

Hon Stuart Nash, Minister of Revenue

Information Release

Overseas donee status – new additions for inclusion in the next available taxation bill

August 2020

Availability

This information release is available on Inland Revenue's Tax Policy website at <https://taxpolicy.ird.govt.nz/publications/2020-ir-cab-dev-19-sub-0300/overview>

Documents in this information release

#	Reference	Type	Title	Date
1	IR2019/573	Tax policy report	Cabinet paper – Overseas donee status: new additions for the next available taxation bill	18 October 2019
2	DEV-19-SUB-0300	Cabinet paper	Overseas donee status: new additions for the next available taxation bill	13 November 2019
3	DEV-19-MIN-0300	Minute	Overseas donee status: new additions for the next available taxation bill	13 November 2019

Additional information

The Cabinet paper was considered by the Economic Development Committee on 13 November 2019 and confirmed by Cabinet on 18 November 2019.

Information withheld

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant sections of the Act that would apply are identified. Where information is withheld, no public interest was identified that would outweigh the reasons for withholding it.

Sections of the Act under which information was withheld:

- 9(2)(a) to protect the privacy of natural persons, including deceased people
- 9(2)(b)(ii) to protect the commercial position of the person who supplied the information or who is the subject of the information
- not in scope

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POLICY AND STRATEGY

Tax policy report: **Cabinet paper – Overseas donee status: New additions for the next available taxation bill**

Date:	18 October 2019	Priority:	Medium
Security level:	In Confidence	Report number:	IR2019/573

Action sought

	Action sought	Deadline
Minister of Revenue	Agree to recommendations Authorise the lodgement of the attached Cabinet paper	10 am, Thursday, 7 November 2019

Contact for telephone discussion (if required)

Name	Position	Telephone
Brandon Sloan	Principal Policy Advisor	s 9(2)(a)
Peter Frawley	Policy Lead	

18 October 2019

Minister of Revenue

Cabinet paper – Overseas donee status: New additions for the next available taxation bill

Executive summary

1. This report seeks your approval to give overseas donee status to three New Zealand charities whose purposes are directed at activities outside New Zealand.
2. The charities we recommend be granted overseas donee status are:
 - 2.1 Active Hearts Foundation
 - 2.2 Kiwilink
 - 2.3 Shimshal Trust
3. A description of the charities, and their purposes and activities, is provided in paragraphs 35 to 40 of this report.
4. If you agree to the recommendations in this report, the attached paper to the Cabinet Economic Development Committee should be authorised and lodged with the Cabinet Office before 10 am, Thursday, 7 November 2019.
5. The attached Cabinet paper seeks the Committee's approval to add the three charities to schedule 32 of the Income Tax Act 2007 and therefore obtain overseas donee status. These additions would be included in the next available omnibus taxation bill, scheduled for introduction in March 2020, with effect from the 2020–21 income year (starting 1 April 2020).
6. The charities discussed in this report are largely involved in the relief of poverty or improving education outcomes in developing countries. All are registered under the Charities Act 2005. They all have adequate procedures for the accountability of funds applied to projects outside New Zealand and can demonstrate a track record of activity.
7. "Overseas donee status" is used to describe certain New Zealand charities with overseas purposes to which donors are eligible for tax benefits. These benefits include:
 - 7.1 the donation tax credit of $33\frac{1}{3}\%$ of the value of any monetary donations made by a New Zealand resident individual taxpayer, capped at the amount of their taxable income, and
 - 7.2 tax deductions if the monetary donation is from a company or Māori authority, capped at the amount of their net income.
8. Decisions to grant overseas donee status approvals are assessed against Cabinet criteria, which were set in 1978. The criteria are an extension to the original 1962 policy to use the tax system to support charitable giving. Decisions to grant overseas donee status complement the government's overseas development objectives.

