New Zealand Donation Tax Credit Changes

Giving tax-effectively: a practical guide for donors

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This paper combines Forsyth Barr's philanthropy and wealth advisory perspective with MoranLaw's specialist legal expertise and Grant Thornton's specialist tax knowledge in charities, not-for-profit structures, and regulatory frameworks.

Background

From 1 April 2027, the amount of a donation eligible for the individual donation tax credit will be capped at $100,000 per person, per year. The credit rate stays at 33⅓%, so the maximum annual refund for an individual will be approximately $33,333. For a couple each with sufficient taxable income, the combined maximum is approximately $66,666. The cap applies to personal donations; it does not affect corporate giving or trust distributions to charity.

The cap is part of a broader package. The Government has also announced two positive changes that take effect from 1 April 2028: donors will be able to receive their refund during the tax year rather than waiting until year end, and donors will be able to instruct Inland Revenue to send their refund directly to a nominated charity.

Established Ways of Giving

The cap applies to the individual donation tax credit. Other established ways of giving tax-effectively remain unchanged, and in some circumstances have become comparatively more attractive now that a limit applies to the personal credit. This paper sets out the main options.

INTEGRITY AND ANTI-AVOIDANCE

The cap is an integrity measure. The Government introduced it to address concerns about donor-controlled charities, circular gifting structures, and arrangements where donors derive private benefit from charitable vehicles. Inland Revenue has indicated it will monitor whether donors substitute alternative giving structures following the introduction of the cap.

The structures described in this paper are established and legitimate. However, arrangements that are adopted primarily to replicate outcomes the cap is intended to limit, particularly where the donor retains effective control or benefit, will continue to attract scrutiny. Arrangements involving associated entities or entities under donor influence will need to be well documented and genuinely charitable in purpose.

Early input from professional advisers is important for larger or more complex giving strategies.

Donors Considering Major Gifts Before April 2027

Donors finalising gifts above $100,000 who have sufficient taxable income may wish to consider making those donations before 1 April 2027, when the cap takes effect.

In some situations, the intended charitable project or recipient may not yet be ready to receive the funds.

This can occur where:

- Additional donors are still being secured.
- Project details are incomplete.
- Land purchases are unresolved.
- Capital campaigns are still underway.
- Governance or structuring matters remain outstanding.

Donor Advised Funds

One solution is the use of a Donor Advised Fund (DAF) such as The Gift Trust or a community foundation.

A Donor Advised Fund allows a donor to:

- Make an irrevocable charitable donation now.
- Receive the tax credit at the time of donation.
- Recommend distributions to operating charities over time.

In many circumstances, the full donated amount can later be distributed to the intended charity once the project is ready to proceed. This structure is particularly useful where a donor has committed capital but wishes to retain flexibility around timing and implementation.

A Donor Advised Fund structure depends on the irrevocable nature of the gift and the independence of the controlling entity. While donors may retain advisory input, they must not retain control over the application of funds if the donation is to qualify as a completed charitable gift. Inland Revenue's focus on donor-controlled arrangements means that the governance and operational independence of DAF providers will be an important consideration.

Multi-Year Giving Strategies

For donors intending to contribute more than $100,000, multi-year giving strategies allow the credit to be claimed each year on up to $100,000 of donations.

For example:

- An individual could donate $100,000 annually and continue receiving the maximum annual credit.
- A couple with combined taxable income exceeding $200,000 could potentially donate up to $200,000 annually and receive combined credits of approximately $66,666.

Multi-year pledges are likely to become more common. From a legal standpoint, these arrangements can range from non-binding expressions of intent through to more formal documented commitments. Charities should be cautious about relying on future pledged donations unless the arrangements are clearly documented and the associated risks understood. Donors should also consider whether any long-term commitment remains appropriate in light of their future financial circumstances and broader estate or trust planning. Care should be taken to preserve the character of donations as voluntary gifts for tax purposes.

Payroll Giving and Workplace Giving

Payroll giving allows donations to be made directly through an employer's payroll system, with the tax benefit applied immediately through PAYE. Inland Revenue has not announced changes to payroll giving as part of the $100,000 cap. The credit rate of 33⅓% applies, and there is currently no equivalent cap on payroll giving contributions.

A donor who has reached the $100,000 personal donation cap could make additional charitable contributions through a payroll giving arrangement, potentially directing more to charity beyond what the personal credit cap alone supports.

Inland Revenue has indicated it will monitor whether donors increasingly use payroll giving as a substitute for capped personal giving. Donors should ensure payroll giving arrangements are implemented in accordance with Inland Revenue requirements and do not inadvertently create compliance issues for employers.

Company Donations

Companies can generally claim a tax deduction for qualifying charitable donations against taxable income, capped at the company's annual net income. There is currently no announced $100,000 cap for company donations. The effective tax benefit is linked to the corporate tax rate of 28%.

