

CASE SUMMARY

High Court allows leave to appeal and orders backdating of charities reregistration

Decision date: 15 May 2026

CSUM 26/06

CASE

Otaraua Hapū Management Committee Incorporated v Commissioner of Inland Revenue [2026] NZHC 1304

LEGISLATIVE REFERENCES

Charities Act 2005, ss 3, 20, 32, 41, 42C, 59, 61, cl 4(a) sch 1AA

Charities Amendment Act 2023, ss 2, 58A, 58B, 58N, 58W

Income Tax Act 2007, s HR 12

Legislation Act 2019, ss 32, 33

LEGAL TERMS

Deregistration tax; re-registration; backdating; leave to appeal out of time;

CASE LAW REFERENCES

World Gospel Bible College Charitable Trust v CIR [2024] NZHC 1232

National Council of Women Inc v Charities Registration Board [2014] NZHC 3200

Re Greenpeace NZ Inc [2014] NZSC 105

Almond v Read [2017] NZSC 80

Summary

Otaraua Hapū Management Committee Incorporated (**Otaraua**) sought leave to appeal out of time against its deregistration for failure to file annual returns and against the limited backdating of its re-registration. The High Court declined leave in respect of the deregistration, finding no error and a lengthy unexplained delay, but granted leave in respect of the backdating decision. The Court exercised its broad power under s 61 of the Charities Act 2005 (**the Act**) to backdate re-registration to avoid deregistration tax consequences.

Impact

The decision confirms that failure to file annual returns can constitute a significant and persistent breach justifying deregistration and that filing obligations are core to charitable accountability. It also affirms that, on appeal, the High Court (and following amendments to the Act, the Taxation and Charities Review Authority) has a broader power than the Charities Registration Board (**the Board**) to backdate registration.

Facts

Otaraua is a registered charity providing services to its hapū and wider community. It failed to file financial statements for the 2020 and 2021 financial years despite repeated reminders and warnings from Charities Services. It was deregistered on 9 March 2022 and did not appeal within the statutory 20 working days.

Otaraua was re-registered in November 2023, with registration backdated by the Board to 21 September 2023 (being restricted by s 20(2) of the Act to backdate only to when it received a completed application). Because more than 12 months had elapsed since deregistration, Otaraau lost its tax exemption status and became liable for deregistration tax on its accumulated assets. It subsequently applied for leave to appeal out of time against both the deregistration decision and the limited backdating of its re-registration.

Issues

1. Whether leave should be granted to appeal out of time against the deregistration decision.
2. Whether leave should be granted to appeal out of time against the backdating decision and, if so, whether re-registration should be backdated to an earlier date.

Decision

Leave to appeal out of time against deregistration was declined. The delay of over three years was significant and inadequately explained, and the proposed appeal lacked merit because the failure to file annual returns constituted a significant and persistent breach of the obligations to maintain charitable status. The Court found there was no error in the Board's decision to deregister Otaraua and therefore the appeal had no prospect of success.

Leave to appeal out of time against the backdating decision was granted. By late 2023 Otaraua persuaded the Board it continued to meet the requirements of a registered charity and provide charitable services to its hapu and wider community. The Court did not consider it to be in the interests of justice for a temporary period of disorganization to have such a significant effect on Otaraua's ability to service the community. It therefore exercised its broad power to allow the appeal and ordered that Otaraua's registration be backdated to 3 March 2023, subject to compliance conditions, to avoid deregistration tax consequences.

The compliance conditions require Otaraua to file all outstanding returns within 60 days of the judgement, with the backdating order lapsing if those conditions are not met.

The Court ordered costs to lie where they fell due to the conduct of Otaraua and those charged with its oversight and the fact the Board made no error in its backdating decision.

About this document

These are brief case summaries, prepared by Inland Revenue, of decisions made by the Taxation Review Authority, the District Court, the High Court, the Court of Appeal or the Supreme Court in matters involving the Revenue Acts. For Taxation and Charities Review Authority matters, names have been anonymized. The findings of the court described in a case summary will no longer represent current law where the matter has been successfully appealed or subsequent amended legislation has been enacted.