Financial implications

9. The revenue effect of giving overseas donee status to the charities recommended in this report is outlined in Table 1. The revenue effect is recognised as a forecasting change because it reflects an increase in the cost of the decision to allow donations to New Zealand-based charities with overseas purposes to be eligible for tax benefits. The recommendations in this report have no impact on the Tax Policy Scorecard.¹

Table 1: Financial implications

Vote Revenue Minister of Revenue	\$million – increase/(decrease)				
	2019–20	2020–21	2021–22	2022–23	2023–24 & outyears
Crown Revenue and Receipts: Tax Revenue	(0.000)	(0.095)	(0.100)	(0.101)	(0.103)
Operating balance impact	0.000	0.095	0.100	0.101	0.103

Consultation

10. The Ministry of Foreign Affairs and Trade (Pacific and Development Group) and the Department of Internal Affairs – Charities Services were consulted as part of our analysis of the three charities recommended in this report.
11. The New Zealand Police’s vetting service was also used for the trustees of the charities recommended in this report.
12. The Treasury has been consulted in preparing this report and the attached paper to the Cabinet Economic Development Committee and agrees with its recommendations.

Proactive release considerations

13. Officials recommend that the attached Cabinet paper should be proactively released without redaction. The release of the unredacted paper and associated Cabinet minutes should be delayed until the introduction of the proposed omnibus taxation bill, scheduled for introduction in March 2020, which contains the necessary amendments to give effect to the recommendations in this report.

Next steps

14. If you agree to grant overseas donee status to the charities discussed in this report, we recommend that you approve and lodge the attached paper to the Cabinet Economic Development Committee, seeking its agreement to the changes.
15. For the attached paper to be considered by the Cabinet Economic Development Committee at its meeting on 13 November 2019, it needs to be lodged with the Cabinet Office by 10 am, Thursday, 7 November 2019.
16. Speaking notes to support consideration of the paper on 13 November 2019 are attached to this report.

¹ The Tax Policy Scorecard is a memorandum account that records the fiscal effect of approved tax policy decisions that occur between Budgets.

17. When Cabinet has made a decision, officials will advise the trustees of the charities on the outcome of their requests for legislative change.
18. A copy of this report should be referred to the Minister of Finance for his information.

Recommended action

19. We recommend that you:
- (a) **Agree** that the following charities are given overseas donee status and added to schedule 32 of the Income Tax Act 2007:

(i) Active Hearts Foundation

Agreed/Not agreed

(ii) Kiwilink

Agreed/Not agreed

(iii) Shimshal Trust

Agreed/Not agreed

- (b) **Agree** that the charities named in recommendation (a) that you have approved are given overseas donee status from the start of the 2020–21 income year.

Agreed/Not agreed

- (c) **Note** that agreeing to recommendations (a) and (b) will result in the following adjustments to revenue forecasts:

Vote Revenue Minister of Revenue	2019–20	2020–21	2021–22	2022–23	2023–24 & outyears
Crown Revenue and Receipts: Tax Revenue	(0.000)	(0.095)	(0.100)	(0.101)	(0.103)
Operating balance impact	0.000	0.095	0.100	0.101	0.103

Noted

- (d) **Agree** that amendments giving effect to recommendations (a) and (b) are included in the next available taxation bill, scheduled for introduction in March 2020.

Agreed/Not Agreed

- (e) **Approve** and **lodge** the attached Cabinet paper with the Cabinet Office by 10 am Thursday, 7 November 2019, for consideration by the Cabinet Economic Development Committee at its meeting on 13 November 2019.

Approved and lodged

- (f) **Note** that speaking notes to support the paper to Cabinet Economic Development Committee are attached to this report.

Noted

- (g) **Agree** that when Cabinet has made a decision on granting overseas donee status, officials advise the trustees of the charities of the decision.

Agreed/Not agreed

- (h) **Agree** to delay the release of the attached Cabinet paper, without redaction, and associated minutes until the bill containing the amendments giving effect to recommendation (a) is introduced in March 2020.

Agreed/Not agreed

- (i) **Refer** a copy of this report and the attached Cabinet paper to the Minister of Finance for his information.

Referred

Brandon Sloan

Principal Policy Advisor
Policy and Strategy

Hon Stuart Nash

Minister of Revenue
/ /2019

Purpose of this report

20. This report seeks your approval to give overseas donee status to three registered charities and include the required amendments in the next available omnibus taxation bill, scheduled for introduction in March 2020.

