



OPERATIONAL STATEMENT

Charities and Donee Organisations: Part 2: Donee organisations

Issued: 10 October 2022

OS 22/04

Operational Statements set out the Commissioner of Inland Revenue's view of the law in respect of the matter discussed and deal with practical issues arising out of the administration of the Inland Revenue Acts.

This statement outlines the tax treatment and obligations that apply to charities and donee organisations and how the Commissioner will apply the relevant legislation.

This statement is in two parts that together make up *Operational Statement OS 22/04: Charities and Donee Organisations*. The two parts are Part 1: Charities and Part 2: Donee organisations.

All legislative references are to the Income Tax Act 2007 (ITA) unless otherwise stated. Relevant legislative provisions are reproduced in the appendix to this statement.

This statement is also published as "OS 22/04: Charities and Donee Organisations", *Tax Information Bulletin* Vol 34, No 10 (November 2022).

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Scope

1. The purpose of *Operational Statement OS 22/04: Charities and Donee Organisations* is to assist entities in the not-for-profit sector to understand their tax obligations and available tax benefits. This statement is published in two parts: Part 1 discusses charities and Part 2 discusses donee organisations.
2. New Zealand's not-for-profit sector makes an important contribution to the wellbeing of New Zealanders. One way the Government supports the sector is by providing favourable tax treatments for the sector. These come in various forms, depending on the characteristics of the entity involved; for example, for tax charities - various income tax exemptions for the business and non-business income, and for charitable organisations - resident withholding tax (RWT) exemptions, fringe benefit tax (FBT) exclusions, goods and services tax (GST) concessions and interest-free student loans for overseas volunteers of approved charitable organisations. Donee organisations that meet the definition of tax charity and/or charitable organisation may qualify for these favourable tax treatments, discussed in more detail in *Operational Statement OS 22/04: Charities and Donee Organisations: Part 1 Charities*.
3. For charities that have donee status, donors may receive favourable tax treatments such as donation tax credits, payroll giving tax credits and income tax gift deductions.
4. Following brief comments about where to get more information, the application date of this statement, and descriptions of donee organisations and donee status, Part 2 provides guidance to entities wanting to become donee organisations or that are already donee organisations. It discusses:
 - the types of entity that can become a donee organisation, including registered charities, entities requiring the Commissioners approval as a donee organisation, donee organisations by definition and donee organisations approved by Parliament (see from [15]);
 - tax benefits including tax credits and gift deductions for charitable or other public benefit gifts made by donors and FBT concessions (see from [108]);
5. Part 2 also addresses other administrative tax matters relevant to donee organisations, including record-keeping (see [153]), self-assessment and notification requirements (see [160]), binding rulings (see [163]), winding up a donee organisation (see [165]), and deregistration (see [167]).
6. Part 1 of the Operational Statement explains what a charity is, including in the context of the ITA and the Charities Act 2005 (Charities Act). Part 1 also addresses the relationship between Inland Revenue and Charities Services | Ngā

Ratonga Kaupapa Atawhai (which is part of Te Tari Taiwhenua | Department of Internal Affairs), what charitable purposes are and the different tax concessions that may be available. It also sets out administrative tax matters, implications of deregistration and special rules for certain entity types.

7. Topics relevant to Part 2 that are covered in Part 1 are cross-referenced.

Further information

8. The Inland Revenue dedicated email address for inquiries about charities and donee organisations is charities.queries@ird.govt.nz
9. More information about donee organisations is on the Inland Revenue website.¹ All references whether to webpages, reports or other items are listed with their full URL in the References at the end of this document.

Application date of this statement

10. This Operational Statement (Parts 1 and 2) will apply from 10 October 2022.

What is a donee organisation and donee status

11. "Donee organisation" is defined in s YA 1 as "an entity described in section LD 3(2) (Meaning of charitable or other public benefit gift) or listed in schedule 32 (Recipients of charitable or other public benefit gifts)".
12. Section LD 3(2) refers to "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" among others.
13. An organisation that meets the definition of donee organisation is referred to as having "donee status".
14. The main advantage of being a donee organisation is the benefit it brings to the donors who make charitable or other public benefit gifts of \$5 or more. Individuals who make such gifts may qualify for tax benefits (such as donation tax credits or payroll giving tax credits), while companies and Māori authorities can qualify for tax benefits (such as income tax gift deductions). These tax benefits are subject to maximum limits.

¹ Inland Revenue, [Donee organisations needing to register with Charities Services](#) | Ngā whakahaere whiwhi takoha me rēhita ki ngā Ratonga Kaupapa Atawhai (webpage).

Types of donee organisations

15. To qualify for donee status, an entity must satisfy at least one of the descriptions of a donee organisation set out in s LD 3(2) or be listed in schedule 32 as a recipient of charitable or other public benefit gifts.
16. The four types of donee organisation are:
 - most entities registered with Charities Services (see from [17]);
 - entities with benevolent, philanthropic or cultural purposes (not registered with Charities Services) approved by the Commissioner (see from [25]);
 - entities that automatically qualify by satisfying specific definitions (see from [93]); and
 - entities that apply funds for other than charitable, benevolent, philanthropic or cultural purposes in New Zealand, approved by Parliament and listed in schedule 32 (see from [96]).

Donee organisations registered with Charities Services

17. Part 1 of this Operational Statement describes the function of Charities Services with regards to charities and its interrelationship with Inland Revenue.
18. From 1 April 2020, an entity with charitable purposes must register as a charity with Charities Services, if eligible to do so, to obtain donee status.
19. Eligibility criteria for registering as a charity with Charities Services is explained in Part 1 of this Operational Statement. The Charities Services website contains the Charities Register listing all registered charities.²
20. For a registered charity to qualify for and maintain donee status, it must apply its funds “wholly or mainly” to charitable, benevolent, philanthropic or cultural purposes within New Zealand (s LD 3(2)). In administration of this requirement, the Commissioner uses a “safe harbour” basis of 75% or more satisfying wholly or mainly for qualifying for donee status. To maintain donee status, an entity may calculate its percentage by using a rolling three-year average. However, if in any year it applies less than 50% to these purposes, it needs to notify Inland Revenue immediately (see from [54]).
21. Accordingly, entities registering with Charities Services are required to indicate if they intend to receive donations and the percentage of the entity’s funds that will be applied towards carrying out charitable, benevolent, philanthropic or cultural purposes overseas. If the registered charity indicates it intends to receive

² Charities Services, [The Charities Register](#) | Te Rēhita Kaupapa Atawhai (webpage).

- donations, then Inland Revenue uses the percentage information to determine whether the entity meets the “wholly or mainly” requirement of s LD 3(2) and is eligible for donee status without the registered charity making a separate application to the Commissioner.
22. If the registered charity meets the “wholly or mainly” requirement, it is published on the Commissioner’s list of approved donee organisations.³ It is the responsibility of a donee organisation to advise Inland Revenue as soon as they cease meeting the “wholly or mainly” requirement (see from [160]).
 23. Entities established for charitable purposes after 1 April 2020 and not registered with Charities Services will not be published on the Commissioner’s approved donee organisation list. The exceptions to this are entities that obtain the Commissioner’s approval (see from [29]) or, in a rare case, Parliament might approve a donee organisation that is not a registered charity (see from [96]).
 24. For more information, see *Charitable and Donee Organisations* (IR255).⁴ Part 1 of this Operational Statement provides information about charities and their tax obligations.

Entities requiring the Commissioner’s approval for donee status

25. Entities not eligible to register as a charitable entity with Charities Services may still apply to the Commissioner for donee status if they meet the definition of donee organisation in s YA 1. This definition refers to entities described in s LD 3(2) and includes entities whose funds are applied for benevolent, philanthropic or cultural purposes (see from [39]).
26. Applications to the Commissioner for donee status should be made in writing (see from [89]).
27. If approved, these entities are placed on the Commissioner’s list of approved donee organisations.⁵ This process is referred to as “obtaining donee status”.
28. Donee organisations have a responsibility to monitor and self-assess their donee status and to advise the Commissioner as soon as they cease to be eligible to be a donee organisation. This is so the Commissioner can remove the entity from the approved donee organisation list.

³ Inland Revenue, [Commissioner’s list of approved donee organisations](#) (webpage).

⁴ Inland Revenue, *IR255: Charitable and donee organisations* (December 2021) (publication).

⁵ Inland Revenue, [Commissioner’s list of approved donee organisations](#) (webpage).

Types of entities that can seek Commissioner's approval for donee status

29. Four categories of entities are eligible for the Commissioner's approval of donee status, each with slightly different requirements:

- a society, institution, association, organisation or trust (see from [30]);
- a public institution (see from [67]);
- a fund (see from [69]); and
- a public fund (see from [84]).

Other specific requirements for each of these categories are explained below.

Requirements for a society, institution, association, organisation or trust to obtain donee status

30. The first category eligible for the Commissioner's approval of donee status includes a society, institution, association, organisation or trust. For an entity of this type to obtain donee status from the Commissioner under s LD 3(2)(a), it must not be eligible to be a registered charity with Charities Services (for example, because its purposes are not charitable, but rather are benevolent, philanthropic or cultural) and it must be able to satisfy the Commissioner that:

- it is a society, institution, association, organisation or trust;
- its funds are applied wholly or mainly to charitable, benevolent, philanthropic or cultural purposes within New Zealand; and
- it is not carried on for the private pecuniary profit of any individual.

31. It is the Commissioner's view that it will be difficult for a sports organisation to show benevolent, philanthropic or cultural purposes. However, it may be possible for a sports organisation to have charitable purposes and thus become a donee organisation by first becoming a registered charity.

