



Submission on the
Taxation (International Taxation, Life Insurance, and Remedial Matters) Bill

From

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Introduction

This submission on the Taxation (International Taxation, Life Insurance, and Remedial Matters) Bill is made by Volunteering New Zealand (VNZ). It represents the views of VNZ members and other organisations involved in volunteering services within New Zealand. A number of those who provided input are themselves volunteers with their organisations, whether as Board members or in hands on service roles. The submission thus represents a perspective from volunteers.

Volunteering New Zealand is an association of volunteer centres, national and other organisations with a commitment to volunteering. These organisations cover emergency services, health, welfare, education, sport and recreation, conservation, international aid, special interests and advocacy.

VNZ's mission is to create an environment which supports, promotes, values and encourages effective volunteering by the people of Aotearoa New Zealand. As the national voice of volunteering and volunteers in this country it has a different role from that of other organisations which speak on behalf of not-for-profit or voluntary organisations.

The submission focuses primarily on Section CW 62B Voluntary activities which sets out proposed new provisions relating to reimbursement payments made to volunteers for expenses they have incurred. Comment has also been made on one particular aspect of the sections relating to Payroll Giving.

Executive Summary

VNZ supports the provisions which will ensure that expenses reimbursement made to volunteers will be exempt income in terms of taxation legislation.

A question is raised about limiting the provisions of the Act to New Zealand residents under the Taxation Act. VNZ is concerned that such limitation should not preclude visitors to New Zealand who are here on a visitor's permit from volunteering and receiving reimbursement of their expenses. VNZ submits this be noted in the Bill.

A survey of volunteer centres, national members of VNZ and other NGOs has shown support for taxation not being applied to honoraria payments up to a specified limit. National Party policy also includes a proposal for honoraria payments up to \$500 being tax exempt. VNZ asks the committee to consider this issue.

VNZ gives general support to the provisions enabling the introduction of tax rebates for individuals who donate through payroll giving. However VNZ seeks amendment to Section 447 of the Bill, reducing to 40 days the period employers may retain donations before passing them on to the intended recipient.

Key points in Section CW 62B Voluntary Activities

This section provides that payments made to volunteers to reimburse them for expenses incurred by them either for actual expenses or a reasonable estimate will be treated as exempt income (Subsections (1) and (2)).

However this will not apply to reimbursements which are included within honoraria payments, which will remain taxable income.

The definition of a volunteer which is included within the Bill limits the application of the section to residents in New Zealand under subpart YD (Residence and source in New Zealand).

VNZ's comments on the Section

VNZ supports the intention of this section as the new provisions will clarify an area of tax law which has been very uncertain. This uncertainty has meant some volunteers, including a number undertaking roles on statutory bodies, have been had their reimbursements taxed. Some organisations have also been reluctant to pay reimbursements because of the uncertainty about the tax situation.

We have a query about the limiting of the provisions to residents of New Zealand (Subsection 4(a)).

Those we have consulted have also expressed a range of views about the decision to not allow small honoraria to be paid without incurring tax. The varying views are outlined below.

VNZ strongly supports the provisions in subsections (1) and (2) which will classify reimbursements for actual or estimated expenses as exempt income.

This will ensure that volunteers are able to receive expenses reimbursements on the same basis as paid workers and to have no doubts that the income from such payments are not subject to income tax and do not have to be declared as income.

It is internationally agreed that while volunteers give their time without expectation of receiving payment for that time, they should not be required to be out of pocket and should be able to receive reimbursements of expenses. This is reflected in the following definition of a volunteer recorded in the paper "Volunteerism and Legislation; A Guidance Note", produced by UN Volunteers, the International Federation of Red Cross and Red Crescent Societies and the Inter-Parliamentary Union.

*"A volunteer is an individual who, by free choice, offers his or her time, work and skills, occasionally or on a regular basis, without expectation of compensation, **other than reimbursement of reasonable expenses and subsistence allowance necessary for the accomplishment of his or her assignments as a volunteer**, for the public benefit, individually or within the framework of informal or officially registered non-governmental non-profit organisations or national or international public entities".*

Subsections (1) and (2) effectively reflect the expectation of the statement on reimbursements contained in this definition. They also do not prescribe how payments must be made. VNZ interprets this to mean that payments made on a periodic basis (eg an annual lump sum) or by such means as petrol vouchers will be permitted. VNZ welcomes and supports this.

The definition in the Bill as stated in Subsection 4 (b) also reflects the expectations in the international definition and the wording in 4(b) is supported by VNZ.

We note, however, that Subsection 4(a) limits the application of the provisions in the Bill to a person who is resident in New Zealand under subpart YD (Residence and source in New Zealand).