Policy background

Tax benefits for charities with purposes outside New Zealand

21. New Zealand charities that apply a large proportion of their funds for purposes outside New Zealand and that want their monetary donors to be eligible for tax benefits (particularly the donation tax credit) must be given overseas donee status by being listed on schedule 32 of the Income Tax Act 2007. Being given overseas donee status has no bearing on whether the charity is exempt from income tax.²
22. Overseas donee status and being listed on schedule 32 means that monetary donations to the charity are eligible for tax benefits. Tax benefits include:
 - 22.1 the donation tax credit of $33\frac{1}{3}\%$ of the value of any monetary donations made by a New Zealand resident individual taxpayer, capped at the amount of their taxable income; and
 - 22.2 tax deductions if the monetary donation is from a company or Māori authority, capped at the amount of their net income.
23. There are 152 organisations listed in schedule 32.³

Policy intent

24. Since 1962, the Income Tax Act has provided tax benefits for monetary donations to New Zealand charities (including benevolent, philanthropic, or cultural organisations) whose purposes are largely limited to New Zealand. The Income Tax Act imposes certain statutory limitations on the entity's purposes and its application of funds, which must relate "wholly or mainly" to purposes in New Zealand. At the time, three charities with overseas purposes were specifically named as exceptions to the rule, and the government acknowledged that charities could be added to the list of names from time to time as comparable cases arise. In 1978, Cabinet developed criteria (see paragraph 28) to support consideration about future additions of New Zealand-based overseas aid organisations to the legislative list.
25. Supporting New Zealand charities through overseas donee status is intended to assist the New Zealand government's overseas development efforts, where aid objectives are better achieved by charitable non-government organisations (NGOs). The assistance is open-ended and less discretionary than other forms of government assistance⁴ because it is delivered through the tax system using the benefits that attach to monetary donations made to the named charities.
26. There are arguments for and against using the tax system to support charitable giving. Broadly, governments may seek to promote charitable giving:

² This is dealt with elsewhere in the Income Tax Act — sections CW 41 and CW 42.

³ The Taxation (KiwSaver, Student Loans, and Remedial Matters) Bill proposes to add four more. For reference, Inland Revenue recognises 25,000 organisations with philanthropic, benevolent, or charitable purposes in New Zealand as having donee status (2018 figures).

⁴ For example, the Ministry of Foreign Affairs and Trade's New Zealand aid programmes: the [New Zealand Partnerships for International Development Fund \(Partnerships Fund\)](#), the [Sustainable Development Fund](#), the [New Zealand Disaster Response Partnership \(NZDRP\)](#), and the [Pacific Island Countries Participation Fund \(PIC Fund\)](#).

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- 26.1 to further social objectives – in this particular case, overseas development aid,
 - 26.2 for the wider benefits to society (externalities), which may be over and above the value of the benefit provided via the tax system, and
 - 26.3 because donations can be effective indicators of when extra goods and services should be provided in market conditions that might otherwise not exist – particularly the case in developing countries or when assisting individuals suffering from the results of war or natural disaster.
27. The trade-off for these benefits is the open-ended revenue cost for as long as the charity is on the list of approved donee organisations.

Cabinet’s consideration of requests for overseas donee status

28. Since 1978, Cabinet has applied the criteria below, which set the parameters of activities that may be supported by the tax system:

The basic criteria for adding an organisation to the list of approved “overseas” charities:

- (i) *the funds of the charity should be principally applied towards:*

the relief of poverty, hunger, sickness or the ravages of war or natural disaster; or

the economy of developing countries;* or

raising the educational standards of a developing country;*

- (ii) *charities formed for the principal purpose of fostering or administering any religion, cult or political creed should not qualify;*

** developing countries recognised by the United Nations.*

[CM 78/14/7 refers]

29. The eligible purposes set out in the criteria are aligned to the government’s overseas development objectives (disaster relief, provision of humanitarian aid, and assisting developing countries) and narrower than the common law meaning of “charitable purpose” and the legislative framework in the Charities Act 2005. Determination of donee status, including overseas donee status, remains the responsibility of Inland Revenue because of the tax benefits that attach to monetary donations. The process does not overlap with the work of the Department of Internal Affairs – Charities Services.
30. Irrespective of whether a charity’s founding documents and activities are charitable, approval for inclusion on schedule 32 is not automatic, and requests are considered on a case-by-case basis.
31. An overarching consideration is that any charity approved for overseas donee status is credible, transparent and accountable.⁵ Fiscal impacts and the integrity of the tax system are also relevant considerations.
32. Legislation is used to implement decisions to grant overseas donee status because it is an exception to the policy that tax benefits for donations should be limited to charities with New Zealand purposes. In 2016, the Legislation Design and Advisory

⁵ *Guidelines for using the Cabinet criteria for overseas donee status*, endorsed by Cabinet in 2009 – CBC Min (09) 12/2 refers.