32. The following elements of these requirements are explained further:

- charitable purpose (see from [34]);
- benevolent purpose (see from [39]);
- philanthropic purpose (see from [44]);
- cultural purpose (see from [47]);
- "wholly or mainly" application of funds (see from [49]); and
- requirement of no private pecuniary profit (see from [60]).

33. The terms benevolent, philanthropic and cultural are not defined in the ITA. The Commissioner's operational position regarding the definitions of these terms is

based on New Zealand common law and, where New Zealand courts have not fully determined the definition, the decisions of other jurisdictions.

Charitable purpose

34. The definitions of “charitable purpose” in s 5 of the Charities Act and s YA 1 of the ITA are materially the same. Both definitions provide that charitable purpose includes “every charitable purpose, whether it relates to the relief of poverty, the advancement of education or religion, or any other matter beneficial to the community”.
35. A charity’s purpose (or purposes) must be of public benefit within the sense the law recognises as charitable.⁶ This is assessed by considering the end that is advocated, the means promoted to achieve that end and the manner in which the cause is promoted.⁷
36. Generally, the Commissioner will consider applications only where an entity has benevolent, philanthropic or cultural purposes (rather than charitable purposes). Where an entity has only charitable purposes (rather than benevolent, philanthropic or cultural purposes), the Commissioner cannot approve that entity as a donee organisation unless it is ineligible for registration with Charities Services.
37. For more on charitable purposes, see Part 1 of this Operational Statement.
38. Although distinctly defined, the meaning of “charitable purpose” and the meanings of “benevolent”, “philanthropic” or “cultural” purposes can overlap considerably as described below.

Benevolent purpose

39. The meaning of benevolent differs from the meaning of charitable and, in its ordinary use, has a meaning wider than the word charitable.⁸ Courts have found the meaning of benevolent to be so vague that it caused a trust for “charitable and benevolent” purposes to be void for uncertainty. Similarly, a bequest for “charitable or benevolent purposes” was found not be a charitable gift, due to the vagueness of meaning of “benevolent” permitting the possibility that all of the funds could be used for non-charitable, but benevolent, purposes.⁹

⁶ *A-G v Family First NZ* [2022] NZSC 80 at [10] – [12], *Re Greenpeace of NZ Inc* [2014] NZSC 105, [2015] 1 NZLR 169 at [3].

⁷ *Greenpeace* at [76].

⁸ *Re Knowles: Brown v Knowles* [1916] NZLR 83 (CA) at 117, affirmed *A-G v Brown* [1917] AC 393 (PC); *Molloy v CIR* [1981] 1 NZLR 688 (CA) at 691.

⁹ *Re Catherine Smith (deceased): Campbell v NZ Insurance Co Ltd* [1935] NZLR 299 (CA) at 328, affirmed *A-G v NZ Insurance Co Ltd* [1937] NZLR 33 (PC).

40. However, s 61B of the Charitable Trusts Act 1957 now provides that where there are charitable purposes, the inclusion of non-charitable and invalid purposes does not invalidate a trust where the intention was to create a charitable trust.
41. Benevolence is not limited to the provision of money, housing, food, medicine or other basic elements. The provision of services to relieve distress may be benevolent, even if the services are not free.¹⁰
42. An institution with the predominant purpose of making a profit for its owner will not have a benevolent purpose because it is not desiring to do good for others.¹¹
43. The promotion of sport and the relief of suffering by animals are not benevolent purposes.¹²

Philanthropic purpose

44. Philanthropic purposes are more narrowly defined than benevolent purposes. While a benevolent purpose may be directed to the goodwill of a particular individual only, a philanthropic purpose indicates goodwill to humankind at large.¹³
45. A philanthropic purpose relates to the promotion of the welfare of other human beings in general.¹⁴ It is not limited to the provision of necessities. The provision of schools, libraries, public art galleries, museums, or free or subsidised concerts could be a philanthropic purpose.¹⁵
46. However, philanthropic purposes do not include purposes directed at the care and welfare of animals (other than human beings).¹⁶

¹⁰ *Australian Council of Social Service Inc v Commissioner of Pay-roll Tax* 85 ATC 4,235; *Mines Rescue Board of New South Wales v FCT* (2000) ATC 4,191; *Trustees of the Indigenous Barristers' Trust* (2002) ATC 5,055; *Northern Land Council v Commissioner of Taxes (NT)* (2002) ATC 5,117.

¹¹ *Commissioner of Pay-Roll Tax v Cairnmillar Institute* 92 ATC 4,307.

¹² *Northern NSW Football Ltd v Chief Commissioner of State Revenue* [2011] NSWCA 51; *FCT v Royal Society for the Prevention of Cruelty to Animals Queensland Inc* 92 ATC 4,441.

¹³ *Re Knowles: Brown v Knowles* at 128.

¹⁴ *Re MacDuff* [1895-99] All ER Rep 154; *Residence "Joie de Vivre" Inc v Niagara Falls (City)* [1994] OJ No 749; *Rotary International v Commissioners of Customs & Excise* [1991] VATTR 177; *Hallé Concerts Society v Revenue and Customs Commissioners* [2016] UKFTT 294; *Wilson v Flowers* 58 NJ 250 (1971).

¹⁵ *Hallé Concerts Society v Revenue and Customs Commissioners* [2016] UKFTT 294.

¹⁶ *Kitchener-Waterloo and North Waterloo Humane Society v City of Kitchener* [1973] 1 OR 490.

Cultural purpose

47. A cultural purpose relates to the training, development and refinement of mind, taste and manners.¹⁷ An example of a cultural purpose is support for dramatic, theatrical, dance, choral or musical arts.
48. It is also the Commissioner's view that the promotion of sport is not a cultural purpose.

"Wholly or mainly" application of funds

49. To qualify for and maintain donee status under s LD 3(2)(a), an entity's funds must be applied "wholly or mainly" to charitable, benevolent, philanthropic or cultural purposes within New Zealand. In this section of Part 2 of the Operational Statement, charitable, benevolent, philanthropic or cultural purposes are referred to collectively as "specified purposes".
50. An entity applying to the Commissioner for donee status must indicate the percentage of its fund it anticipates applying to purposes other than for specified purposes within New Zealand. Provided the entity indicates this percentage is at or below 25%, the Commissioner will generally accept that the wholly or mainly requirement is satisfied (see the description of safe harbour from [54]). The donee organisation should subsequently assess its continuing compliance with this requirement each year.
51. The expression "funds are applied" suggests the:
 - application of funds arises as a result of the organisation spending money or taking action to invest or set aside the money for future spending for some purpose or purposes;
 - decision to accumulate funds has been made at the appropriate level in the organisation for decisions of that type according to its established management practices; for example, the trustees of a charitable trust resolving to set aside money in the trust's on-call savings account pending a capital purchase; and
 - decision to accumulate funds needs sufficient detail to be able to characterise that application of funds as advancing specified purposes within New Zealand.
52. The application of funds can occur on a continuing basis over the lifetime of the donee organisation. This is so, even though for administrative purposes to gauge compliance with the ongoing wholly or mainly requirement, it is more practicable to look at funds applied over a discrete period, such as a year, and then from year to year.

¹⁷ *Molloy v CIR* [1981] 1 NZLR 688 (CA).

53. It is the specified purposes that must be “within New Zealand” not the application of funds. This means the location where funds are spent is not relevant. It is the objectively determined purpose sought to be achieved through the application of the funds that is important. For example, if funds were spent in Australia to produce an educational video to be used by a New Zealand charity in New Zealand, then the funds have been applied for charitable purposes in New Zealand.¹⁸ Conversely, if funds are spent in New Zealand to produce an educational video for use in Australia, these funds are not applied for charitable purposes within New Zealand.
54. In terms of the requirement that the funds are applied wholly or mainly for specified purposes within New Zealand, the Commissioner will generally accept, without further enquiry, that a donee organisation meets the wholly or mainly requirement when it is within the administrative “safe harbour” percentage of 75% or more of its funds being applied for specified purposes within New Zealand.
55. An accepted three-step method to calculate the percentage of funds being applied for specified purposes within New Zealand is as follows:
- Step 1: Gather the charity’s “total funds”, using the statement of cash flows or statement of receipts and payments from the charity’s financial statements or performance reports.
 - Step 2: Determine the amount of the charity’s “funds applied to specified purposes within New Zealand”.
 - Step 3: Calculate the charity’s safe harbour percentage (step 1 amount divided by step 2 amount).
56. In determining step 2 it is necessary to decide whether money was spent, invested or set aside:
- entirely for specified purposes within New Zealand;
 - entirely for purposes other than specified purposes within New Zealand; or
 - for a combination of specified purposes within New Zealand and other purposes (apportion on a reasonable basis, including overheads and operating funds).
57. If a donee organisation fails to meet the safe harbour percentage (75%) in any year, the Commissioner will accept a revised calculation based on the current year and two preceding years. In such a case, the donee organisation can recalculate the percentage based on the cumulative total of its funds applied over the

¹⁸ *Case T50 (1998) 18 NZTC 8,346 (TRA)*.

current and preceding two years. This allows some year-on-year variation for exceptional years. This is illustrated in Table 1.

