



# INTER CHURCH WORKING PARTY ON TAXATION

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Dear Churches

## **RE: DONEE STATUS AND OVERSEAS PURPOSES**

1. From time to time questions are raised about whether donations to parishes, missionary or other church organisations for work overseas do or do not qualify as “charitable gifts” for tax credit purposes.

For the most part this is straightforward but questions have been raised about whether or not donations to overseas missionary organisations made to parishes and passed on to such organisations, do or do not qualify for a tax rebate.

This issue has taken on greater significance following the lifting of the donations rebate cap for both individuals and companies from the previous somewhat stingy levels, up to the limit of an individual or a company’s taxable annual income.

The boundaries are not always straightforward nor are parish, missionary organisation or other church staff necessarily experts in the interpretation of the Income Tax Act. For that reason we have taken legal advice and, attach hereto a paper which endeavours to set out the law around these issues.

We have deliberately drafted this so that Churches can send it, under the cover of a suitable letter, out to parishes or local churches, missionary organisations and other affected church bodies. I trust that you will find it helpful.

2. We also attach an Appendix which may be of assistance to missionary and other organisations who will need a specific listing in the Tax Act to qualify for donee status

Yours sincerely

(Mrs) Gillian B H Robertson

**Chairperson**

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## DONEE STATUS AND OVERSEAS PURPOSES

1. Donee status is conferred by the Income Tax Act (section LD3) on qualifying charities and enables *individuals* and *companies* who make donations to those organisations to claim a 33 $\frac{1}{3}$ % tax credit on receipted gifts of \$5 or more. This includes a subscription paid, but only if the subscription does not confer any rights arising from membership in the donee organisation or any other donee organisation. Testamentary gifts are excluded.
2. Donee status is confirmed for organisations who meet the criteria set out in the Act by the IRD. However it may also be conferred by Parliament on non-qualifying organisations by way of a separate and a specific listing in Schedule 32 (Recipients of charitable or other public benefit gifts), of the Act. We will deal with each of these two categories in turn.
3. Within the generic Tax Act category donee status can be conferred on;
  - (i) a society, institution, association, organisation, or trust, that is not carried on for the private pecuniary profit of an individual, and whose funds are applied *wholly or mainly* to charitable, benevolent, philanthropic, or cultural purposes within New Zealand (italics added).

It is important to note that the word "*mainly*" is interpreted to mean "more than 50%". This means that an organisation which otherwise fulfills the criteria set out in the Act, but whose funds are applied 50% or more to purposes *outside* New Zealand, does *not* qualify for donee status.
  - (ii) a Board of Trustees that is constituted under Part 9 of the Education Act 1989 and is not carried on for the private pecuniary profit of any individual.
  - (iii) a tertiary education institute that is established under part 14 of the Education Act 1989 and is not carried on for the private pecuniary profit of any individual.
  - (iv) a *fund* established and maintained *exclusively* for the purpose of providing money for any 1 or more of the *purposes within New Zealand* set out in para (i), by a society, institution, association, organisation, or trust that is not carried on for the private pecuniary profit of an individual (italics added).
4. Within the Church a number of organisations apply their funds for charitable purposes (i.e. the advancement of religion etc) *both* within New Zealand *and* overseas and questions have been raised concerning the legitimacy of receipts for the purposes of a tax credit claim which includes gifts in both of these categories. In that regard we advise as follows:
  - (i) Where a donation given to a parish is tagged by the donor specifically for overseas purposes, it will not be eligible for a tax credit since the parish is simply the conduit through which that donation is being made. For example when a donation is made to a parish but is tagged as being for the missionary purposes, no tax credit qualifying receipt can be given by the parish. In those circumstances it will therefore be necessary for the parish to receipt the

donation separately and to ensure that the law is being complied with, that receipt should make it clear that it is not able to be used for the purposes of a tax credit refund.

- (ii) Where a parishioner's donation to a parish includes an untagged gift then a tax credit qualifying receipt can legitimately be given to the donor for the whole of their giving during the year, (**provided** more than 50% of the parish's expenditure for the year is for purposes within New Zealand) even if it is made in the knowledge that the parish regularly gives some of that (say 10%) to overseas missions.
5. Donations received by church organisations which are mainly (i.e. more than 50%) for overseas purposes through the conduit of a parish or directly from parishioners or others, do not qualify for a tax rebate unless they are specifically listed in Schedule 32 of the Act.
  6. If however church organisations whose work is mainly overseas (i.e. more than 50%) wish to raise donations from New Zealanders to cover costs and activities within New Zealand, then they would be able to give a tax qualifying receipt for those gifts **provided** they establish a separate **Fund** (see para 3 (iv) above) which is, in the words of the Act, "maintained exclusively for the purpose of providing money" for charitable purposes within New Zealand. This means that a Fund established by say a missionary organisation which incurs expenditure in New Zealand, can give a tax credit qualifying receipt for donations given to finance those expenses.
  7. As mentioned above, donee status can however be conferred on an organisation whose funds are applied mainly or exclusively for overseas purposes, if they are added to the Schedule 32 list by Act of Parliament. A number of New Zealand charities, - 87 at last count: many of them Christian - currently have that status. The procedure to seek that status, is as set out in the Appendix to this memorandum.

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## APPENDIX

### DONEE STATUS FOR CHARITABLE ORGANISATIONS WHOSE FUNDS ARE APPLIED WHOLLY OR MAINLY TO PURPOSES OUTSIDE NEW ZEALAND

1. An initial application setting out the case for donee status needs to be made to the Inland Revenue Department. Officials of the Department will process such requests and, provided they conform to current *guidelines*, recommend them to the Minister of Revenue for inclusion in the Annual Tax Bill.
2. The *guidelines* refer mainly to benevolent, philanthropic, or cultural purposes including development aid to developing nations, disaster relief and similar. "Religious proselytisation" is specifically excluded.

However that need not rule out missionary organisations and similar provided their application to the IRD stresses the non-religious benefits of the work they do (even although their mission is to spread the gospel). For example, the staff of a mission organisation which has been established to translate the Bible into a new language must first learn that language, create a new written language, and teach that language to the people through reading and writing, whilst, at the same time, producing a translation of the scriptures. In doing that they are making a priceless contribution to the educational and cultural advancement of the recipient people group regardless of whether or not conversions to Christianity follow. Similar arguments, in an even more straight forward way, can be made in relation to the provision of medical care, education, relief of poverty, development aid, etc.

3. In addition, to ensure that the work is not classified as "religious proselytisation" applicants need to make it clear that:
  - (a) no coercion is involved in their endeavours; simply teaching and education which empowers people to make their own decision in relation to the Christian faith; and
  - (b) services are provided and made available to all people regardless of their religion or lack thereof.
4. Even then it can be something of an uphill battle to convince the IRD officials as to the merit of the case. If they finally refuse to take your application forward, your only recourse is to appeal to the Minister of Revenue, a local Member of Parliament or the Prime Minister.

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