Committee provided advice to Inland Revenue confirming that the use of legislation to grant overseas donee status is appropriate.

Analysis of requests for overseas donee status

33. Officials look at a number of factors when considering a charity's request to be added to the list of donee organisations in the Income Tax Act. We look to establish whether the charity is capable of meeting its purposes and is accountable for the funds it collects by:
- 33.1 reviewing the charity's governing document (constitution and trust deed) to ensure the activities and purposes are consistent with Cabinet's criteria,
 - 33.2 requiring the purposes stated in the charity's governing document to be entirely within the scope of paragraph (i) of the Cabinet criteria and that no personal pecuniary profit can be derived
 - 33.3 looking at the clauses governing the nature and extent of the trustees' discretionary powers, the winding-up clause, and the trustees' ability to amend the governing document,
 - 33.4 looking at the charity's past, current, and proposed activities,
 - 33.5 requesting that the trustees provide us with the charity's financial statements,
 - 33.6 considering the trustees' degree of control over the application of the charity's funds overseas, and procedures in place to ensure accountability for funds,
 - 33.7 considering the planning, monitoring, and evaluation processes used by the trustees regarding the application of the charity's funds, including how recipients use the funds, as well as the processes used to select beneficiaries and/or projects to support,
 - 33.8 asking whether the charity has a legal presence in New Zealand and if it has registered under the Charities Act 2005,
 - 33.9 considering each request on the basis of other generic tax policy objectives, such as fiscal implications (including risk to the New Zealand tax base), consistency with other current government policy objectives, and the precedent effect, and
 - 33.10 consulting with other government agencies such as the Ministry of Foreign Affairs and Trade, and the Department of Internal Affairs – Charities Services, to identify any concerns with the organisation or sensitivities with the countries in which the organisation operates. We also use the New Zealand Police's vetting service in connection with the charity's trustees or directors.

Charities recommended for overseas donee status

34. The three charities discussed below have purposes that come within the criteria in paragraph 28 and we recommend that they be granted overseas donee status. They all have adequate procedures for the accountability of funds applied to projects and can demonstrate a track record of activity. All the charities discussed in this report are registered under the Charities Act 2005 and have a centre of management in New Zealand.

Active Hearts Foundation

35. Active Hearts Foundation formalised in 2017 the charitable activities of a group of New Zealand trekking guides which were directed at improving living conditions and education outcomes in Nepalese villages in the Himalayas. Key projects to date have involved disaster relief following the 2015, 2018 and 2019 earthquakes, refitting and resourcing school libraries, resourcing community health clinics, and ensuring the resilience of local infrastructure including an irrigation pipeline for food production.
36. s 9(2)(b)(ii)

Kiwilink

37. Kiwilink was formally established as a charitable trust in August 2018 to separate humanitarian projects formerly undertaken within the Associated Churches of Christ New Zealand and continue to undertake missions with a particular focus on Zimbabwe and Vanuatu. Recent work undertaken by Kiwilink in Zimbabwe includes collaborating with local charities to provide orphan care, student bursaries and the drilling of water boreholes in the Zvishavane region in South Western Zimbabwe. In Vanuatu, the Trust has worked in the relocation of people in the Ambae region displaced by volcanic activity, and the provision of first-aid supplies and a water storage tank at the Noui Noui Hospital.
38. The Trust is seeking overseas donee status to grow its donor base and enable it to continue to contribute to co-ordinated international humanitarian efforts, such as the provision of clean drinking water and facilitating the empowerment of people in the areas of the world the trust works in.

Shimshal Trust

39. Shimshal Trust was set up in 2003 to support education outcomes and the relief of poverty for communities and villages in the Northern region of Pakistan (Shimshal). The principal focus of the Trust is to fund scholarships to help local students with promising ability, but no financial support, to attend high school or university. The Trust also provides financial support to community aid and development projects when donor resources allow.
40. The Trust is seeking overseas donee status to deepen sources of New Zealand donor support. For the year 2018, it sponsored 18 students and is committed to those scholarships for the next three years, (this is up from 14 students for the previous financial year). The trustees note that community leadership in the Shimshal region has a progressive stance on education, particularly for girls and women, and the Trust aspires to increase the number of children attaining higher education.

