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Submission Letter on Charity Tax Settings

To Inland Revenue,

I Kim Aiomanu-Bagley, a member of a national Charitable Trust Board submit my feedback on the proposed changes to the taxation of charities, not-for-profits, and voluntary organisations in New Zealand.

Who's benefitting most?

The tax settings proposed could further drive the wealth divide by reducing charities and not-for-profits ability to sustainably fund services that directly benefit our communities. Inequality in New Zealand is growing rapidly under this government¹ as evident by data showing increasing child poverty² and hunger, unemployment and homelessness.

¹ Tens of thousands of people are being thrown into unemployment, which is forecast to keep rising from 4.8 to 5.4 percent in 2025.

Poverty continues to grow at one pole, while the wealthy reap the benefits of a sharp shift to the right by the entire ruling establishment. In 2022, the number of local billionaires rose to 14 individuals and families. The collective wealth of those with at least \$NZ50 million in net private wealth to make it onto the 2024 National Business Review Rich List hit \$95.68 billion—well up in 2023's \$72.59 billion. This is equivalent to nearly 38 percent of the country's total GDP for last year.

The top 10 billionaires own a collective net worth of more than \$50 billion.

While landlords have used rising interest rates to escalate their rental income, New Zealand is ranked third behind Colombia and Chile on the OECD Affordable Housing Database for the highest percentage of low-income households spending more than 40 percent of disposable income on rent or mortgages.

² The recent Child Poverty Report² found the material hardship rate increased to 12.5% in 22/23 from 10.5% in 2021/22 with 143,700 children - living in families cannot afford at least six of 17 essential items including fresh vegetables & fruit, a waterproof coat, warm clothes, shoes & doctor's visits in 2022/23. This is about one in eight children.

One in every four Pasifika children and one in every five mokopuna Māori live in material hardship.

The Minister's response was, increase the child poverty target from 9% to 11% in 2026/27, which means accepting around 24,000 more children experiencing material hardship, which disproportionately impacts Māori and Pacific children.

Fifty-four percent of Pacific children are now hungry – up from 39% the previous year according to a Ministry of Health 2024 December report.^{3 4}

This is the direct result of this government's draconian policies on the working poor and our most vulnerable citizens. Whilst these issues are the result of decades of bad policies this government's policies are making the situation much worse now and for the future.⁵ For example, smoking/lung cancer accounts for around 20% of Māori deaths and yet this government without consultation and campaigning on the issue repealed the Smokefree Act!! Working age

³ In 2023/24:

- One in four children (27.0%) overall, up from (21.3% in 2022/23), lived in households where food ran out often or sometimes^[1] in the 12 months prior to the 2023/24 survey.
- One in two Pacific (54.8%), one in three Māori (34.3%), one in five European/Other (21.9%) and one in six Asian (17.1%) children lived in households where food ran out often or sometimes^[1] in the 12 months prior to the 2023/24 survey.
- For Pacific children, **this increased from 39.6% in 2022/23, to 54.8% in 2023/24.** (Māori declined from 35.1% to 34.3%)
- Rates of each of these two food insecurity indicators^[2] were higher in households where children were Māori, Pacific, disabled, or living in the most deprived neighbourhoods

⁴ A July 2024 UN report found *New Zealand's worsening food insecurity sets this country apart from many other OECD countries. In Australia, the prevalence of moderate or severe food is 12.9% of the total population; in the US it's 9.1% and Canada 8.5%. In UK the rate is just 5.7%.*

New Zealand's 16.4% rate is similar to Malaysia at 16.7% and much higher than Viet Nam at 10.8% and Sri Lanka at 11.4%. Food insecurity has a devastating impact. Teenagers experiencing food poverty in NZ have an achievement gap averaging out to [being four years behind their peers](#). It's also associated with [other poor health outcomes](#), like nutrient deficiencies, diabetes and obesity, [asthma and development difficulties for kids](#). [Kids and pregnant people](#) are particularly impacted, with potential life-long impacts.

⁵ [Statistics New Zealand household net worth statistics for the year ended June 2021](#) showed that 50 percent of New Zealand's households held just over 93 percent of total wealth, the top 10 percent of households held over 51 percent, and the top five percent of households held 37 percent.

Additionally, the statistics show that Māori and Pacific People over 55 have much less wealth to pass on than their European counterparts. The average individual net worth of Māori aged over 55 is just under 50 percent less than that of European ethnicity, while Pacific People in this age group have almost 65 percent less. In New Zealand, those born before 1966 currently hold 60 percent of New Zealand's \$2.29 trillion total individual net wealth. The estimated value that will be transferred by those aged over 55 in the next 20 years will be approximately \$1.11 trillion.

The impact is unlikely to be even. [Treasury research on the distribution of advantage in New Zealand](#) suggests New Zealand, like all countries, has less than perfect mobility between generations. Children of rich parents are more likely to become rich when they grow up, and children of poor parents are more likely to become poor when they grow up. <https://berl.co.nz/economic-insights/great-wealth-transfer-and-inequality>

This government gave a \$2.9 billion tax break at a time when rents are skyrocketing, and families are struggling to put food on the table and rental housing is a dire and deteriorating state. Properties on Trade Me's rental index have risen by an average of \$50 in the last year, bringing the national median rental price to \$650. <https://www.greens.org.nz/surprise-landlord-tax-cuts-don-t-trickle-down> Rising rents and falling home ownership signal that we need to do more than just adapt to market trends. To create enough new affordable rental homes to make a difference, we will need an expanded public debate and a new commitment to state funding and partnerships with communities and iwi. Without big changes, future generations will be much worse off as unaffordable renting replaces affordable home ownership for more young families and more retirees. The ongoing failure to deliver affordable private rental makes a strong case to focus new spending on longer term solutions such as social housing, incentives to build new affordable housing, and shared equity rental, rather than short term rent subsidies.

