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INTRODUCTION

The Charities Act 2005 ("the Act") was passed by Parliament on 13 April 2005. It is the culmination of a process which began in 2001 when the Government released a discussion document as part of a review of the tax treatment of charities. The document arose out of concern that:

- There were no means by which the public could identify legitimate charities as opposed to sham operations; and
- There was no way of monitoring charities claiming tax free status.

Following receipt of the submissions, Cabinet set up a working party to look specifically at registration, reporting and monitoring systems suitable to the New Zealand charitable sector.

From there a Bill was drafted which aimed to address some of the issues raised. The Social Services Committee reported back on the bill on 17 December 2004 and recommended that it be passed with amendments.

CHARITIES REVIEW

Prior to the Charities Act 2005, although there was a procedure available to register charitable trusts, there was no system to monitor their ongoing activities or funding sources.

The Act established a Charities Commission to register and monitor charitable entities to ensure that those entities receiving tax relief continue to carry out charitable purposes.

The Act requires the Charities Commission to provide the charitable sector with support and assistance in the area of good practice in governance and management.

KEY PROVISIONS OF THE ACT

REGISTRATION

Registration with the Charities Commission is voluntary, but as of 1 July 2008 charities need to be registered to continue to retain or obtain income and tax exemption. Charities wanting approved Donee status will also have to register. People who donate to organisations with approved Donee status can claim a tax rebate on their donation. Registered charities no longer have to apply to the IRD for income tax exemption and approved Donee status.

The Charities Register is accessible on the Charities website www.charities.govt.nz.

CHARITABLE PURPOSE

In order to register, charities need to submit a copy of their rules or Trust Deed, and other information about current and proposed charitable purposes and activities. This information is then assessed against the requirements of the charitable purposes test.

Charitable purposes must fall within one of these groups:

- The advancement of education;
- The advancement of religion;
- The relief of poverty; and
- Any other matter beneficial activity to the community

COMPLIANCE

Once a charitable organisation has registered with the Charities Commission it will be issued with a unique registration number which must be displayed on all fundraising materials used (eg collection tins) when money is collected from the public. This should provide the public with a high degree of confidence that an organisation is undertaking activities that are both charitable and in the public interest.

If a charity changes any or part of its core practices during the year (such as the organisation's charitable purpose) they must notify the Commission. This requirement should ensure that all information held on the register is as up to date as possible. Penalties will be imposed on organisations that fail to notify the Commission of these changes within a specified time.

HOW DOES THIS AFFECT YOU?

The Charities Act 2005 has important implications for those of you who are involved with a charitable organisation or collect rebates for charitable donations.

Further information can be obtained from the Charities Commission's website www.charities.govt.nz.

Please call this office if you would like further information on any guides prepared by this firm. Copies are also available from our website.

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