This may be relevant for:

Founders with controlling shareholdings.

Business owners.

Property investors using company structures.

Closely held family businesses.

In some situations, donating directly from a company may produce a more efficient outcome than distributing funds to shareholders first and then donating personally. Where a shareholder would otherwise receive dividends taxed at a higher effective personal rate, a company donation may produce a comparatively better result for gifts above the individual threshold.

TAX, LEGAL, AND GOVERNANCE ADVICE IS CRITICAL IN THESE SITUATIONS.

Company donations raise issues including:

- *directors' duties (including proper purpose and best interests of the company);*
- *shareholder alignment and approval (especially for closely held companies); and*
- *interaction with imputation credits and dividend policy.*

Structuring donations through a company purely to circumvent the individual cap may attract scrutiny if not supported by a clear commercial and governance rationale and philanthropic purpose.

Giving from a Family Trust

Family trusts cannot claim the individual donation tax credit or the company donation deduction. However, a family trust that names a registered charity as a beneficiary can often achieve a similar tax outcome through the general trust income rules.

How it works

When a trust distributes income to a charitable beneficiary, that income takes on the tax profile of the charity rather than the trust. Because registered charities are generally tax-exempt, the income is not taxed at the trust level when it is distributed. A trust can direct its investment income to a charitable beneficiary and have it received by the charity free of tax. This sits outside the $100,000 cap because it is a distribution of trust income to a beneficiary, not a donation tax credit claim.

An important rule change to be aware of

A proposed change would require that the charitable beneficiary must receive payment within a required timeframe[1]. A trustee resolution alone would no longer be sufficient. If the amount is not paid to the charity within the required period, the income would be taxed at the trustee rate of 39%. Trustees should ensure payments to charitable beneficiaries are made promptly.

Passive versus business income

The above applies to passive investment income. Existing integrity rules prevent business profits from being sheltered through charitable structures where associated persons retain effective control or benefit. Where those rules apply, the charitable exemption may be denied. For most family trusts holding an investment portfolio rather than an active business, this distinction will not be relevant.

WHAT THIS MEANS IN PRACTICE

- *A family trust holding an investment portfolio and naming a registered charity as a beneficiary can distribute investment income to that charity without it being taxed at the trust level, and without the $100,000 cap applying. The donor does not receive a personal tax credit, but the funds reach the charity free of tax.*
- *Tax, legal, and governance advice is important before proceeding, particularly given the proposed rule change around payment timeframes.*

Giving from a Gift Account

For donors that can afford to dedicate substantial capital to giving. a Gift Account held with a donor advised fund provider such as The Gift Trust, or a charitable fund held with a Community Foundation, allows donors to give tax-effectively while retaining flexibility over how and when funds are distributed.

How it works

You make a donation of capital into the Gift Account. That donation is an irrevocable charitable gift. The donation qualifies for the 33⅓% tax credit at the time of transfer, subject to the $100,000 annual cap. The donation could also be made from workplace giving, a company or family trust.

Once inside the Gift Account, the funds are invested and the investment income is generally tax-free because the charitable vehicle is itself a registered charity. This is a meaningful advantage: income that would otherwise be taxed at your personal marginal rate, or within a PIE at your prescribed investor rate, grows free of tax inside the Gift Account.

You can then recommend distributions to the charities of your choice over time. This separates the timing of your tax-advantaged contribution from the timing of the charitable distribution, which is useful where a campaign is not yet ready

1. The later of six months after balance date and the earlier of the trust's actual and statutory tax return filing dates. For a trust with an extension of time, the statutory filing date is 31 March of the following year.

to receive funds, or where you want to spread giving across multiple causes over several years.

Donating capital

You can donate cash and investment portfolios into a Gift Account. Donors with larger amounts may wish to stage donations across multiple years to maximise the credit available each year. For donors with planned gifts above $100,000, the Gift Account structure is particularly relevant given the April 2027 implementation date: a donation made before the cap takes effect qualifies for the full credit under current rules, with distributions to the end charity made when the project is ready.

KEY FEATURES OF A GIFT ACCOUNT

- *Donation qualifies for the 33⅓% tax credit at the time of contribution, subject to the $100,000 cap.*
- *Investment income inside the Gift Account is expected to be tax-free.*
- *You recommend distributions to charities over time, giving flexibility over timing and destination.*
- *The gift is irrevocable: funds cannot be returned to you once donated.*
- *Providers include The Gift Trust and Community Foundations across New Zealand.*
- *You must be in a financial position to donate capital.*

Legacy Giving and Estates

New Zealand does not impose estate or death duties, and charitable gifts under a will do not attract a donation tax credit. For many families, leaving a charitable legacy remains an important philanthropic strategy because it preserves flexibility and control during lifetime, allows assets to support family needs first, and can create enduring charitable impact.

