

Income Tax: Donee Organisations and Gifts

Quick Fact Sheet

What's going on?

In February 2016, Inland Revenue consulted with Creative New Zealand on the question of donee organisations and gifts. Specifically, Inland Revenue sought to provide guidance about when a donee organisation may issue a donation receipt for charitable payments made to them by individual supporters. These donation receipts can be used by the supporters to claim an income tax credit.

Following feedback, [Inland Revenue has released a paper outlining guidance on the law](#). It's hoped this will make it clearer as to when payments are gifts (for income tax purposes), when donee organisations should issue donation receipts and to help supporters when claiming donation tax credits.

What's the problem?

Under New Zealand tax law, a charitable organisation that doesn't operate for profit may issue a donation receipt to any supporter who makes a donation (one-time or re-occurring) of over \$5. The supporter can then apply for donation tax credits. The purpose of this tax credit is to incentivise individuals to donate to organisations that provide a social good in New Zealand.

Inland Revenue was asked to clarify when a donation is a 'charitable or other public benefit gift' that is eligible to be redeemed as a tax credit, and when it is not.

IRD stated that to qualify a gift must be:

- made voluntarily,
- by way of benefaction, and
- in return for which the supporter receives no material benefit or advantage.

Although it's our belief that most people who donate to arts organisations do not do so solely for the tax advantage, we shouldn't discredit the idea that it is an influencing factor.

What does Inland Revenue think?

Overview

- A qualifying donee organisation may issue a donation receipt to supporters for eligible "gifts".
- A donee organisation has a specific definition outlined in law. You'll most likely know if your organisation fits this definition.
- Individuals can claim donation tax credits if they hold a donation receipt from a donee organisation.

What's a gift?

Inland Revenue considers a gift to be a payment of money of \$5 or more made voluntarily, by way of benefaction, and in return for which the supporter receives no material benefit or advantage.

The issue of 'material benefit' is contentious. Inland Revenue has stated the following are not considered material benefits or advantages.

- *Immaterial or intangible benefits*: like public recognition or making supporters happy or something where a value cannot be ascertained.
- *Trivial benefit or advantage*: like giving supporters a sticker or keyring or other insignificant gift for supporting the organisation. To be overlooked, the benefit must be minimal both in its own right and compared with the payment made.
- *Stewardship*: if organisations choose to thank and acknowledge their supporters by inviting them to a function or giving them a token of appreciation. These cannot be part of any agreement and a supporter can have no expectation of receiving these benefits.

Inland Revenue also notes the following.

- A material benefit or advantage does not need to come directly from the donee organisation. If a supporter makes a donation to a charitable organisation, and that organisation gets a third-party to provide a material benefit or advantage to the supporter, then the donation is not a gift.
- Sometimes a donation may be a gift even if the supporter obtains a material benefit, if that benefit is indirect. For instance, an arthritis sufferer donating \$50 to the national arthritis drug research charity would still be considered a gift as the potential material benefit is remote.
- A gift can be for a specific purpose or project. For instance, a theatre company seeking to build a

- new rehearsal facility. The test for material benefit or advantage will depend on how much the supporter gains from the purpose or project the gift went towards.
- A supporter's donation cannot be split into a gift component and a non-gift component. However, a donation receipt may be issued where a supporter makes two payments at the same time to a donee organisation. For example, if a supporter purchased tickets to a fundraising event and made a donation at the same time. In this example, for the donation to be a gift, the supporter must be able to attend the event regardless of the donation being made – the ability to purchase tickets couldn't be dependent on the donation.

What are some examples?

Below are some examples, derived from [Inland Revenue's guidance](#). Further examples are set out in that guidance.

Example One

Sally purchases a ticket to a fundraising 'black tie' dinner hosted by her local gallery. The ticket costs \$150 and entitles her to attend the event. The charity should not issue a donation receipt as no part of the ticket price is a gift.

During the evening the gallery holds two events. The first is a charity auction and Sally bids \$800 for a painting valued at \$250. Even though this is well over the material value of the painting, no part of this purchase is a gift. The second event is a donation towards the gallery's new building. Sally donates \$250 towards this project and in return her name will be engraved in the foyer. The organisation may issue her a donation receipt as this is a gift.

Example Two

John subscribes to a patron programme at his local opera house. For a donation of \$5,000 a year, he receives two tickets to each show and acknowledgement as a patron in the season's programme. As John receives a material benefit (the tickets), no amount of the donation is a gift. The organisation should not issue a donation receipt to John.

Example Three

Hēmi subscribes to a patron programme at his local musical theatre group. For a donation of \$500 a year, he receives a ticket to each show and a discount on drinks at the theatre. The patron programme recommends he also make a donation of \$1,500 for which Hēmi receives recognition in the group's show programmes. He is under no obligation to make this donation and it will not affect his patron status. The

organisation should not issue a donation receipt for the \$500 patron programme, but may issue a donation receipt for the \$1,500 donation as this qualifies as a gift. The organisation may accept this as a single payment of \$2,000 on Hēmi's credit card, but it should ensure it delineates these two separate and identifiable items on Hēmi's invoice and only issue a donation receipt for \$1500.

Example Four

Sophie makes regular donations (of more than \$5) to her local ballet. Towards the end of the year, the ballet decides to host a 'meet and greet' for its supporters that includes food and drink as a way to say thank you. Because Sophie had no expectation of this event happening and the event isn't in return for the payments made by Sophie, the donations can continue to be considered gifts and the ballet can continue to issue donation receipts.

Do I need to find out more?

This quick fact sheet should not be considered definitive advice, but merely a quick overview of the guidance Inland Revenue has provided.

If your organisation is a donee organisation that receives donations and issues donation receipts, you should consider talking to your accountant or tax adviser to ensure you're in compliance.

If you're unsure or wish to know more, you can read the full paper on the Inland Revenue website:

[Questions we've been asked QB 16/05: Income Tax – Donee organisations and gifts](#)