Table 1: Example of calculating safe harbour percentage allowing for year-on-year variation

Category	Year 1	Year 2	Year 3
Total funds (\$)	10,000	5,000	5,000
Funds applied to specified purposes within New Zealand (\$)	9,000	4,000	3,000
Percentage of total funds applied to specified purposes within New Zealand	90%	80%	60%
Cumulative total funds (\$)	10,000	15,000	20,000
Cumulative funds applied to specified purposes within New Zealand (\$)	9,000	13,000	16,000
Cumulative percentage total funds applied to specified purposes within New Zealand	90%	87%	80%

58. For more information on these requirements, see *Interpretation Statement IS 18/05: Income tax – donee organisations – meaning of wholly or mainly applying funds to specified purposes within New Zealand*.¹⁹
59. For more information on applying the safe harbour approach, including examples of how to determine when funds are applied to specified purposes within New Zealand and how to apply the rolling three-year cumulative approach that Inland Revenue will accept, see *Interpretation Statement 18/05: Fact Sheet – applying the “safe harbour” approach* (IS 18/05 FS).²⁰

Requirement of no private pecuniary profit

60. Another condition under the ITA for obtaining the Commissioner’s approval as a donee organisation is that the entity cannot be carried on for the private pecuniary profit of an individual. (This is also a requirement under the Charities Act for those entities that apply to become a registered charity.) This means a donee organisation's funds must not be used to provide more than a minor personal benefit to its members, officers, trustees, related parties or associates.

¹⁹ Inland Revenue, *Interpretation Statement IS 18/05: Income tax – donee organisations – meaning of wholly or mainly applying funds to specified purposes in New Zealand* (September 2018) (publication).

²⁰ Inland Revenue, *Interpretation Statement IS 18/05 FS (Fact Sheet): - Applying the ‘safe harbour’ approach* (September 2018) (publication).

61. Sometimes the stated aims or powers of an entity may allow benefits to members, but these benefits should be very limited. Examples of acceptable benefits are:
- newsletters that don't require a subscription;
 - voting rights to appoint officers of the entity; and
 - benefits also available on the same terms to the public.
62. If any member can receive more than these benefits, then the entity is not eligible to be a donee organisation. Further, if a member can in any way influence (by way of their position or otherwise) the amount of any benefit they receive, the entity will not qualify as a donee organisation.
63. Examples of private or pecuniary profit to members include a member:
- being paid either beyond what is reasonable (more than the standard commercial rate) for their services or for services not actually provided;
 - being reimbursed for expenses incurred on the donee organisation's behalf beyond what is reasonable;
 - transferring items to a donee organisation for a price that is above the arm's length price; and
 - earning interest on money lent to the donee organisation at higher than a usual commercial rate.
64. If an entity's rules allow unrestricted benefits to members, a clause preventing this must be added before the Commissioner will grant donee organisation status. Examples of necessary clauses include:
- All income, benefit or advantage must be used to advance the charitable, benevolent, philanthropic or cultural purposes of the entity.
 - No member of the entity or anyone associated with a member is allowed to take part in or influence any decision the entity makes in respect of payments to or on behalf of the member or associated person of any income, benefit or advantage.
 - Any payments made must be for goods or services that advance the charitable, benevolent, philanthropic or cultural purposes and must be reasonable and relative to payments that would be made between unrelated parties.
65. Companies must also have clauses in their rules that:
- prevent distribution of dividends or payments to shareholders; or
 - restrict current shareholders and the transfer and issue of shares to not-for-profit entities or trustees of a trust for charitable purposes.

66. For more information about the requirement of no private pecuniary profit, see also *Charitable and Donee Organisations* (IR255).²¹

Requirements for a public institution to obtain donee status

67. The second category eligible for the Commissioner's approval of donee status is a public institution. For a public institution to obtain donee status from the Commissioner under s LD 3(2)(b), it must be maintained exclusively for one or more of the following purposes within New Zealand:

- charitable;
- benevolent;
- philanthropic; or
- cultural.

These purposes were described from [34].

68. An institution is public if its purpose is to benefit an appreciable section of the community.²² As a public institution, no funds can be applied for a private pecuniary profit (see from [60]).

Requirements for a fund to obtain donee status

69. The third category eligible for the Commissioner's approval of donee status is a fund.

70. For a fund to obtain donee status from the Commissioner under s LD 3(2)(c), the fund must be established and maintained:

- by a non-profit entity (being a society, institution, organisation or trust that is not carried on for the private pecuniary profit of an individual); and
- exclusively for the purpose of providing money for one or more of the charitable, benevolent, philanthropic or cultural purposes within New Zealand of the non-profit entity.

71. The fund must become a registered charity if it is eligible to do so. If Charities Services determines that the fund is not eligible to register, the fund should provide evidence of this to the Commissioner, who may still consider the fund's application for donee status if the fund satisfied all the requirements to become a donee organisation. It is the responsibility of the non-profit entity to monitor and self-assess the fund's donee status and to advise the Commissioner as soon as the fund ceases to be eligible to be a donee organisation so that the

²¹ Inland Revenue, *Charitable and donee organisations* (IR255) (December 2021) (publication).

²² *Maughan v FCT* (1942) 66 CLR 388 (HCA) at 397–398.

Commissioner can remove the entity from the list of approved donee organisations.

72. The meanings of charitable, benevolent, philanthropic and cultural purposes were described from [34].

Defining a fund

73. In general terms, a “fund” in this context means an actual stock of money or assets set aside for charitable, benevolent, philanthropic or cultural purposes within New Zealand rather than a mere accounting expression. This includes, for example, a fund represented by a credit balance in a bank account.

Establishing the fund

74. A non-profit entity can set up such a fund by making book entries in its financial accounts, but the entries must be supported by an actual stock of money or other assets and show that the fund has been set up on a firm or permanent basis for the provision of money for charitable, benevolent, philanthropic or cultural purposes within New Zealand of the non-profit entity. Best practice suggests a fund is established and maintained through a combination of book entries and a document setting out terms for the establishment, operation and winding up of the fund (either as part of the rules of the non-profit entity or as a stand-alone document).
75. The fund must apply to the Commissioner to obtain donee status. In the application, it should be made clear that donee status is being sought for the fund (not for the non-profit entity).

Using the fund’s money

76. The fund’s money must be used for, or used to provide money for, the charitable, benevolent, philanthropic or cultural purposes within New Zealand of the non-profit entity when it was established. Whether money is used for these purposes is determined by where those purposes are advanced (that is, within New Zealand) rather than where the fund’s money is spent.
77. The fund’s money may be used for purposes other than the provision of money for charitable, benevolent, philanthropic or cultural purposes within New Zealand, if those other purposes are subordinate or incidental to this purpose and are not independent purposes.
78. The non-profit entity may use the fund’s money to meet or reimburse costs it incurs in administering the fund. This includes a contribution to meet a

reasonable share of the non-profit entity's administration costs where such costs include the costs of administering the fund.

79. The non-profit entity may use the fund's money to meet or reimburse costs it incurs advancing the non-profit entity's purposes, provided these are exclusively charitable, benevolent, philanthropic or cultural purposes within New Zealand and are consistent with the purposes of the fund.

Maintaining the fund

80. The fund must be maintained for the provision of money for charitable, benevolent, philanthropic or cultural purposes within New Zealand of the non-profit entity throughout its lifetime, including the disposal of the fund's money or other assets if wound up.
81. Maintaining the fund requires maintaining the actual stock of money or other assets consistent with any book entries, as the fund's actual stock of money or other assets at its establishment may change over time. Best practice suggests movements of the money or other assets in the fund are tracked and reported on in the non-profit entity's financial accounts.
82. It may be preferable to keep the fund, in particular the fund's money, separate from the non-profit entity's other money and assets, for instance, by having a separate bank account for the fund. This makes it easier to show an actual stock of money exists and that the purposes of the fund have been maintained over time (by seeing how the money in the account has been used).
83. For more information, see *QB 19/10: Donations – what is required to establish and maintain a fund under s LD 3(2)(c) of the Income Tax Act 2007?*²³ QB 19/10 considers what is needed to establish and maintain such a fund so that it qualifies as a "donee organisation" and clarifies the Commissioner's views and expectations for those setting up and operating funds under s LD 3(2)(c). QB 19/10 complements *Interpretation Statement IS 18/05: Income tax – donee organisations – meaning of wholly or mainly applying funds to specified purposes within New Zealand*²⁴ and its accompanying factsheet on *Applying the "safe harbour" approach*.²⁵

²³ Inland Revenue, *QB 19/10: Donations – what is required to establish and maintain a fund under s LD 3(2)(c) of the Income Tax Act 2007?* (Question we've been asked / 2019) (publication).

²⁴ Inland Revenue, *Interpretation Statement IS 18/05: Income tax – donee organisations – meaning of wholly or mainly applying funds to specified purposes within New Zealand* (September 2018) (publication).

²⁵ Inland Revenue, *Interpretation Statement IS 18/05 FS (Fact Sheet): - Applying the 'safe harbour' approach* (September 2018) (publication).

Requirements for a public fund to obtain donee status

84. The fourth category eligible for the Commissioner's approval of donee status is a public fund.

What is a public fund

85. In general terms, a "public fund" in this context means an actual stock of money or assets set aside for charitable, benevolent, philanthropic or cultural purposes within New Zealand, rather than a mere accounting expression. This includes, for example, a public fund represented by a credit balance in a bank account. A public fund originates in a public initiative, and the public both contributes to and participates in the administration of the fund.
86. For a public fund to obtain donee status from the Commissioner under s LD 3(2)(d), the public fund must be established and maintained exclusively for the purpose of providing money for one or more of the following purposes within New Zealand:
- charitable;
 - benevolent;
 - philanthropic; or
 - cultural.

These purposes were described from [34].

