduct scheduler payments (previously called withholding payments) but this will depend on their exact self-employed status. Employers are not required to deduct ACC levies, KiwiSaver or student loan repayments from payments made to contractors.

From 7 January 2010, employees can also ask their employer to make donations to charitable organisations directly from their pay. Called payroll giving, the scheme allows the employer to deduct the amount of the donation from the employee's wage or salary, calculate the tax

credit for the donation and deduct this from the employee's PAYE. Currently, the scheme is voluntary (employers do not have to offer this to employees) and only available to employers filing their monthly schedules (IR348) and employer deductions (IR345) electronically. For more information go to: [www.ird.govt.nz](http://www.ird.govt.nz).

### Fringe benefit tax (FBT)

Charitable organisations are exempt from paying FBT on any benefits provided to employees while they're carrying out the organisation's charitable activities.

Inland Revenue's booklet *Fringe benefit tax guide (IR409)* sets out the current requirements for fringe benefit tax and can be downloaded from their website at [www.ird.govt.nz](http://www.ird.govt.nz).

## OTHER TAX ISSUES

### Donee status

If IRD considers an organisation to be a "donee organisation" for tax purposes, gifts of money the organisation receives from individuals and public companies qualify for certain tax advantages. In those cases, the person or company making the donation qualifies for a tax credit.

To be a donee organisation, your organisation must be a New Zealand society, institution, association, organisation, trust or fund. Further, its funds must be applied wholly or mainly to charitable, benevolent, philanthropic or cultural purposes within New Zealand. This means that the organisation's aims or purposes should be carried out in NZ, even if this results in paying money outside NZ to achieve these purposes. Organisations don't need to be registered with the Charities Commission to get donee status.

Some organisations are considered donee organisations even though they do not meet the "use of funds in New Zealand" condition. This is because they have a wide enough public appeal to justify an exception. These include groups such as Red Cross, UNICEF, Save the Children, and Amnesty International. However, these groups must be listed in legislation and approved by the Government.

State and state-integrated schools, or their Boards of Trustees, do not have to be approved to have donee organisation status.

### Goods and services tax (GST)

Any organisation carrying out a "taxable activity" with an actual or likely turnover of more than \$60,000 in any 12-month period must register with Inland Revenue for GST. Any organisation conducting taxable activities may register voluntarily. For more details about GST, including what is a "taxable activity", see Inland Revenue's *GST guide (IR375)*, which can be downloaded from [www.ird.govt.nz](http://www.ird.govt.nz).

### Gaming machine duty

This is a levy on profits that an organisation makes from its gaming machines. A duty of 20 per cent on gaming machine profits must be paid each month to Inland Revenue. Note that income from gaming machines is exempt from income tax if the organisation is licensed under the Gambling Act 2003, and complies with the requirements from applying and distributing gaming proceeds.

### Honorariums and reimbursement of volunteer expenses

Community organisations frequently make two types of payments to their volunteers:

- Honoraria, and/or
- Reimbursement payments – reimbursing volunteers for expenses incurred in the course of their volunteering.

It is important to understand the difference between these two types of payments, as they are treated differently for tax purposes.

Honoraria paid to volunteers are treated as "schedular payments" (payments made to a person who is not an employee) and are taxed at 33%.

Reimbursement payments are treated as tax-exempt income, provided they are based on either

- Actual expenditure, or
- A reasonable estimate of the likely cost of the expense.

It becomes more difficult if a payment to a volunteer is part reimbursement and part honoraria. If the two parts can be clearly identified, only the part that is honoraria will be taxed. If the two parts cannot be clearly identified the whole payment will be treated as honoraria and taxed.

Note that honoraria paid to members of school Boards of Trustees for attending board meetings is treated as a reimbursement of expenditure for tax purposes.

## KiwiSaver

KiwiSaver is a voluntary long-term saving initiative, set up by government through private scheme providers. KiwiSaver is open to anyone who normally lives in New Zealand, is a NZ citizen (or entitled to stay in NZ indefinitely), and is under 65 years old.

Through PAYE and exiting payroll systems, employers are required to:

- Automatically enrol all new eligible employees (who have the right to opt out).
- Deduct KiwiSaver contributions at 2%, 4% or 8% of the employee's gross salary or wage, as set by them, from those who join the scheme.
- Make employer contributions at 2% of gross salary or wage.

For further information and employer and employee booklets, go to [www.ird.govt.nz/kiwisaver](http://www.ird.govt.nz/kiwisaver). The Retirement Commission website has useful additional information and calculations at [www.sorted.org.nz](http://www.sorted.org.nz).

## RESOURCES

### Fact sheets

Fact sheet 7 – *Charities Commission*

Websites

[www.ird.govt.nz](http://www.ird.govt.nz)

Inland Revenue's website has information on not-for-profit groups.

### Publications

These booklets are all available free from Inland Revenue offices and can be downloaded from its website: [www.ird.govt.nz](http://www.ird.govt.nz).

#### Booklets for employers

*Employer's guide* (IR335)

*Entertainment expenses* (IR268)

*First-time employer's guide* (IR333)

*Fringe benefit tax guide* (IR409)

*GST guide to registration* (IR365)

*GST guide* (IR375)

*Tax Information for Charities registered under the Charities Act* (IR256)

*KiwiSaver employee guide* (KS4)

*Payroll Giving* (IR617)

#### Booklets for not-for-profit organisations

*Charitable organisations* (IR255)

*Clubs and societies* (IR245)

*Education centres* (IR253)

*Gaming machine duty guide* (IR180)

*Grants and subsidies* (IR249)

*Payments and gifts in the Maori community* (IR278)

*Trusts and estates income tax rules* (IR288)

## NOTES

