

## 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 33 per cent.

#### Companies

A company is taxed at 33 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 New Zealand 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:

- 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 the lesser of \$1,000 or the organisation's total income is allowed.

### **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 (see below).

## **APPLYING FOR TAX-EXEMPT STATUS**

### **No automatic tax exemption**

Charitable organisations are not automatically exempt from standard taxation rates. They must first register with the Charities Commission to be tax-exempt, but the final decision on tax exemption will still be made by Inland Revenue. Organisations that are currently tax-exempt should register with the Charities Commission before 1 July 2008 to retain their tax exempt status.

On becoming registered with the Charities Commission organisations will receive a letter from the Commission notifying them that their application has been successful and enclosing Inland Revenue information as to the implications for their tax position as a charity.

Inland Revenue will presume that registered charities with no-business income qualify for the income tax exemption (unless proven otherwise). For entities that derive business income, registration with the Charities Commission will not be enough. They will also be required to self assess to what extent that income will be applied to charitable purposes in New Zealand.

See *Fact sheet 7: Charities Commission*.

## **TAX OBLIGATIONS OF EMPLOYERS**

### **Employment**

Organisations with charitable status remain liable for taxes covering the payment of employees and contractors. These are:

- PAYE
- resident withholding tax (RWT)

- ACC levies
- fringe benefit tax (FBT).

Any organisation registered as an employer with Inland Revenue will receive information on PAYE and FBT.

### **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 rebate or deduction.

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 New Zealand, even if this results in paying money outside New Zealand to achieve these purposes.

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.

### **Goods and services tax (GST)**

Any organisation carrying out a "taxable activity" with an actual or likely turnover of more than \$40,000 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).

### **KiwiSaver**

KiwiSaver is a voluntary savings initiative designed to help New Zealanders to save for their futures. This scheme is administered through the PAYE system, so employers have an important role to play. Employers are responsible for:

- giving new employees and other staff who are interested an Employee information pack
- passing their employees' details to Inland Revenue to enable them to be enrolled
- deducting KiwiSaver contributions from employees' gross salary or wages.

Employers may also choose a KiwiSaver scheme for employees who do not want to select their own.

Legislation is expected to be passed in 2007 whereby:

- from 1 April 2008, all employers will be required to contribute to an eligible employee's KiwiSaver savings. The compulsory employer contribution will commence at 1% of a KiwiSaver scheme member's salary in the first year. From 1 April 2009 the compulsory contribution will be 2% of a member's salary, rising to 3% from 1 April 2010, and finally to 4% from 1 April 2011.
- a tax credit of up to \$20 per KiwiSaver member per week will be available to employers to help offset the cost of the compulsory employer contribution. It will be paid through the PAYE system by offsetting against the employer's contribution and other PAYE liabilities. An organisation's income tax exemption will not be factor.

### **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.

### **Honorariums and reimbursement of volunteer expenses**

Community organisations typically make the following types of payments to volunteers:

- Honoraria
- Other payments to reimburse volunteers for

expenses.

Under current tax law, payments of honoraria are income and are subject to income tax. This income tax is deducted at the time an honorarium is paid, as a withholding tax deduction, at a rate of 33 per cent. The law also allows for the deduction of expenses incurred in the course of earning that income. Those deductions can be claimed in a person's income tax return.

While this is generally suitable for most situations in which honoraria are paid, it may not be ideal when an honorarium is paid solely or mainly to reimburse expenses incurred.

As a result some organisations have applied to Inland Revenue and received a determination of the amount of an honorarium that can reasonably be considered to be reimbursement of expenses incurred in certain circumstances (for example, honoraria paid to school trustees). Under these determinations, only those amounts that are more than the stated reimbursement thresholds are subject to withholding tax.

Similarly, the reimbursement of expenses to volunteers is considered income and the relevant expenses deductible. Once again the income should be stated and expenses claimed in a volunteer's income tax return.

### **Student-loan borrowers volunteering abroad for charitable organisations**

Student-loan borrowers are generally required to be present in New Zealand for 183 or more days a year to qualify for an interest-free loan. However, one exemption to this rule is for borrowers volunteering (or working for a token payment) overseas for a charitable organisation, which has been “named” by regulations made under the Student Loan Scheme Act 1992. Any organisation wishing to be added to the list of “named” organisations should send their request to the Policy Advice Division of Inland Revenue. Once an organisation has been “named”, borrowers who think they qualify for the exemption can apply to their local Inland Revenue office.

## 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.

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

Government's website that has information on KiwiSaver for individuals, employers and scheme providers.

### 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)
- KiwiSaver Employer Guide* (KS4)

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 Māori community* (IR278)
- Trusts and estates income tax rules* (IR288)

