

Questions and Answers

Taxation and the not-for-profit sector

Inland Revenue has been asked some common questions on our issues paper "Taxation and the not-for-profit sector". To help with your submissions, we have provided answers to those questions.

1 Does Inland Revenue have any tips on how to make submissions more useful?

The issues paper contains 15 specific questions. You do not need to answer all the questions in your submission, but it helps if your submission states which of the 15 questions your response relates to. You can also submit on issues raised in the issues paper that are not directly related to one of the 15 questions. Officials are particularly interested to hear specific examples of how the proposals could impact on your organisation, what recommendations you have, and the reasons supporting your recommendations.

2 Are bodies promoting amateur games and sport likely to be affected?

We do not expect bodies promoting amateur games and sport to be affected by the proposals in this issues paper.

Over 20,000 sports clubs and societies currently have an income tax exemption because they have been set up to promote an amateur game or sport. There are no proposals to change this exemption. This is covered in section CW 46 of the Income Tax Act 2007 and discussed on the Inland Revenue website at: [Sports clubs and societies](#).

Some sporting organisations can also qualify for registration as charities and claim the charity income tax exemption if their charitable purpose is the promotion of sport. See: [Charities Services | Sport and recreation](#)

3 Is Inland Revenue proposing to change the law and tax trading income and subscription income earned by not-for-profits?

The advice on our website states that if a not-for-profit does not have an income tax exemption, it must pay tax on trading activities but does not need to pay tax on membership fees or subscriptions. See: [Income tax for not-for-profits](#)

Inland Revenue has prepared a draft operational statement that confirms that trading income from transactions with members is taxable. The draft statement also says that some subscription income may be taxable under certain circumstances, for example, if the subscriptions are not capital in nature. Inland Revenue estimates that approximately 9,000 not-for-profits have member trading activities and/or

subscription income. Many will already be paying tax on these member transactions, but some may not. The draft operational statement will represent an initial view and will be consulted on separately, with submissions taken into account.

The draft operational statement has been delayed until submissions have been received on whether there should be policy changes for not-for-profits that are not tax exempt. The policy changes would aim to reduce the impact of the Commissioner's initial view, particularly for small not-for-profits. For example, we are interested in hearing whether the current \$1,000 deduction to remove small-scale not-for-profits from the tax system should be increased or redesigned.

4 If there is a decision to tax some charity business income, as discussed in Chapter 2, will this include rental income? When is rental income business income?

When rental income is business income depends on the particular facts. Broadly, when a taxpayer leases multiple properties or derives significant rental income, it is likely that the activity will constitute a business. When a taxpayer leases a single property, it is possible that the activity may constitute a business. More information about what may, and may not, be charity business income is considered in [Interpretation Statement 24/08 Charities - Business income exemption \(16 September 2024\)](#).

5 What does the term "donor-controlled charities" refer to in Chapter 3? Does it include churches and community foundations?

The term "donor-controlled charity" is not formally defined and question 7 asks for suggestions about what that definition should be. For the purpose of this issues paper, the term broadly refers to charities that are controlled by a single donor, their family, and/or their associates. These are referred to as private foundations in some other jurisdictions. This term does not include churches or community foundations, because these organisations receive a significant portion of their support from the general public or a larger group of donors.

6 What does an "associate" of a donor mean in Chapter 3 (at paragraphs 3.8 and 3.12)?

"Associate" is a defined term in the Income Tax Act 2007. Inland Revenue has published a guide to the associated persons definition, which you can read here: [A guide to associated persons definitions for income tax purposes](#). The guide explains when you may be an associated person if you are a relative, company, trustee, settlor or beneficiary of a trust, partner in a partnership, or otherwise associated with the donor.

7 In Chapter 4, the issues paper mentions the rules for member transactions. It says an upcoming draft operational statement could impact approximately 9,000 not-for-profits (at paragraph 4.7). Can Inland Revenue be specific about which not-for-profits might be affected?

Inland Revenue has estimated that approximately 9,000 not-for-profits, which are not tax exempt, are in receipt of subscriptions and/or member trading income. They have the potential to be affected by the draft operational statement. This covers a broad range of entities including clubs, societies, trade associations, professional and regulatory bodies and industry councils. However, many of these entities may report profits below \$1,000, report losses, or receive subscriptions that would not be taxable under ordinary tax rules, and have no tax to pay.