Risks with recommended charities

41. In an earlier report (IR2018/077, dated 20 February 2018), we noted the risks associated with granting donee status, and this is reproduced in the annex. As part of our analysis of the three charities discussed in this report, we have not identified any precedent risks or concerns with their activities and governance. The charities recommended in this report have adequate donor support to carry out their purposes. Notwithstanding, officials note:

⁶ Note that international donations do not give rise to tax benefits in New Zealand unless the donor has New Zealand taxable income.

- 41.1 Shimshal Trust operates from a very low financial base. It has been able to maintain its activities over period of fifteen years and its trustees are a cohesive group who know the Shimshal region very well. Although the trust supports a small number of students, the outcomes from sponsorship has been successful. Officials therefore do not have any concerns with the purpose of the Trust or its governance or longevity. It is small-scale and effective at what it does.
- 41.2 Kiwilink was created to undertake humanitarian aid projects and missions previously managed and commissioned by the Associated Churches of Christ New Zealand. The purposes of the new trust are directed to humanitarian purposes and its activities are to be free from discrimination. The deed also imposes prohibitions from carrying out religious purposes.⁷

Consultation with other agencies

42. The Ministry of Foreign Affairs and Trade (Pacific and Development Group) and the Department of Internal Affairs – Charities Services have been consulted as part of the preparation of this report. The New Zealand Police’s vetting service was also used in connection with the trustees/officers of the charities recommended in this report.
43. The Treasury has also been consulted in preparing this report and agrees with its recommendations.

Charities still under consideration

44. Officials are still analysing requests from seven other charities not discussed in this report. We are waiting for additional information from the trustees and, subject to the timing of the future taxation bill, will report to you again in 2020 about our recommendations.

Legislative vehicle and application date

45. Amendments adding the three organisations recommended in this report to the list of donee organisations in the Income Tax Act 2007, should be included in the next omnibus taxation bill, scheduled for introduction in March 2020. The amendments should apply from 1 April 2020. Monetary donations received on and after that date will be eligible for tax benefits. The recommended application date gives the charities certainty for marketing and fund-raising purposes.
46. Inland Revenue’s systems can work with an application date of 1 April 2020, as individuals will be able to claim the donations tax credit for receipted monetary donations as part of Inland Revenue’s 2020–21 return cycle, starting on 1 April 2021. Companies and Māori authorities will be able to recognise deductions for monetary donations made during the 2020–21 income year.

Compliance and administrative cost implications

47. No compliance or administrative cost implications arise from the recommendations in this report. The changes in this report have no implications for Inland Revenue’s Business Transformation programme of work.

⁷ When considering requests for overseas donee status from charities that are motivated by religious tenets, we recommend changes to the charity’s rules to ensure its works, projects, and activities performed and undertaken outside New Zealand are free from discrimination on the basis of race, gender, religion, or sexual orientation. Our practice is also to recommend they limit their purposes so that they are prohibited from proselytising outside New Zealand.

Financial implications

48. The estimated financial implications of adding the three charities recommended in this report are shown in Table 2. The financial implications will be treated as a forecasting change and reflects the increasing cost of the decisions in 1962 and 1978 to allow donations to New Zealand-based charitable overseas aid organisations to be eligible for tax benefits. The revenue estimates are based on projections made by the charities about the monetary donations they expect to receive for the forecast period. There is no impact on the Tax Policy Scorecard.

Table 2: Financial implications by charity

	Effect on tax revenue (\$millions)				
	2019-20	2020-21	2021-22	2022-23	2023-24 & outyears
Active Hearts Foundation	s 9(2)(b)(ii)				
Kiwilink Trust					
Shimshal Trust					
Total	(0.000)	(0.095)	(0.100)	(0.101)	(0.103)

Proactive release

49. We recommend that the attached Cabinet paper should be proactively released without redaction. The release of the unredacted paper and associated Cabinet minutes should be delayed until the introduction of the proposed March 2020 omnibus taxation bill, which contains the necessary amendments to give effect to the recommendations in this report.