87. A public fund must meet the requirements for use of the fund's money (see from [76]) and for maintaining the fund (see from [80]) with the modification that a reference to a registered charity should be read as the public fund.
88. For more information, see *QB 22/02: Donations: What is required to establish and maintain a "public fund" under s LD 3(2)(d) of the Income Tax Act 2007*.²⁶

Written applications to the Commissioner for donee status

89. Charities will automatically be considered for donee status on their registration by Charities Services (where they have indicated they intend to receive donations). These charities should not make a separate application to the Commissioner for donee status.
90. Entities that do not have charitable purposes or for any other reason are not eligible to register with Charities Services, may seek donee status by applying to

²⁶ Inland Revenue, *QB 22/02: Donations - what is required to establish and maintain a "public fund" under s LD 3(2)(d) of the Income Tax Act 2007?* (Questions we've been asked / 2022) (publication).

and receiving approval by the Commissioner (for example, if they have benevolent, philanthropic or cultural purposes). There is no prescribed form of application; instead, those entities seeking to obtain donee status approval from the Commissioner should send their request through the online myIR service or write to the Commissioner seeking approval to be placed on the Commissioner's list of approved donee organisations.

91. The written application (through myIR or by post to Inland Revenue, PO Box 1147, Palmerston North Central, Palmerston North 4440) should include:
- the entity's IRD number – if the entity has no IRD number, then an application for one must be made and can be done online;²⁷
 - a copy of the entity's rules, constitution, trust deed or other founding documents (as applicable);
 - a copy of the entity's certificate of incorporation (if applicable);
 - a copy of the letter or other communication with Charities Services in which the entity's application to be a registered charity was declined or an explanation of why the entity believes it is not eligible to register;
 - details of how the entity has been or will be operated, including:
 - (i) how the entity's funds will be applied;
 - (ii) for an entity that is a society, institution association, organisation or trust - whether (and what percentage) of the funds will be applied for purposes outside New Zealand; and
 - (iii) for an entity that is a public institution, a fund or a public fund - confirmation that the entity's funds will not be applied for purposes outside New Zealand.
92. It is often helpful to include further information if it illustrates the objects, activities and achievements of the entity, such as website references, reports, newsletters, media articles or testimonials.

Other entities that automatically qualify as donee organisations by definition

93. Section LD 3(2) describes certain types of entities that are recognised as being donee organisations:

²⁷ Inland Revenue, [New Zealand business or organisation IRD number application](#) | Te tono i tētahi tau tāke mō tētahi pakihi, whakahaere rānei kei Aotearoa (webpage).

- a community housing entity (as defined in s CW 42B), if at the time the gift is made the entity is eligible to derive exempt income under s CW 42B (community housing trusts and companies) (see s LD 3(2)(ac));
 - a board of trustees that is constituted under subpart 5 of part 3 of the Education and Training Act 2020 and is not carried on for the private pecuniary profit of any individual (see s LD 3(2)(bb)); and
 - a tertiary education institution (as defined in s YA 1) that is established under subpart 3 or subpart 4 of part 4 of the Education and Training Act 2020 (and has not been disestablished under that Act) that is not carried on for the private pecuniary profit of any individual (ss LD 3(2)(bc) and YA 1).
94. Entities meeting these definitions do not need to seek approval from the Commissioner and will generally not be included on the Commissioner's list of approved donee organisations (although historically, many of these entities have been included on the list). This type of entity may appear on the list if it is a registered charity.
95. For example, boards of trustees of state schools and state integrated schools are donee organisations by virtue of s LD 3(2)(bb), even though they may not be listed in the Commissioner's list of approved donee organisations. School parent-teacher associations or parent support groups that are established independently from the school's board of trustees may qualify as donee organisations, but they need to apply to the Commissioner to obtain donee status. Further guidance on gifts made by parents to state and state-integrated schools is in:
- *QB18/10: Income Tax – state schools and donation tax credits*,²⁸ and
 - *QB 18/11: Income Tax – state integrated schools and donation tax credits*.²⁹

Charities approved as donee organisations by Parliament (schedule 32 of the ITA)

96. Entities that apply a significant part (or all) of their funds for purposes other than charitable, benevolent, philanthropic or cultural purposes within New Zealand can be approved as donee organisations only by Parliament.
97. Legislation, rather than approval by the Commissioner, is used to implement decisions to grant donee status in these cases. This is because it is an exception

²⁸ Inland Revenue, *QB18/10: Income Tax – state schools and donation tax credits* (Question we've been asked / 2018) (publication).

²⁹ Inland Revenue, *QB 18/11: Income Tax – state integrated schools and donation tax credits* (Question we've been asked / 2018) (publication).

to the policy that tax benefits for donations should be limited to entities with purposes within New Zealand.

98. The Commissioner recommends to Cabinet whether an application should be granted or not. If approved by Parliament as a donee organisation, schedule 32 to the ITA is amended to add the entity.
99. A charity seeking to obtain donee status in this way should be prepared to provide, among other things:
- the charity's goals and long-term vision;
 - the charity's governing documents (constitution and trust deed) showing that its activities and purposes are consistent with Cabinet's criteria (see [103]);
 - evidence that its purposes are entirely within the purposes described in the guidelines for Cabinet criteria and that no personal pecuniary profit can be derived;
 - governing documents that contain clauses governing the nature and extent of discretionary powers, the winding-up clause and the ability to amend the governing document;
 - the charity's internal policies and procedures, where relevant; for example, an anti-money laundering policy, a child protection policy or a memorandum of understanding with the charity's key stakeholders;
 - information about the charity's past, current and proposed activities;
 - the charity's in-country partners;
 - the charity's financial statements;
 - evidence of the degree of control over the application of the charity's funds overseas and procedures to ensure accountability for funds;
 - the planning, monitoring and evaluation processes used regarding the application of the charity's funds, including how recipients use the funds, as well as the processes used to select beneficiaries or projects to support; and
 - evidence of the charity's legal presence in New Zealand and whether it is a registered charity.
100. Applicants for overseas donee status should complete a request form,³⁰ then send it with supporting documents by email to **policy.webmaster@ird.govt.nz** or post to Inland Revenue, Policy and Regulatory Stewardship, PO Box 2198, Wellington 6140.

³⁰ Inland Revenue, Form *IR464 Donee status request form* (October 2012) (publication).

101. Inland Revenue makes an initial assessment and contacts the charity's representative to make any necessary further enquiries. Any concerns or issues with the charity or its officers or trustees are communicated to the relevant parties directly. Generally, trustees or officers will be asked to consent to a New Zealand Police vetting check.
102. The Commissioner's review process is very involved (multi-year, including enactment) to manage risk, to inform spending decisions to be made by Ministers, and because Ministers want to be assured of the credibility, transparency and accountability of the applicant so tax relief afforded by donee status is appropriately targeted and the potential misuse of public money is minimised.
103. Following the review, the Commissioner makes a recommendation to Cabinet.
 - Cabinet decisions to grant or decline donee status are made using the overseas donee guidelines set by Cabinet. The guidelines require that the funds of the charity should be principally applied towards:
 - the relief of poverty, hunger, sickness or the ravages of war or natural disaster; or
 - the economy of developing countries (recognised by the United Nations); or
 - raising the educational standards of a developing country (recognised by the United Nations).
104. In terms of which countries are "developing countries", Cabinet uses as a guideline, the United Nations list of least developed countries,³¹ which is reviewed every three years by the United Nations Economic and Social Council, considering the recommendations by the Committee for Development Policy.
105. The eligible purposes set out in the guidelines align with the Government's overseas development objectives (disaster relief, provision of humanitarian aid and assisting developing countries) and are narrower than the common law meaning of "charitable purpose" and the legislative framework in the Charities Act 2005.
106. Additionally, a charity seeking donee status must be resident in New Zealand, and it is preferable that the charity be registered under the Charities Act. A charity formed for the principal purpose of fostering or administering any religion, cult or political creed will not qualify.
107. There are ongoing requirements once an entity gains donee status and is listed in schedule 32, including the requirements for provision of donation tax receipts

³¹ United Nations, *List of Least Developed Countries* (as of 24 November 2021) (publication).

(see from [143]), record keeping (see from [153]), to self-assess and notify changes (see from [160]) and regarding winding up of the organisation (see from [165]).

Tax benefits of being a donee organisation

108. The main advantage of being a donee organisation is the benefit it brings to the donors who make charitable or other public benefit gifts. Individuals, companies and Māori authorities may qualify for tax benefits, such as donation tax credits, payroll giving tax credits or income tax gift deductions.
109. Where a donee organisation is a tax charity (as defined in ss YA 1 and CW 41(5)), it may be entitled to exemption from income tax on certain parts, or all, of its income. Where a donee organisation is a charitable organisation (as defined in s YA 1) it may be entitled to the FBT exclusion and/or its volunteers overseas may be entitled to maintain interest-free status of their student loans. Where a donee organisation is a non-profit body (as defined in s 2(1) of the Goods and Services Tax Act 1985) it may also qualify for GST concessions. Each of these tax concessions is described more fully in *Part 1 Charities*.

Tax credits and deductions for charitable or other public benefit gifts

110. Individuals may claim donation tax credits and companies and Māori authorities may claim income tax gift deductions, if they make qualifying “charitable or other public benefit gifts”.
111. A charitable or other public benefit gift is defined in s LD 3 and means a gift of money or a subscription of \$5 or more paid to a donee organisation (so long as any subscription provides no rights arising from membership). It does not include testamentary gifts (that is, a gift made in a will) or gifts made by forgiving some or all of a debt (s LD 3(1)(c)).

Gift to a donee organisation

112. To qualify as a charitable or other public benefit gift, the gift must be made to an entity that is:
 - on the Commissioner’s list of approved donee organisations; or
 - not included on the approved donee organisation list, but meets one of following descriptions of a donee organisation: a community housing entity (s LD 3(2)(ac)), school board of trustees (s LD 3(2)(bb)) or tertiary education institution (s LD 3(2)(bc)); or

- listed in schedule 32 of the ITA (recipients of charitable or other public benefit gifts).