Some donors may consider whether lifetime giving strategies, including staged giving and Gift Account contributions, could increase the total value transferred to charity over time.

Example: $5 Million Investment Portfolio

Consider an individual with a $5 million investment portfolio, annual taxable income exceeding $100,000, and a long-term charitable intention. If the donor contributes $100,000 annually to charity and receives a donation tax credit of approximately $33,333 annually, they could reinvest the tax credit, donate it onward, or continue compounding charitable capital over time.

Assuming the donor reinvests the annual refund at a 5% annual return:

After 10 years, the accumulated value of reinvested refunds could exceed $430,000.

After 20 years, the accumulated value could exceed $1.1 million.

Alternatively, if the annual refund was donated onward each year, the donor could direct an additional approximately $666,000 to charitable causes over 20 years. For some donors, this may support a blended approach combining lifetime philanthropy, family wealth planning, and estate legacy giving.

The absence of estate or gift duties continues to make testamentary giving a flexible and tax-neutral option. Increased reliance on legacy giving raises practical considerations, including ensuring charitable intentions are clearly reflected in wills, trust deeds or memorandum of wishes, and balancing charitable objectives with family provision obligations (including potential claims under the Family Protection Act 1955). For some donors, it may prompt earlier integration of philanthropy into formal estate planning.

Making It Easier to Claim and Direct Donation Tax Credits

Alongside the cap, the Government has announced two simplification measures taking effect from 1 April 2028.

In-Year Refunds

From 1 April 2028, eligible donors will be able to receive their refund during the tax year where there is reportable income to support it. Currently, donors must wait until the end of the tax year.

Gifting the Tax Credit Directly to Charity

Donors can already receive their refund and choose to donate it to a charity. What changes from 1 April 2028 is the process: donors will be able to instruct Inland Revenue to send the refund directly to a nominated charity, removing the two-step process.

Impact for donors: A donor contributing $100,000 annually could effectively direct a further $33,333 to the same or a different charity, with no additional cash outlay.

Impact for charities: This has the potential to meaningfully increase the total value of donations flowing from existing donor relationships. Charities should take note and prepare accordingly.

WHAT CHARITIES SHOULD DO NOW

Process barriers are one of the most significant reasons donors do not claim their tax credit or pass it on. Charities should treat these changes as an opportunity to review donor communications and processes.

Practical steps include:

- *Proactively informing donors about the donation tax credit, how it works, and how to claim it.*
- *Making donation receipts easy to obtain and in the correct format for Inland Revenue claims.*
- *Preparing systems to support the option for donors to direct their tax credit refund directly to the charity from 2028.*
- *Reducing administrative friction in the donation process itself.*
- *Ensuring your charity is registered as a recipient of donation tax credits at IRD.*
- *Maintain your charitable and donee status.*

These changes take effect from 1 April 2028. Implementation guidance will be published by Inland Revenue when the legislation is introduced.

Charity Tax Rate and Integrity Changes

Alongside the donation tax credit changes, the Government has announced broader reviews and integrity measures relating to charities and donor-controlled entities.

At this stage, there does not appear to be a broad removal of charitable income tax exemptions for registered charities. However, Inland Revenue has signalled continuing scrutiny of donor-controlled charities, commercial activities, accumulation of charitable funds, related party transactions, and private benefit arrangements.

Based on the direction of the reforms, it appears likely that certain charity business income arrangements, particularly where charitable structures compete directly with taxable commercial businesses, may attract further policy attention. Inland Revenue has signalled a continuing focus on integrity in this area, and further consultation and legislative development is possible.

Inland Revenue's continued focus on donor-controlled entities, accumulation of funds, and related party transactions suggests that this reform is unlikely to be the end point of policy change.

We expect:

- increased scrutiny of governance and independence in charitable structures;
- closer examination of situations where charities are closely aligned with founders or funders; and
- potential further legislative refinements targeting specific integrity risks.

Charities should ensure that their governance, documentation, and operational practices are able to withstand that scrutiny.

Final Observations

The changes are likely to influence:

- Timing of gifts.
- Giving structures.
- Company philanthropy.
- Legacy planning.
- Long-term philanthropic strategy.

For charities, the impact may vary considerably depending on reliance on major donors, timing of capital campaigns, donor concentration, and the availability of alternative giving structures.

From both an advisory and legal perspective, the key themes emerging are: greater structuring of giving including multi-year and entity-based approaches; increased importance of governance and independence in charitable vehicles; and a need for careful alignment between tax outcomes, legal form, and philanthropic intent.

Donors and charities who engage early across financial, legal, and governance dimensions will be best placed to navigate the new environment.

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