Next steps

50. Subject to your decisions about the charities discussed in this report, officials recommend that you approve and lodge the attached paper for the Cabinet Economic Development Committee, seeking its agreement to give overseas donee status to the three charities and adding them to schedule 32 of the Income Tax Act.
51. For the paper to be considered by Cabinet Economic Development Committee at its meeting on 13 November 2019, it needs to be lodged with the Cabinet Office by 10 am, Thursday, 7 November 2019.
52. Speaking notes to support consideration of the paper on 13 November 2019 are attached to this report.
53. The charities will be advised of the outcome of their request for overseas donee status following Cabinet's consideration.
54. We recommend that you refer a copy of the report and the attached Cabinet paper to the Minister of Finance, for his information.

Table 3: Risks with giving overseas donee status

New Zealand’s reputational risk	The integrity of the tax system	Precedent risk	Political risk
<p>The Government faces a reputation risk if the “named” charity’s activities:</p> <ul style="list-style-type: none"> • are seen to support or encourage criminal or terrorist activities, • involve trafficking of any form (for example, but not limited to, sex, children, or drugs), • are seen to support or encourage sectarian violence, • are seen to support or encourage civil disobedience, and • contravene the prevailing laws of the country in which the donee organisation operates. 	<p>Schedule 32 of the Income Tax Act is a list of exceptions to the policy that tax benefits for donations should be limited to charities with New Zealand purposes.</p> <p>The tax benefits act as non-discretionary financial support for the named charity.</p> <p>This raises issues regarding:</p> <ul style="list-style-type: none"> • consistency with the Government’s broad-base, low-rate revenue strategy; • fiscal cost; and • tax schemes that rely on tax benefits for donations. 	<p>Approvals create expectations in the charitable sector about the way Cabinet’s criteria are interpreted.</p> <p>Charities’ own expectations about government endorsement of their activities.</p>	<p>Decisions divert tax revenue that could otherwise be used on domestic spending programmes such as education and health.</p> <p>It is not uncommon for Ministers and Members of Parliament to be lobbied by the trustees of charities seeking to be added to schedule 32.</p> <p>Trustees of charities seeking inclusion on schedule 32 can be former Members of Parliament (or associates thereof).</p> <p>Whether the charity’s overseas purposes align with New Zealanders’ values.</p>
How risk is mitigated or treated			
<ul style="list-style-type: none"> • Officials review the charity’s deed and operating model. • Consultation with other government agencies. • Recommendations to approve overseas donee status are treated as policy decisions. • Ongoing work item on the tax policy work programme. 		<ul style="list-style-type: none"> • Approval process requires decisions at Ministerial and Executive levels. • Legislation is used to ensure Parliament’s endorsement of approvals. 	

not in scope

In Confidence

Office of the Minister of Revenue

Chair, Cabinet Economic Development Committee

Overseas Donee Status: New Additions for the Next Available Taxation Bill

Proposal

1. This paper seeks the agreement of the Cabinet Economic Development Committee to grant overseas donee status to three New Zealand charities who provide charitable activities overseas, with effect from the 2020–21 income year (starting 1 April 2020). Monetary donations to overseas donee organisations are eligible for tax benefits, such as the donation tax credit.

Executive Summary

2. I recommend that the three New Zealand charities with overseas charitable purposes discussed in this paper are granted overseas donee status and listed in schedule 32 of the Income Tax Act 2007, with application from the start of the 2020-21 income year. The necessary amendments would be included in the next available taxation bill, scheduled for introduction in March 2020. The charities are discussed in paragraphs 9 to 11. The purposes and activities carried on by the charities listed above fall within Cabinet's approval criteria (CM 78/14/7) as described in paragraph 6 and are involved in the relief of poverty, or delivery of humanitarian aid and development.

Background

3. New Zealand charities that support activities overseas and want their donors to be eligible for tax benefits (such as the donation tax credit) must be approved for overseas donee status and listed in schedule 32 of the Income Tax Act. Monetary donations to listed organisations entitle individual New Zealand taxpayers to a tax credit (donation tax credit) of $33\frac{1}{3}\%$ of the amount donated, up to the level of their taxable income. Companies and Māori authorities are eligible for a deduction for cash donations up to the level of their net income.
4. Generally, the availability of tax benefits to donations is limited to charities with New Zealand purposes only. Overseas donee status is therefore an established exception for a specific class of charity. Giving overseas donee status requires legislative change by adding the charity to schedule 32 of the Income Tax Act. Advice from the Legislative Design and Advisory Committee in 2016 to the Inland Revenue Department has confirmed that the use of legislation to implement decisions to give overseas donee status is appropriate. There are 152 organisations listed in schedule 32.
5. Decisions to grant overseas donee status complement the Government's overseas development efforts.
6. Cabinet has established criteria for granting overseas donee status.
 - (i) *the funds of the charity should be principally applied towards:*