Gift of money of \$5 or more

113. To qualify as a charitable or other public benefit gift for the purposes of s LD 3, there must be a “gift of money of \$5 or more”.
114. The Commissioner considers that to qualify as a “gift of money of \$5 or more” there must be a payment of money of \$5 or more that is made voluntarily and in circumstances where the donor receives no material benefit or advantage in return. Ordinarily, a gift will confer a benefit on the donee organisation.
115. The Court of Appeal in *Church of Jesus Christ of Latter-day Saints Trust Board and Coward v CIR* (2020) NZCA 143 found that whether a payment is a gift for the purposes of s LD 1 (where no sham and tax avoidance is at issue) must be ascertained by:
 - considering the true nature of the transactions by carefully considering the legal arrangement actually entered into and carried out within its context and in light of the surrounding circumstances; and
 - determining whether the payments made under those transactions are gifts in light of the text and purpose of the donation tax credit rules.
116. A charitable or other public benefit gift does not include the transfer of property or services to a donee organisation.
117. If something is purchased from a donee organisation, such as a ticket to an event or the purchase of goods (for example, at a charity auction), the payment is not a gift.
118. The Court of Appeal in *CIR v Roberts* [2019] NZCA 654 found that the forgiveness of debt could qualify as a gift of money. However, after *Roberts*, s LD 3(1)(c) was amended to specify that a charitable or other public benefit gift does not include “a gift made by forgiving some or all of a debt”. This amendment was retrospective to 1 April 2008, with a savings provision that means taxpayers who claimed a donation tax credit or income tax gift deduction for the forgiveness of debt before 16 December 2019 are allowed the claim or deduction.
119. A gift does not need to be made directly to a donee organisation. For example, it can be made through a third-party, such as an employer via payroll giving (see from [129]) or through an online fundraising platform.
120. Online fundraising platforms, such as crowdfunding services, allow a donor to authorise the service provider to pass on their donation to the recipient of the

funds. Whether the donor has made a qualifying gift of money of \$5 or more to a donee organisation is determined on the same criteria as any other gift. For the purposes of claiming a tax credit refund or deduction, the amount that may be claimed is determined by the receipt issued. If the Commissioner considers any administrative charge made by the fundraising platform is unreasonable or excessive, she may reject or adjust the amount of the donation credit or deduction claim.

121. Further guidance on the attributes of gifts to donee organisations is in *QB 16/05: Donee Organisations and Gifts*.³² QB 16/05 also provides examples to illustrate the Commissioner's view on when certain common fundraising activities may or may not involve gifts (for example, a charity dinner and dance, charity auction, supporter package for a dramatic society, supporter package for a performing arts centre, supporter afternoon tea, friends' packages, and payments supporting a local football club). While reflecting the Commissioner's considered view, QB 16/05 should be considered in conjunction with subsequent legislative amendments and the decisions in *Church of Jesus Christ of Latter-day Saints Trust Board* and *Roberts* described above.

Donation tax credits for individuals

122. When individuals make qualifying charitable or other public benefit gifts, they are generally entitled to a refundable donation tax credit of 33.33% of such gifts, provided the gift is no more than the amount of the individual's taxable income for the year (s LD 1 of the ITA and s 41A of the Tax Administration Act 1994 (TAA)) and provided they are not an absentee (s 41A(11) of the TAA and s LD 1 of the ITA).
123. Gifts of less than \$5 to a donee organisation can still qualify an individual for a donation tax credit if they are made under an instalment arrangement that is approved by the donee organisation. This means regular instalments can be made and recorded throughout the year for that donor, with each donation clearly attributable to the donor. At the end of the year, the total gift, as returned on the organisation's end-of-year accounts for that person, must be \$5 or more to qualify for a donation tax credit.
124. Individuals can submit their donations tax receipts to the Commissioner through the online myIR service during the tax year or at the end of the tax year. Whichever method is used, the application is processed at the end of the tax year. Individuals have four years from the end of the tax year in which the donation was made to claim donation tax credit refunds (s 41A(6) of the TAA).

³² Inland Revenue, *QB 16/05: Donee Organisations and Gifts* (Questions we've been asked / 2016) (publication).

125. When the Commissioner has considered an application, the person will be notified of the amount of the credit and refund allowed. If the Commissioner refuses a refund of a tax credit (in full or in part), the taxpayer can challenge that decision through the disputes process by issuing a Notice of Proposed Adjustment. For more information about the disputes process, see the Inland Revenue website.³³
126. Individuals can also make charitable or other public benefit gifts by way of payroll giving (see [129]).
127. A donor may ask the Commissioner to apply some, or all, of a donation tax credit to satisfy a liability under the Inland Revenue Acts (s RM 10(2) of the ITA and s 173T of the TAA). If a donor does not make such a request, the Commissioner may apply the refund to satisfy any liability of that donor (s RM 10(3)).
128. For more information on making donation tax credit claims, see the Inland Revenue website.³⁴

Payroll giving

129. The payroll giving scheme provides a tax credit for gifts of money that are deducted from an employee's pay through their employer's payroll (ss LD 4 to LD 8). The amount of the tax credit is limited to the amount of tax for the person's pay for the period. Employees receive an immediate reduction in tax by way of tax credit, as a reduction in their PAYE each pay period. This eliminates the need to collect and keep receipts to claim tax relief on gifts of money at the end of the year. To participate in the payroll giving scheme, the recipient organisation must be a donee organisation.
130. Where an employer makes payroll giving donations to a donee organisation, the donee organisation must issue a payroll giving donation tax receipt in the participating employer's business name (not in the name of the individual employees who donated).
131. Employees do not include their payroll giving receipts in their *IR526: Tax Credit Claim Form* at the end of the year.³⁵ Employers must include employees' payroll giving donations in *IR348: Employment Information*³⁶ and adjust the PAYE sent to Inland Revenue by the amount of tax credits for payroll giving donations. For further information, see the guide *IR617: Payroll Giving*.³⁷

³³ Inland Revenue, [Disputes](#) | Ngā wenewene (webpage).

³⁴ Inland Revenue, [Processes for donation tax credits](#) (webpage).

³⁵ Inland Revenue, [IR526: Tax Credit Claim Form](#) (October 2020) (publication).

³⁶ Inland Revenue, [IR348: Employment Information](#) (April 2020) (publication).

³⁷ Inland Revenue, [IR617: Payroll Giving](#) (April 2020) (publication).

Income tax gift deductions for companies

132. A company can claim an income tax gift deduction for a charitable or other public benefit gift it makes to a donee organisation (s DB 41(2)). "Company" is defined in s YA 1 broadly enough to include certain societies and clubs.
133. The amount of the company's deduction is limited to the company's net income for the relevant income year (that is, essentially annual income less annual expenses before the donation is deducted).
134. Where money is transferred by a company that has been deregistered as a charity, to another charity, that payment does not qualify for an income tax gift deduction as a charitable or other public benefit gift (s DB 41(2B)).

Income tax gift deductions for Māori authorities

135. A Māori authority may claim an income tax gift deduction for donations made to a Māori association or a charitable or other public benefit gift made to a donee organisation (s DV 12).
136. The amount of the Māori authority's deduction is limited to the Māori authority's net income for the relevant income year (that is, essentially annual income less annual expenses before the donation is deducted).
137. Where money is transferred by a deregistered charity that is a Māori authority to a charity in accordance with the charity deregistration rules, that payment does not qualify for an income tax gift deduction (s DV 12(1B)).
138. For further guidance on Māori authorities, see:
 - *Becoming a Māori Authority* (IR487);³⁸
 - *Māori Authority Tax Rules* (IR1202);³⁹ and
 - *Payments and Gifts in the Māori Community* (IR278).⁴⁰

³⁸ Inland Revenue, *IR487: Becoming a Māori Authority* (December 2017) (publication).

³⁹ Inland Revenue, *IR1202: Māori Authority Tax Rules* (May 2022) (publication).

⁴⁰ Inland Revenue, *IR278: Non-profit groups - Payments and Gifts in the Māori Community - Factsheet* (December 2015) (publication).

Administrative provisions – donation tax credits and income tax gift deductions

139. The usual four-year time bar provisions apply to company and Māori authority income tax returns that include deductions claimed for charitable or public benefit gifts (s 108 of the TAA).
140. For individuals, from 1 April 2019, for the purposes of determining the time bar period (s 41A(6B) of the TAA), the:
- payment of a refund is treated as an assessment; and
 - four-year time bar period starts at the end of the tax year in which the person applied for the refund.
141. This means that, absent any wrongdoing in relation to the donation tax credit refund or deduction claimed for charitable or public benefit gifts, the Commissioner cannot amend a taxpayer's claim (to adjust it up or down) after four years have passed.
142. Specific anti-avoidance rules apply when a person enters into an arrangement and the arrangement has a purpose or effect of defeating the intent and application of s LD 1 (s GB 55 of the ITA). Companies and Māori authorities continue to be subject to the general anti-avoidance provision (s BG 1 of the ITA).

Donation tax receipt requirements

143. The Commissioner's requirements for donee organisations when issuing donation tax receipts to donors for gifts they have made are contained in *IR255: Charitable and Donee Organisations*.⁴¹
144. To assist donors to make claims and to enable the Commissioner to efficiently consider those claims, the donee organisation should provide the donor with a receipt that includes:
- the donee organisation's official stamp or letterhead with the donee organisation's full name (and branch, if appropriate);
 - the donee organisation's IRD number and Charities Services registration number (if applicable);
 - the donor's full name (and address, if known);

⁴¹ Inland Revenue, *IR255: Charitable and donee organisations* (December 2021) (publication).

