

Donations submission and Government response

Our submission 25 February 2011

We recommend and request urgent amendment to section LD 3(1) of the Income Tax Act 2007 to define a “charitable or other public benefit gift” as being:

- (as currently defined) a gift of \$5 or more.....
- (to include) “or verifiable money’s worth”

Our response to Government announcement 28 March 2011

It is pleasing to see the Government responded positively to our call for a deduction for donated goods.

The amendment is fairly narrowly defined and only applies to trading stock (as opposed to other goods and assets), only to the Christchurch earthquake as opposed to other disasters, and only for four months after the two relevant earthquakes.

However it is in effect an acknowledgement that the existing legislation doesn’t cope with an urgent need to donate goods, and we are hopeful that in due course the provision could be widened further once the government analyses its effectiveness and in particular should a different but comparable disaster befall NZ in future.

In the meantime an organisation wanting to make a substantial donation of goods that fall outside the new criteria still has the option of selling to the charity and then donating the proceeds

We sincerely thank the organisations and businesses that supported our submission – CPA Australia, Business Round Table and others.

Jeff Owens
Director

Government announcement 28 March 2011

www.beehive.govt.nz/release/earthquake-tax-relief-measures-announced

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The measures include:

- Providing an exemption so businesses do not have to pay tax or gift duty on trading stock they have donated within four months of either the September 4 or February 22 earthquakes.

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"It is important we provide both income tax and gift duty relief to businesses donating trading stock to help alleviate the impact of the earthquake.

"Without this exemption, businesses would be taxed on a deemed profit based on the market value of any donated goods," he said.

To qualify, trading stock must meet certain criteria outlined on Inland Revenue's policy website at www.taxpolicy.ird.govt.nz.

<http://taxpolicy.ird.govt.nz/publications/2011-other-earthquake-fact-sheets/tax-relief-donated-trading-stock>

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IRD policy advice division 28 March 2011

Some businesses have donated trading stock (or supplied trading stock for less than market value) for the purpose of alleviating the effects of the earthquakes. This fact sheet contains additional information of the tax relief for donated trading stock announced by Ministers today. It is proposed that retrospective amending legislation be introduced and enacted in May 2011. Accordingly, businesses should confirm the amending legislation before finalising their tax position.

New exclusion

Generally, when a person disposes of trading stock at below market value the person is treated, under an anti-avoidance measure, as deriving an amount equal to the market value of that trading stock at the time of disposal. In response to the Christchurch earthquake, a new exclusion from this tax treatment will be legislated for. With this new exclusion in place, only the value of the actual consideration, if any, received will need to be returned as income by the business.

Details of exclusion

- The new exclusion will cover businesses that donate (or supply for less than market value) their trading stock for the purpose of alleviating the effects of the earthquake.
- The applicable meaning of trading stock will be that contained in section EB 2 of the Income Tax Act 2007.
- The new exclusion will apply in respect of both the 4 September 2010 Canterbury earthquake and the 22 February 2011 Christchurch earthquake.
- For the exclusion to apply the trading stock must be disposed of:
 - for less than market value;
 - to non-associated persons; and
 - within four months of the applicable earthquake.

Associated new gift duty exemption

Where the above exclusion applies, a new exemption from gift duty will also be legislated for. This exemption will also have retrospective effect.

GST on donated goods

Where the disposal is to non-associated persons there are no GST implications beyond dealing with the GST fraction of any consideration received or paid.