*the relief of poverty, hunger, sickness or the ravages of war or natural disaster; or
the economy of developing countries*; or
raising the educational standards of a developing country*;*

- (ii) *charities formed for the principal purpose of fostering or administering any religion, cult or political creed should not qualify;*

** developing countries recognised by the United Nations.*

[CM 78/14/7 refers]

Charities to be Granted Overseas Donee Status

7. I recommend that the charities named in paragraphs 9 to 11 be granted overseas donee status. The purposes of the recommended charities come within the criteria in paragraph 6. All the charities recommended in this paper have adequate procedures for the accountability of funds applied to projects and can demonstrate a track record of activity. All are registered under the Charities Act 2005.
8. The recommended charities are all managed in New Zealand and are seeking overseas donee status to grow their New Zealand donor bases and increase the scope and scale of their in-country activities.

Active Hearts Foundation

9. Active Hearts Foundation formalised in 2017 the charitable activities of a group of New Zealand trekking guides, which were directed at improving living conditions and education outcomes in Nepalese villages in the Himalayas. Key projects to date have involved disaster relief following the 2015, 2018 and 2019 earthquakes, refitting and resourcing school libraries, resourcing community health clinics, and ensuring the resilience of local infrastructure including an irrigation pipeline for food production.

Kiwilink

10. Kiwilink was formally established as a charitable trust in August 2018 to separate humanitarian projects formerly undertaken within the Associated Churches of Christ New Zealand, and continue to undertake missions with a particular focus on Zimbabwe and Vanuatu. Recent work undertaken by the Trust in Zimbabwe includes collaborating with local charities to provide orphan care, student bursaries, and the drilling of water boreholes in the Zvishavane region in South Western Zimbabwe. In Vanuatu, the Trust has worked on the relocation of people in the Ambae region displaced by volcanic activity, and the provision of first-aid supplies and a water storage tank at the Noui Noui Hospital.

Shimshal Trust

11. Shimshal Trust was set up in 2003 to support education outcomes and the relief of poverty for communities and villages in the Northern region of Pakistan (Shimshal). The principal focus of the Trust is to fund scholarships to help local students with promising ability, but no financial support, to attend high school or university. The Trust also provides financial support to community aid and development projects when donor resources allow.

Consultation

12. The Treasury, the Ministry of Foreign Affairs and Trade (Pacific and Development Group), and the Department of Internal Affairs – Charities Services have been consulted as part of the preparation of this paper. Consultation with these agencies did not identify any concerns with the charities recommended in this paper. The New Zealand Police’s vetting service was also used for the trustees of the charities recommended in this report.
13. The Ministry of Foreign Affairs and Trade (Pacific and Development Group) notes that it does not have any direct knowledge of the activities carried out by the three charities discussed in this report, and none of the charities are accredited for its various partnership funds.¹

Fiscal Implications

14. The estimated financial implications of granting overseas donee status to the three charities recommended in this report are shown below. The financial implications will be treated as a forecasting change and reflect the increasing cost of the decision to allow donations to New Zealand-based charitable overseas aid organisations to be eligible for tax benefits. The revenue estimates are based on projections made by the charities about the monetary donations they expect to receive for the forecast period.

Vote Revenue Minister of Revenue	\$million – increase/(decrease)				
	2019–20	2020–21	2021–22	2022–23	2023–24 & outyears
Crown Revenue and Receipts: Tax Revenue	(0.000)	(0.095)	(0.100)	(0.101)	(0.103)
Operating balance impact	0.000	0.095	0.100	0.101	0.103

Legislative Implications

15. Granting overseas donee status to the named charities will require changes to the Income Tax Act 2007. I recommend that the necessary amendments are included in the next omnibus taxation bill scheduled for introduction in March 2020 with effect from the 2020–21 income year (starting 1 April 2020).

Impact Analysis

16. The Regulatory Quality Team at the Treasury has determined that the regulatory decisions sought in this paper are exempt from the requirement to provide a Regulatory Impact Assessment as they have no or minor impacts on businesses, individuals or not-for-profit entities.