- the full amount and date of the donation (or, if payments were made throughout the year, the total donation amount for the income year ending 31 March provided the entity had donee status for the entire income year);
 - a clear statement that the amount received is a donation – the donation amount should be clearly separated from any other amounts covered by the receipt (subscription fees, amounts paid for goods or services, or raffle tickets are not donations, so should be shown separately from the donation amount on the receipt);
 - the name, designation and signature of a person authorised to accept donations for the donee organisation (this may be an electronic signature); and
 - a receipt number, unique to each receipt.
145. Where a receipt for the donee organisation is re-issued as a replacement, it must be clearly marked “copy” or “replacement”.
146. Treasurers and officers of donee organisations should not authorise or sign their own receipts or those relating to their immediate family members.
147. Donee organisations should keep current the contact details of persons authorised to oversee donations, such as the secretary or treasurer, as Inland Revenue may wish to contact them to verify receipts. To update Inland Revenue, use the form *IR401: Appoint an Executive Office Holder to Act on Your Behalf*.⁴²
148. Where a donor uses a tax agent or representative to apply for a refund of their donation tax credit, the tax agent or representative must see the receipt of the donor’s charitable or other public benefit gift, and the donor must retain the receipt for four tax years after the tax year to which the claim relates (s LD 1(4)).
149. To claim a donation tax credit, a donor needs to have a valid donation receipt.
150. A donor can start the process of claiming donation tax credits during the year by uploading receipts online as donations are made, rather than waiting to submit everything at the end of the tax year.
151. The donation tax credit is limited to the taxable income of the donor, which is known only at the end of the tax year. All receipts uploaded during the year will be processed as a single claim.
152. If receipts cannot be uploaded online, they may still be submitted along with the *IR526: Tax credit claim form* after the year end.⁴³

⁴² Inland Revenue, *IR401: Appoint an Executive Office Holder to Act on Your Behalf* (March 2019) (publication).

⁴³ Inland Revenue, *IR526: Tax credit claim form* (October 2020) (publication).

Record keeping

153. While registered charities have information and reporting obligations under the Charities Act, they must also comply with the requirements of the Inland Revenue Acts.
154. All donee organisations should keep sufficient records in English or te reo Māori to calculate any tax liability and to demonstrate eligibility for tax exemptions or concessions. Depending on the entity, records may include receipt and payment account books, bank statements, invoices, receipts and wage records for employees (s 32 of the TAA).
155. Additionally, donee organisations must also keep a record of:
 - the sources of any donations made to it; and
 - how its funds have been used, within New Zealand or overseas.
156. If the Commissioner requests, a donee organisation may be required to provide a breakdown of donations received, including donor details, respective payment dates and payment methods (s 58 of the TAA).
157. If a donee organisation is registered for GST, it must keep records as required under s 75 of the Goods and Services Tax Act 1985.
158. Records should be kept for a minimum of seven years, even if the donee organisation ceases operating.
159. For further information on record keeping, see *Standard Practice Statement: Retention of business records in electronic formats, application to store records offshore and keeping records in languages other than English or te reo Māori* (SPS 21/02).⁴⁴

Requirement to self-assess and notify changes

160. All donee organisations must continually self-assess to determine whether they continue to meet the donee status requirements.
161. If a donee organisation determines that it no longer meets the requirements in s LD 3, it must immediately cease issuing donation tax receipts and inform the Commissioner of its change in circumstances by post to Inland Revenue, PO Box 1147, Palmerston North Central, Palmerston North 4440 or by email to **charities.queries@ird.govt.nz**.

⁴⁴ Inland Revenue, *Standard Practice Statement -SPS 21/02: Retention of business records in electronic formats, application to store records offshore and keeping records in languages other than English or te reo Māori* (May 2021) (publication).

162. The entity will then be removed from the Commissioner’s list of approved donee organisations (if it was included there). If the entity is listed in schedule 32, the Commissioner will inform Parliament that the entity no longer qualifies for inclusion and Parliament will take the necessary steps to remove it from the schedule.

Binding rulings

163. An entity may apply to the Commissioner for a binding ruling (which includes short process rulings) under part 5A of the TAA. A binding ruling is the Commissioner’s interpretation of how a tax law applies to a particular arrangement, person, or item of property.
164. For more information about binding rulings, see the Inland Revenue website, [What is a binding ruling?](#)⁴⁵

Winding up a donee organisation

165. On winding up, consistent with the “wholly or mainly” requirement, a donee organisation’s remaining income and/or assets should be applied to charitable, benevolent, philanthropic or cultural purposes within New Zealand. The donee organisation’s rules or constitution should contain provisions outlining what will happen to remaining income and assets on winding up.
166. A donee organisation may have other statutory requirements that apply on winding up (for example, requirements on liquidation or dissolution by the Registrar of Incorporated Societies under the Incorporated Societies Act 1908).⁴⁶

Deregistration

167. Charities that are deregistered (whether voluntarily or because of failing to meet their filing obligations with Charities Services) lose donee status. If the charity appeals the deregistration, it should notify the Commissioner, as it can then retain donee status until its appeal is determined (s LD 3(2)(ab)).
168. If the deregistered charity does not appeal the deregistration, donors to these deregistered entities will not be able to claim a donation tax credit or income tax gift deduction for any donations made to the charity during the period of deregistration.

⁴⁵ Inland Revenue, [What is a binding ruling?](#) (webpage).

⁴⁶ The Incorporated Societies Act 1908 was repealed and replaced by the Incorporated Societies Act 2022, however the former act continues to apply in respect of dissolution or liquidation of a society incorporated under that Act.

169. A deregistered charity must ensure its donation tax receipts, websites and newsletters clearly state that donations made after the date of deregistration will not qualify a donor for a donation tax credit or an income tax deduction.
170. The deregistered charity may make a written application to the Commissioner to again be a donee organisation, demonstrating their benevolent, philanthropic or cultural purpose and satisfaction of the other requirements (see from [89]).

Removal as a donee organisation

171. The Commissioner's decision to remove an organisation's donee status is a "disputable decision" (defined in s 3(1) of the TAA) meaning it may be challenged under part 8A of the TAA. For more information about the disputes process, see the Inland Revenue website, [Disputes](#).⁴⁷

⁴⁷ Inland Revenue, [Disputes](#) | Ngā wenewene (webpage).

Appendix – Legislation

Income Tax Act 2007

CX 25 Benefits provided by charitable organisations

When not fringe benefit

- (1) A charitable organisation that provides a benefit to an employee does not provide a fringe benefit except to the extent to which—
 - (a) the employee receives the benefit mainly in connection with their employment; and
 - (b) the employment consists of the carrying on by the organisation of a business whose activity is outside its benevolent, charitable, cultural, or philanthropic purposes.

When employer provides charge facilities

- (2) Subsection (1) does not apply, and the benefit provided is a fringe benefit, if a charitable organisation provides a benefit to an employee by way of short-term charge facilities and the value of the benefit from the short-term charge facilities for the employee in a tax year is more than the lesser for the tax year of—
 - (a) 5% of the employee's salary or wages;
 - (b) \$1,200.

Meaning of short-term charge facilities

- (3) For the purposes of the FBT rules, a short-term charge facility means an arrangement that—
 - (a) enables an employee to obtain goods or services that have no connection with the employer or its operations by—
 - (i) buying or hiring the goods or services;
 - (ii) charging the cost of the goods or services to an account;
 - (iii) providing consideration other than money for the goods or services; and
 - (b) requires the employer to provide some or all of the payment or other consideration for the goods or services; and
 - (c) is not a fringe benefit under section CX 10.

DB 41 Charitable or other public benefit gifts by company

Who this section applies to [Repealed]

- (1) [Repealed]

Deduction

- (2) A company is allowed a deduction for a charitable or other public benefit gift that it makes to a donee organisation.

No deduction

- (2B) Despite subsection (2), a company is not allowed a deduction for the amount of a charitable or other public benefit gift it makes, to the extent to which the amount is, for the company, an asset ignored for the purposes of section HR 12 (Non-exempt charities: treatment of tax-exempt accumulations) and described in section HR 12(3)(a).

Amount of deduction

- (3) The deduction for the total of all gifts made in an income year is limited to the amount that would be the company's net income in the corresponding tax year in the absence of this section.

Link with subpart DA

- (4) This section supplements the general permission. The general limitations still apply.

DV 12 Maori authorities: donations*Deduction*

- (1) A Maori authority is allowed a deduction for—
- (a) a donation that it makes to a Maori association, as defined in the Maori Community Development Act 1962, for the purposes of the Act:
 - (b) a charitable or other public benefit gift that it makes to a donee organisation.

No deduction

- (1B) Despite subsection (1), a Maori authority is not allowed a deduction for the amount of a donation it makes or for the amount of a charitable or other public benefit gift it makes, to the extent to which the amount is, for the Maori authority, an asset ignored for the purposes of section HR 12 (Non-exempt charities: treatment of tax-exempt accumulations) and described in section HR 12(3)(a).

Amount of deduction

- (2) The deduction for the total of all donations and gifts made in an income year is limited to the amount that would be the Maori authority's net income in the corresponding tax year in the absence of this section.

Link with subpart DA

- (2) This section supplements the general permission and overrides the capital limitation. The other general limitations still apply.

GB 55 Arrangements involving tax credits for charitable or other public benefit gifts*When this section applies*

- (1) This section applies when—
- (a) a person enters into an arrangement; and
 - (b) the arrangement has a purpose or effect of defeating the intent and application of section LD 1 (Tax credits for charitable or other public benefit gifts).

