



17 January 2024

Henry Williams
Fyi-request-24948-7c7385f8@requests.fyi.org.nz

Dear Henry Williams

Thank you for your request made under the Official Information Act 1982 (OIA), received on 29 November 2023. You requested the following:

1. *The number of application for donee status received by the Department within the last 36 months;*
2. *The Typical (average) time taken by the Department to access those applications, the maximum time; and the least time taken for each of*
 - (a) *Those that applied;*
 - (b) *Those that were approved; and*
 - (c) *Those that were rejected.*

Please also provide the number of application still outstanding, and the average time since the application was received.

3. *All internal/staff guidelines and assessment criteria – in particular, how the Department determines what is (and is not) considered "benevolent" – under LD 3(2)(a) of the Income Tax Act 2007.*
4. *All internal guidance and assessment criteria – in particular, how the Department determines what is (and is not) considered "philanthropic" – under LD 3(2)(a) of the Income Tax Act 2007*
5. *Any court or judicial (including Taxation Review Authority) guidance on any of the matters above?*

Questions 1 & 2

On 7 December 2023 we attempted to clarify the scope of questions 1 and 2 with you. As mentioned, currently phrased your request covers extensive material requiring a manual search of a large number of cases which would place undue strain on the resources of Inland Revenue. We asked that you consider reducing this part of your request to the following:

- The number of charities registrations received in the past 36 months and how many of those had donee status approved.
- The number of other organisations who have applied for donee status through Inland Revenue who have had donee status approved.

As we did not receive a response, I have decided to partially refuse questions 1 and 2 under section 18(f) of the OIA, as the information requested cannot be made available without substantial collation or research.

However, I am able to provide the data outlined in the bullet points above with caveats.

Question 1: The number of charities registrations received in the past 36 months and the outcome of the registration with respect to donee status:

Outcome	Count
Registration still in progress as at 1 Dec 2023	38
Had donee status after registration	3485
Did not have donee status after registration	172
Duplicate / invalid registration	52
Total	3747

Caveats:

- The total count is the number of Charitable Organisation Registration cases created between 1 December 2020 and 30 November 2023 inclusive.
- Processing these registrations includes other tasks in addition to assessing the donee status of the organisation.
- "Had donee status after registration" = customer either had donee status before the registration and retained it afterwards or gained the status at the time of the registration.
- "Did not have donee status after registration" = customer has never had donee status, has had donee status in the past but not since the charities registration, or donee status commenced well after the registration was completed.
- "Duplicate / invalid" = duplicates are the second of two registrations for the same customer during the time period, where the registration was either stopped or was at the same time as the other registration. Registrations with no customer linked to them have been labelled as invalid, as are those where a donee status was added then invalidated. It is possible that some of the registrations in the 'did not have donee status' category are actually duplicates or are for some reason invalid, however finding them would require manually checking each case.

Question 2: The number of other organisations who have applied for donee status through Inland Revenue who have had donee status approved

The total count of 224 customers is the number of customers with a 'Donee Organisation' commence date between 1 December 2020 and 30 November 2023 inclusive. This data was run on 20 December 2023.

The donee status commence date does not necessarily align to when the application was made. This was not possible to determine, as applications are sent in via general correspondence and this reporting is based on the indicator against the account, rather than on the correspondence item.

Customers counted here either did not have a Charitable Organisation Registration case created, or they were deemed not to have gained donee status as a result of a registration (determined using the same methodology as used in part 1 above), for example, they needed to apply separately.

Questions 3 & 4

It is important to note that each application for donee status is considered individually on its own merit.

There are two documents in scope of your request. One document, titled *ISSUES REPORT – Escalations and Advising*, is released to you with some information redacted under the following sections of the OIA:

- Section 9(2)(a) – to protect the privacy of natural persons
- Section 9(2)(g)(i) – to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any public service agency or organisation in the course of their duty.

The second document, Operational Statement *Charities and Donee Organisations: Part 2: Donee Organisations* (OS 22/04), outlines Inland Revenue's tax treatment of donee organisations. This document also sets out the Commissioner of Inland Revenue's view of the meaning of "benevolent" or "philanthropic" (see paragraphs 39-46). This document is available on Inland Revenue's Tax Technical website at [Charities and donee organisations \(ird.govt.nz\)](https://www.ird.govt.nz/charities-and-donee-organisations).

Therefore, your request is refused in part under section 18(d) of the OIA, as the document is publicly available.

As is required by section 9(1) of the OIA, I have considered whether the grounds for withholding the information required are outweighed by other public interest considerations which would make it desirable to make this information available. In this instance, I do not consider that to be the case.

Question 5

Any judicial or Taxation Review Authority (TRA) guidance on the issue at hand would be in the form of decisions which are generally publicly available. The documents outlined in questions 3 and 4 reference New Zealand decisions in this regard, as well as some Australian and United Kingdom decisions that would be persuasive to a NZ court (or TRA). Therefore, this part of your request is refused under section 18(d) of the OIA, as these decisions are publicly available.

Right of review

If you disagree with my decision on your OIA request, you can ask an Inland Revenue review officer to review my decision. To ask for an internal review, please email the Commissioner of Inland Revenue at: CommissionersCorrespondence@ird.govt.nz.

Alternatively, under section 28(3) of the OIA, you have the right to ask the Ombudsman to investigate and review my decision. You can contact the office of the Ombudsman by email at: info@ombudsman.parliament.nz.

If you choose to have an internal review, you can still ask the Ombudsman for a review.

Publishing of OIA response

We intend to publish our response to your request on Inland Revenue's website (www.ird.govt.nz) as this information may be of interest to other members of the public. This letter, with your personal details removed, will be published in its entirety. Publishing responses increases the availability of information to the public and is consistent with the OIA's purpose of enabling more effective participation in the making and administration of laws and policies and promoting the accountability of officials.

Thank you for your request.

Yours sincerely



Richard Philp
Customer Segment Leader