VNZ questioned Inland Revenue Department as to why this limitation was included and whether it might preclude reimbursements to volunteers who are visitors to New Zealand on a visitor's permit. We have been informed the Department of Labour do not see this as affecting New Zealand visitors who volunteer and who receive reimbursements. The Department says that reimbursements would be not be considered 'gain or reward' in terms of the Immigration Act definition of work.

VNZ would wish to ensure this interpretation of the application of Subsection 4(a) is as we have been informed and that it will have no negative implications for visitors to New Zealand who volunteer during their time here. VNZ asks that the Committee draws attention to this when it is reporting on the Bill.

Treatment of honoraria where a reimbursement payment is included

Subsection 5 of the Bill makes clear that if reimbursements are included within honoraria payments they will not qualify as exempt income and honoraria payments will continue to be subject to withholding income tax. The explanatory notes to the Bill indicate there was consideration of allowing honoraria payments up to \$1000 being deemed exempt income and not subject to tax. However, difficulties were perceived with such a step and it was decided not to include such a provision in the Bill.

Many of the organisations who provided us with feedback on the earlier discussion documents were in favour of allowing smaller honoraria payments to be income tax exempt. VNZ is also aware that Inland Revenue has given special exemptions to some non-profit organisations to pay honoraria up to specific limits without income tax applying on the basis these payments were in effect expenses reimbursements.

VNZ therefore decided it should seek the views of the volunteering organisations on its database on this question. We sent our questionnaire to the regional volunteer centres and national organisations which comprise its membership plus additional national organisations on its database, 135 organisations in all. Responses have been received from 30 organisations or 22 percent of those invited to participate.

The questions asked were:

- Did the organisation pay honoraria and if Yes, did this include reimbursement payments.
- If reimbursement payments were paid within honoraria, would separating the payments out be difficult.
- Whether or not the organisation paid honoraria, did it support honoraria being exempt from income tax up to a specific level?
- If the answer was Yes, what should the level be.

The answers were:

Do you pay honoraria	12 Yes	18 No
Do you include reimbursements	3 Yes	9 No
Would it be difficult to take out the reimbursements?	0 Yes	3 No
Do you support honoraria being tax exempt up to a specific level?	25 yes	5 No

The maximum amount of the exemption	200.00	1
	500.00	8
	1000.00	11
	2000.00	3
	4000.00	1
	5000.00	2

The answer to the last two questions indicates a strong level of support (83%) from the respondents for honoraria payments to be tax exempt, with most support being for an exemption of between \$500 and \$1000. This reflects the level of support given in earlier surveys and through other submissions made to Inland Revenue in 2007 on the discussion document on this subject.

Given the support from community non-profit organisations, the fact Inland Revenue already allows some organisations to pay tax exempt honoraria and the National Party policy proposal to allow honoraria payments up to \$500 be tax exempt, VNZ submits the Committee should consider providing for such an exemption with the limit of at least \$500 and desirably \$1000.

Payroll Giving

VNZ is supportive of the measures introduced in the Bill to enable individuals to give through deductions from their pay at source while receiving a tax credit at the same time. VNZ sees this as an important step to enabling increased giving to non taxpaying community organisations, the great majority of whom rely on or are entirely operated by volunteers.

Concerns about Section 447

VNZ has had its attention drawn to Section 447 of the Bill which proposes the enactment of draft section 24Q of the Tax Administration Act 1994. This will allow an employer a three-month period for the transfer of the payroll donation from the employer (or PAYE intermediary) to the recipient of the donation. There are two difficulties with the proposed time period:

- The long period of retention by the employer appears to “over-compensate” the employer for the administration of the payroll giving system. It is noteworthy that the Discussion Document **Payroll giving: providing a real-time benefit for charitable giving** (November 2007) did not mention that any retention period.
- The three-month period is too long in the context of any potential insolvency of the employer. In addition, it appears that Inland Revenue will not be taking any action to ensure compliance by the employer with the obligation to transfer the deducted funds to the intended charitable recipient. The concern about credit risk (and insolvency risks) is heightened by the insolvencies of the past couple of years and recent economic events suggesting that there will be more such insolvencies.

Draft section LD 6(2) provides that the tax credit will be extinguished in circumstances where the deducted amount is not received by the intended charitable recipient. The risk is that the employee (who has already had the amount deducted so that he or she has not received it) will suffer a second disadvantage. The second disadvantage arises from section 168(2) of the TAA which provides that both the employer and the employee are liable for the PAYE not deducted.

It is noted that draft section LD 7 (under Clause 236 of the Bill) attempts to deal with the question of priorities in the event of defaults, but that draft section needs to be reconsidered so as to take account of the risk of default falling (most unfairly) on the employee.

VNZ submits there are a number of aspects of the proposed rules governing payroll giving that need to be amended to take account of the risk of employer insolvency.

- Clause 447 should be amended to refer to a retention period of not more than 40 days.
- The payroll donation should be stated to be an amount held in trust for the employee until it has been transferred to the intended recipient