Credit reduced

- (2) A tax credit under section LD 1 is reduced to the amount that the Commissioner considers would have arisen had the arrangement not occurred.

LD 1 Tax credits for charitable or other public benefit gifts*Amount of credit*

- (1) A person who makes a charitable or other public benefit gift in a tax year and who meets the requirements of section 41A of the Tax Administration Act 1994 has a tax credit for the tax year equal to the amount calculated using the formula in subsection (2).

Formula

- (2) The formula referred to in subsection (1) is—
- $$\text{total gifts} \times 33\frac{1}{3}\%.$$

Definition of item in formula

- (3) In the formula, total gifts means the total amount of all charitable or other public benefit gifts made by the person in the tax year.

Administrative requirements

- (4) Despite subsection (1), the requirements of section 41A are modified if a tax agent or representative applies for a refund under that section on behalf of a person, and—
- (a) the tax agent or representative sees the receipt for the person's charitable or other public benefit gift; and
 - (b) the person retains the receipt for 4 tax years after the tax year to which the claim relates.

Refundable credits

- (5) A credit under this section is a refundable tax credit under section LA 7 (Remaining refundable credits: tax credits for social policy and other initiatives) and is excluded from the application of sections LA 2 to LA 6 (which relate to a person's income tax liability).

LD 2 Exclusions

Section LD 1 does not apply to—

- (a) an absentee;
- (b) a company;
- (c) a public authority;
- (d) a Maori authority;
- (e) an unincorporated body;
- (f) a trustee liable for income tax under subpart HC, and section HZ 2 (which relate to trusts and distributions from trusts);
- (g) in relation to the credit, a person who has a tax credit for a payroll donation.

LD 3 Meaning of charitable or other public benefit gift*Meaning*

- (1) For the purposes of sections DB 41 and DV 12 (which relate to deductions for gifts of money), and this subpart, a charitable or other public benefit gift—
- (a) means a gift of money of \$5 or more that is paid to a society, institution, association, organisation, trust, or fund (the entity), if—
 - (i) the entity is described in subsection (2)(a), (ab), (b), (c), or (d), and the name of the entity is on the list published by the Commissioner under section 41A(14) to (16) of the Tax Administration Act 1994;
 - (ii) the entity is described in subsection (2)(ac), (bb), or (bc);
 - (iii) the name of the entity is listed in schedule 32 (Recipients of charitable or other public benefit gifts);
 - (b) includes a subscription of \$5 or more paid to an entity only if the subscription does not confer any rights arising from membership in that entity or any other society, institution, association, organisation, trust, or fund;
 - (c) does not include—
 - (i) a testamentary gift;
 - (ii) a gift made by forgiving some or all of a debt.

Description of organisations

- (2) The following are the entities referred to in subsection (1)(a) and (b):
- (a) 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;
 - (ab) an entity that, but for this paragraph, no longer meets the requirements of this subsection, but only for the period starting on the day it fails to meet those requirements and ending on the later of—
 - (i) the day the entity is removed from the register of charitable entities under the Charities Act 2005;
 - (ii) the day on which all reasonably contemplated administrative appeals and Court proceedings, including appeal rights, are finalised or exhausted in relation to the person's charitable status.
 - (ac) a community housing entity, if the gift is made at a time the entity is eligible to derive exempt income under section CW 42B (Community housing trusts and companies):
 - (b) a public institution maintained exclusively for any 1 or more of the purposes within New Zealand set out in paragraph (a):
 - (bb) a board that is constituted under subpart 5 of Part 3 of the Education and Training Act 2020 and is not carried on for the private pecuniary profit of any individual:
 - (bc) a tertiary education institution:
 - (c) 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 paragraph (a), by a society, institution, association, organisation, or trust that is not carried on for the private pecuniary profit of an individual:
 - (d) a public 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 paragraph (a).

Exception for certain entities

- (3) Despite subsection (2)(a), (b), (c), and (d), a society, institution, association, organisation, trust, or fund is not a relevant entity for the purposes of subsection (1) if the society, institution, association, organisation, trust, or fund,—
- (a) is not a tax charity, because it is not registered as a charitable entity under the Charities Act 2005; and
 - (b) in the opinion of the Commissioner, is eligible to be registered as a charitable entity under that Act.

LD 4 Tax credits for payroll donations*Who this section applies to*

- (1) This section applies to a person who—
- (a) is an employee whose employer—
 - (i) provides employment income information by electronic means with particulars relating to the person's PAYE income payments for a pay period; and
 - (ii) agrees to offer payroll giving to their employees; and
 - (b) chooses to make a payroll donation in the pay period from an amount derived as pay.

Amount of credit

- (2) The person has a tax credit for the pay period equal to an amount calculated using the formula—

$$\text{total donations} \times 33\frac{1}{3}\%.$$

Definition of item in formula

- (3) In the formula, total donations is the total amount of all payroll donations made by the person in the pay period.

Maximum credit

- (4) Despite subsection (2), the amount of the tax credit must not be more than the amount of tax for the person's pay for the period.

Non-refundable credits

- (5) A credit under this section is a non-refundable tax credit to which section LA 4(1) (When total tax credit more than income tax liability) applies for the tax year in which the period falls.

No refunds for donations

- (6) A person who has a tax credit under this section may not make an application under section 41A of the Tax Administration Act 1994 for any refund relating to the amount of a payroll donation.

Meaning of pay for payroll donation purposes

- (7) For the purposes of this section, and sections LD 8(1) and 124ZG of the Tax Administration Act 1994, pay, for a person,—
- (a) means an amount referred to in section RD 5(1)(a) or (b)(i) (Salary or wages); and
 - (b) includes any similar amount earned by an employee in the normal course of their employment; and
 - (c) [Repealed]

YA 1 Definitions

In this Act, unless the context requires otherwise,—

charitable or other public benefit gift is defined in section LD 3 (Meaning of charitable or other public benefit gift)

charitable organisation—

- (a) means, for a quarter or an income year, an association, fund, institution, organisation, society, or trust to which section LD 3(2) (Meaning of charitable or other public benefit gift) or schedule 32 (Recipients of charitable or other public benefit gifts) applies—
 - (i) in the quarter; or
 - (ii) in the income year, if fringe benefit tax is payable on an income year basis under section RD 60 (Close company option); and
- (ab) includes a person who has been removed from the register of charitable entities (the register) under the Charities Act 2005, but only for the period starting on the day the person is registered on the register and ending on the earlier of the last day of the following periods:
 - (i) the quarter, or income year if section RD 60 (Close company option) applies, in which the person does not comply with their rules contained in the register:
 - (ii) the quarter, or income year if section RD 60 applies, in which the day of final decision falls; and
- (b) does not include a local authority, a public authority, or a university

charitable purpose includes every charitable purpose, whether it relates to the relief of poverty, the advancement of education or religion, or any other matter beneficial to the community, and—

- (a) the purpose of a trust, society, or institution is charitable under this Act if the purpose would meet the public benefit requirement apart from the fact that the beneficiaries of the trust, or the members of the society or institution, are related by blood:
- (b) a marae has a charitable purpose if—
 - (i) the physical structure of the marae is situated on land that is a Maori reservation referred to in Te Ture Whenua Maori Act 1993 (the Maori Land Act 1993); and
 - (ii) the funds of the marae are not used for a purpose other than the administration and maintenance of the land and of the physical structure of the marae, or are used for a purpose that is a charitable purpose

donee organisation means an entity described in section LD 3(2) (Meaning of charitable or other public benefit gift) or listed in schedule 32 (Recipients of charitable or other public benefit gifts)

Tax Administration Act 1994

3 Interpretation

- (1) In this Act, unless the context otherwise requires,—

disputable decision means—

- (a) an assessment:
- (b) a decision of the Commissioner under a tax law, except for a decision—
 - (i) to decline to issue a binding ruling under Part 5A; or
 - (ii) that cannot be the subject of an objection under Part 8; or
 - (iii) that cannot be challenged under Part 8A; or
 - (iv) to issue a Commissioner's notice of proposed adjustment under section 89B, a Commissioner's disclosure notice or statement of position under section 89M, or a challenge notice; or
 - (v) to issue, or to decline to issue, a Commissioner's COVID-19 response variation under section 6I; or
 - (vi) to grant, or to decline to grant, a loan under the small business cashflow scheme under section 7AA; or
 - (vii) to make, or to decline to make, a grant under the COVID-19 resurgence support payments scheme under section 7AAB

gift-exempt body, in sections 18K, 32, and 58, means—

- (a) any society, institution, association, organisation, trust, or fund specifically named in Schedule 32 of the Income Tax Act 2007; or
- (b) any other person who has RWT-exempt status following an application made under section 32E(2)(k) or (l) in relation to a tax year in which they have that status

32 Records of specified charitable, benevolent, philanthropic, or cultural bodies

- (1) All gift-exempt bodies must keep in New Zealand sufficient records in the English language to enable the Commissioner to determine both the sources of donations made to them and the application, within New Zealand or within a country or territory outside New Zealand, of their funds.

- (2) Despite subsection (1), on application by a gift-exempt body, the Commissioner may notify the body that they are authorised to keep the records in a language other than English.