¹ For example, the Ministry of Foreign Affairs and Trade’s New Zealand aid programmes: the [New Zealand Partnerships for International Development Fund \(Partnerships Fund\)](#), the [Sustainable Development Fund](#), the [New Zealand Disaster Response Partnership \(NZDRP\)](#), and the [Pacific Island Countries Participation Fund \(PIC Fund\)](#).

Human Rights

17. The changes I am recommending in this paper do not have any implications in relation to the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993.

Publicity

18. I will make an announcement about the three charities as part of the content of the relevant taxation bill when it is introduced into the House. Inland Revenue will publish details of the new legislation in a Tax Information Bulletin once the tax bill containing the amendments is enacted. Once Cabinet has made its decisions on granting overseas donee status, officials will inform each organisation of the relevant decision.

Proactive Release

19. I propose to delay the proactive release of this Cabinet paper, without redaction, and associated Cabinet minutes until the introduction of the proposed omnibus taxation bill which contains the necessary amendments to give effect to the proposal. The expected introduction date for this bill is March 2020.

Recommendations

The Minister of Revenue recommends that the Cabinet Economic Development Committee:

1. Agree that the following charities are given overseas donee status and listed in schedule 32 of the Income Tax Act 2007:
 - 1.1 Active Hearts Foundation
 - 1.2 Kiwilink
 - 1.3 Shimshal Trust
2. Agree that the charities named in recommendation 1 are given overseas donee status from the 2020–21 and following income years (starting 1 April 2020).
3. Note that agreeing to recommendations 1 and 2 has the following estimated fiscal cost, which will be treated as a forecasting change, on the operating balance:

Vote Revenue Minister of Revenue	\$million – increase/(decrease)				
	2019–20	2020–21	2021–22	2022–23	2023–24 & outyears
Crown Revenue and Receipts: Tax Revenue	(0.000)	(0.095)	(0.100)	(0.101)	(0.103)
Operating balance impact	0.000	0.095	0.100	0.101	0.103

4. Agree to include amendments giving effect to recommendation 1 and 2 in the next omnibus taxation bill scheduled for introduction in March 2020.

5. Invite the Minister of Revenue to instruct Inland Revenue to draft legislation to give effect to the proposals contained in this paper.

Authorised for lodgement

Hon Stuart Nash
Minister of Revenue

____/_____/2019



Cabinet Economic Development Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Overseas Donee Status: New Additions for the Next Available Taxation Bill

Portfolio **Revenue**

On 13 November 2019, the Cabinet Economic Development Committee:

- 1 **agreed** that the following charities be given overseas donee status and listed in schedule 32 of the Income Tax Act 2007:
 - 1.1 Active Hearts Foundation;
 - 1.2 Kiwilink;
 - 1.3 Shimshal Trust;
- 2 **agreed** that the charities listed above be given overseas donee status from the 2020/21 and following income years (starting 1 April 2020);
- 3 **noted** that the above proposals have the following estimated fiscal cost, which will be treated as a forecasting change, on the operating balance:

Vote Revenue Minister of Revenue	\$million – increase/(decrease)				
	2019/20	2020/21	2021/22	2022/23	2023/24 & outyears
Crown Revenue and Receipts: Tax Revenue	(0.000)	(0.095)	(0.100)	(0.101)	(0.103)
Operating balance impact	0.000	0.095	0.100	0.101	0.103

- 4 **agreed** to include amendments giving effect to paragraphs 1 and 2 above in the next omnibus taxation bill, which is scheduled for introduction in March 2020;
- 5 **invited** the Minister of Revenue to issue drafting instructions to Inland Revenue to give effect to the above proposals.

Jack Petterson
Committee Secretary

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Present:

Rt Hon Winston Peters
Hon Kelvin Davis
Hon Grant Robertson (Chair)
Hon Phil Twyford
Hon Dr Megan Woods
Hon Chris Hipkins
Hon David Parker
Hon Nanaia Mahuta
Hon Stuart Nash
Hon Iain Lees-Galloway
Hon Jenny Salesa
Hon Shane Jones
Hon Kris Faafoi
Hon Willie Jackson
Hon James Shaw
Hon Julie Anne Genter
Hon Eugenie Sage

Officials present from:

Officials Committee for DEV

Hard-copy distribution:

Minister of Revenue