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Charities and tax: an update

Registration with Charities Commission delayed

The Charities Commission has confirmed that the registration of charities will open from 1 February 2007. Initially, registration was expected to commence this month.

The reason given for the new timetable is that it will allow charities more time to consider applying for registration and to gather the information required for registration.

Under the Charities Act 2005 charities must register with the Charities Commission if they wish to maintain or gain tax exempt status. Registration must be completed by 1 July 2008 in order for tax exemption to apply.

Types of charitable entities that must register with the Charities Commission include charitable incorporated societies and some religious bodies.

Exposure draft on tax and charities

Inland Revenue has just released an exposure draft on the interaction of tax and charity rules. In it, Inland Revenue states that entities that register with the Charities Commission will prima facie be treated as exempt from tax on non-business income.

However, the same does not apply to business income.

The exposure draft says that, under New Zealand's self-assessment regime, entities deriving business income will have to be sure that they always meet all of the Income Tax Act criteria for charitable status. Even if a charity is registered with the Charities Commission, Inland Revenue reserves the right to decide that the charity does not qualify for the business exemption. Inland Revenue will also no longer issue non-binding letters to charities expressing a view on this point.

This reaffirms our view that the only way to achieve certainty about a charity's tax status, at least in relation to business income, is to go through the potentially lengthy and costly binding ruling process.

We would be pleased to assist your charity, or any charities with which you may be involved, with the registration process or with other matters that may arise.

Please contact our specialist charities advisors, listed in this newsletter, for further information.

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