41A Returns in relation to charitable or other public benefit gifts

- (1) A person who has a tax credit under sections LD 1 to LD 3 of the Income Tax Act 2007 may apply for a refund by—
- providing the information on the total amount of the charitable or other public benefit gifts they have made for a tax year with the information provided under Part 3, subpart 3B:
 - notifying the Commissioner by electronic means in relation to an amount of charitable or other public benefit gift that they have made during the tax year to which the application relates:
 - completing the form prescribed by the Commissioner.
- (2) The total amount refunded, including a refund made on an application under subsection (7), must be no more than the annual amount of the tax credits.
- (3) The sum of the charitable or other public benefit gifts under sections LD 1 to LD 3 of that Act made by a person must be no more than their taxable income in the tax year in which the gift is made.
- (4) If subsection (3) applies, the Commissioner must reduce the total amount of charitable or other public benefit gifts so that the total is no more than the person's taxable income in the tax year in which the gift is made.
- (5) An application under subsection (1) must be made in the manner required by the Commissioner, and be accompanied by any information the Commissioner requires, including—
- [Repealed]
 - the amount of a charitable or other public benefit gift to which sections LD 1 to LD 3 of that Act apply.
- (6) A taxpayer may apply for a refund for the tax year in which the gift is made in the 4-year period beginning with—
- the 1 April following the end of the taxpayer's income year corresponding to the tax year, if the taxpayer has a standard balance date or an earlier balance date; or
 - the day after the end of the taxpayer's income year corresponding to the tax year, if the taxpayer has a late balance date.
- (6B) For the purposes of section 108(1),—
- the payment of a refund under this section is treated as an assessment; and
 - the 4-year period starts at the end of the tax year in which the person applies for the refund.
- (7) Despite subsection (6), the Commissioner may, in special circumstances, accept an application for a refund before the end of the tax year to which the application relates.
- (8) For the purpose of subsection (7), special circumstances include—
- the person leaving New Zealand, permanently or for a significant length of time:
 - a trustee of a deceased person's estate wishing to wind up the estate.
- (9) Despite subsection (1), the Commissioner must not refund the amount of a tax credit unless the requirements of subsections (2) and (3) are met.
- (10) When the Commissioner has considered an application, the Commissioner must notify the person of the amount of the tax credit under sections LD 1 to LD 3 of that Act and of the amount of refund allowed.

- (11) A tax credit may not be refunded to an absentee, a company, a public authority, a Maori authority, an unincorporated body, or a trustee liable for income tax under sections HC 16, HC 32, or HZ 2 of that Act.
- (12) A refund under subsection (1) must be paid as if it were tax paid in excess.
- (13) A refund under subsection (1), to the extent to which it is more than the correct amount of refund, is recoverable as an excess tax credit under section 142D.
- (14) The Commissioner must publish, from time to time, in a publication chosen by the Commissioner, a list of the names of entities that—
 - (a) have provided the information required under subsection (16):
 - (b) the Commissioner considers appropriate to include on the list (for example, an entity registered under the Charities Act 2005).
- (15) Despite subsection (14), the name of an entity must not be published on the list if the Commissioner determines that the entity is not described in section LD 3(2)(a), (ab), (b), (c), or (d) of the Income Tax Act 2007.
- (16) An entity may request that their name is included on the list by providing information to the Commissioner in the form prescribed by the Commissioner.

58 Returns of specified charitable, benevolent, philanthropic, or cultural bodies

Every gift-exempt body must, when notified by the Commissioner, furnish a return of its funds derived or received in any tax year and showing the source and application of those funds, together with such other particulars as may be required by the Commissioner.

120VD Interest on tax credits for charitable or other public benefit gifts

No interest shall be payable by the Commissioner under section 120D(3) on an amount of tax credit calculated under section LD 1 of the Income Tax Act 2007.

Goods and Services Tax Act 1985

75 Keeping of records

- (1) For the purposes of this section, the term records includes books of account (whether contained in a manual, mechanical, or electronic format) recording receipts or payments or income or expenditure, and also includes vouchers, bank statements, invoices, tax invoices, credit notes, debit notes, receipts, and such other documents as are necessary to verify the entries in any such books of account.
- (2) Without limiting the generality of subsection (1), the records required to be kept and retained, pursuant to subsection (3), shall contain—
 - (a) a record of all goods and services supplied by or to that registered person showing the goods and services, and the suppliers or their agents, in sufficient detail to enable the goods and services, the suppliers, or the agents to be readily identified by the Commissioner, and all invoices, tax invoices, credit notes, and debit notes relating thereto; and
 - (b) the charts and codes of account, the accounting instruction manuals, and the system and programme documentation which describes the accounting system used in each taxable period in the supply of goods and services; and
 - (c) any list required to be prepared in accordance with section 19B(3) or section 78B(7).
- (3) Subject to subsections (4) to (7), every registered person must keep, for a period of at least 7 years after the end of the taxable period to which they relate, the records listed in subsection (2) and records that are sufficient to enable ready ascertainment by the Commissioner or an officer authorised by the Commissioner of the registered person's liability to tax.

- (3BA) A registered person required by subsection (3) to keep and retain a record must keep and retain the record—
- (a) in English or te reo Maori, or in a language in which the Commissioner authorises the person under subsection (6) to keep the record or the type of record; and
 - (b) at a place in New Zealand, or at a place outside New Zealand where—
 - (i) the Commissioner authorises the registered person under subsection (6) to keep the record or the type of record;
 - (ii) the record is kept by a person authorised by the Commissioner under subsection (6) to keep records for persons that include the registered person.
- (3B) For the purposes of section 11(1)(mb), the supplier must maintain sufficient records to enable the following particulars in relation to the supply to be ascertained:
- (a) the name and address of the recipient; and
 - (b) the registration number of the recipient; and
 - (c) a description of the land; and
 - (d) the consideration for the supply.
- (3C) Subsections (3D) and (3E) apply when a supply that wholly or partly consists of land is made to a person who is, for the purposes of the supply, an agent acting on behalf of an undisclosed principal.
- (3D) The requirements of subsection (3B)(a) and (b) are met if the supplier maintains sufficient records to enable the particulars of the name, and address, and registration number or tax file number, as applicable of the agent to be ascertained.
- (3E) The agent must maintain sufficient records in relation to the undisclosed principal to enable the name, address, and, if the principal is a registered person or expects to be a registered person, the registration number of the principal to be ascertained.
- (3F) Subsection (3BA) does not apply to require a non-resident supplier whose only supplies are supplies of distantly taxable goods to which section 8(3)(ab) applies or of remote services to which section 8(3)(c) applies, to keep and retain records—
- (a) in English or te reo Maori or in a language authorised by the Commissioner; or
 - (b) at a place in New Zealand or at a place outside New Zealand authorised by the Commissioner.
- (4) This section shall not require the retention of any records—
- (a) in respect of which the Commissioner has given notice that retention is not required;
 - (b) of a company which has been liquidated.
- (5) The Commissioner may, by notice given before the expiry of the 7-year retention period specified in subsection (3), require a registered person to retain the records specified in that subsection for a further period not exceeding 3 years following the expiry of the 7-year period where—
- (a) the affairs of the registered person are or have been under audit or investigation by the Commissioner; or
 - (b) the Commissioner intends to conduct such an audit or investigation before the expiry of the retention period as so extended, or is actively considering any such audit or investigation.
- (6) The Commissioner may, upon application by a registered person or another person, authorise for the purposes of subsection (3BA),—

- (a) a registered person to keep and retain a record or a type of record—
 - (i) in a language other than English or te reo Maori:
 - (ii) at a place outside New Zealand:
 - (b) a person to hold, for a registered person, records—
 - (i) at places outside New Zealand; and
 - (ii) in a form approved by the Commissioner; and
 - (iii) accessible by the Commissioner in a way approved by the Commissioner.
- (7) The Commissioner may, for an authorisation under subsection (6) of a person,—
- (a) impose reasonable conditions on the authorisation:
 - (b) reasonably vary the conditions on the authorisation:
 - (c) withdraw the authorisation, upon request by the person or after giving reasonable notice of the withdrawal:
 - (d) give public notice of an action under subsection (6)(b) or this subsection, in a publication chosen by the Commissioner.
- (8) A registered person who is required under this section to keep and maintain records that are in a language other than English must comply with the requirements of sections 24, 24BA, and 25 relating to English words that must appear on a tax invoice, or a debit note or credit note, provided by the registered person.

Charities Act 2005

5 Meaning of charitable purpose and effect of ancillary non-charitable purpose

- (1) In this Act, unless the context otherwise requires, **charitable purpose** includes every charitable purpose, whether it relates to the relief of poverty, the advancement of education or religion, or any other matter beneficial to the community.
- (2) However,—
- (a) the purpose of a trust, society, or institution is a charitable purpose under this Act if the purpose would satisfy the public benefit requirement apart from the fact that the beneficiaries of the trust, or the members of the society or institution, are related by blood; and
 - (b) a marae has a charitable purpose if the physical structure of the marae is situated on land that is a Maori reservation referred to in Te Ture Whenua Maori Act 1993 (Maori Land Act 1993) and the funds of the marae are not used for a purpose other than—
 - (i) the administration and maintenance of the land and of the physical structure of the marae:
 - (ii) a purpose that is a charitable purpose other than under this paragraph.
- (2A) The promotion of amateur sport may be a charitable purpose if it is the means by which a charitable purpose referred to in subsection (1) is pursued.
- (3) To avoid doubt, if the purposes of a trust, society, or an institution include a non-charitable purpose (for example, advocacy) that is merely ancillary to a charitable purpose of the trust, society, or institution, the presence of that non-charitable purpose does not prevent the trustees of the trust, the society, or the institution from qualifying for registration as a charitable entity.
- (4) For the purposes of subsection (3), a non-charitable purpose is ancillary to a charitable purpose of the trust, society, or institution if the non-charitable purpose is—

- (a) ancillary, secondary, subordinate, or incidental to a charitable purpose of the trust, society, or institution; and
- (b) not an independent purpose of the trust, society, or institution.

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