<https://static1.squarespace.com/static/60189fe639b6d67b861cf5c4/t/64e6812e4f1eef37b02f317d/1692827952549/The+contribution+of+rental+affordability+to+child+poverty+Paper+1.pdf>

⁶ This government repealed Fair Pay Agreement Act under urgency⁶ and disbanded the Pay Equity Taskforce when large ethnic pay gaps exist in New Zealand, with Europeans earning more than any other ethnic group.

The gaps in pay between all men and wāhine Māori (15.0%), and between all men and Pacific women (17.0%) are substantially higher than the overall gender pay gap (8.2%). A Treasury paper [reported](#) that Fair Pay Agreements were likely to disproportionately benefit Māori, Pasifika, women and young people who are over-represented in jobs where low pay, job security, health and safety are prevalent issues.

benefit, food bank and emergency housing sanctions means charities have to pick up the support that the government is rescinding on.

The flow on effect of the proposed tax changes could put pressure on already strained organisations through diverting revenue streams that directly support those in our communities e.g., those who rely on our services and employees of our charitable sector.

If the charity sector feels challenged to have to divert income and/or can't rely on income generated by unrelated or directly activities (as presented by IRD), the unintended consequences could be, more charities facing closure, more job losses and a continued strain on the community sector.

Consultation period lacking

I highlight concerns about the lack of engagement with Iwi, Māori entities, charities and not-for-profits. The consultation period has lacked genuine engagement with the community sector and grassroots organisations – this raises an on-going concern as I see the rise of consultants and businesses positioning themselves to take the lead in advocating and engaging with our community sector rather than allowing time for meaningful dialogue that should be led by the community.

The lack of proper consultation on this proposed legislative change undermines our democratic right to open and transparent government in a caring democracy. This has been a persistent feature of this white supremacist government and is extremely cowardly and uncaring.

Statistics and Data

The lack of clear definitions for “related” vs. “unrelated” activities makes it difficult to reliably categorise income derived by charities and not-for-profits. I would like to see more evidence provided by government, concerning what is deemed related or non-related taxable income, I encourage IRD to use case studies to demonstrate what this might look like for the charitable sector, including on-going or other costs that may arise in accountancy and compliance requirements.

Recommendations

The summary of my recommendations:

1. Work directly with those who hold governance roles in the community sector, Community Governance Aotearoa are the key to ensuring compliance, policy settings and information is directly shared with our charitable organisations.
2. I would like to see demonstrated case studies and financial information that I can share with our governing community sector to better understand the tax changes, including what IRD anticipates as potential revenue forecasted by these tax changes, and where will this tax go?
3. I want to see more information about what the impact on Tier 3 and Tier 4 charities from the proposed tax changes, including not-for-profits with annual revenues up to \$2 million will be, considering many of these community groups do not hold significant reserves, nor have excessive revenue incomes.
4. Adopt a values-based approach to genuine engagement and consultation, such as adopting the Community Governance Aotearoa's Good Governance Code, rather than just a financial one.
5. Adopt a Te Tiriti o Waitangi mana enhancing Crown Māori partnership approach to engaging with iwi, Māori charities and organisations.

I encourage the government to ensure that information is directly provided to the community sector. It is essential that those in governing roles are adequately resourced and kept up to date with any tax changes the government intends

to implement. I encourage this government to act with compassion, prioritising the needs of our most vulnerable citizens and the thousands of charities that help them.

Ngā mihi,



Kim Aiomanu-Bagley BA(Sociology), LLB(Cant), MSc London School of Economics &
Political Science

s 9(2)(a)

Taxation and the not-for-profit sector
C/- Deputy Commissioner,
Policy Inland Revenue Department
PO Box 2198
Wellington 6140

Submission on Taxation and the Not-for-Profit Sector Issues Paper

Introduction

The Accountants & Tax Agents Institute of New Zealand (ATAINZ) is an incorporated society established in 1976. It **represents over 470 members** who provide tax and business advisory services to small businesses and charities across New Zealand.

Our members support over 1,100 registered charities, the vast majority of which are Tier 3 or Tier 4.

This submission responds to Inland Revenue's Issues Paper *Taxation and the Not-for-Profit Sector* and focuses on several key areas relevant to ATAINZ members and their clients in the charitable and not-for-profit (NFP) space.

1. Taxation of Charity Business Income

ATAINZ strongly supports the continued tax exemption for business income earned by charities where the income is used to support charitable purposes. The proposed changes risk weakening the financial sustainability and innovative capacity of charities—particularly smaller Tier 3 and Tier 4 organisations reliant on business income.

Concerns with the proposed changes:

- Taxing charity business income would reduce resources available for community services.
- Charities already face structural and regulatory disadvantages compared to for-profit businesses.
- Compliance burdens, particularly around classifying income as "related" or "unrelated," will fall heavily on resource-constrained organisations.

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ATAINZ – PO Box 87 475, Meadowbank, Auckland 1742

Email admin@atainz.co.nz www.atainz.co.nz

Recommendation:

- Limit any new taxation rules to **Tier 1 and Tier 2 charities** only.
- Adopt a regime similar to **Australia's multi-factor model** for defining unrelated business income, including consideration of purpose, volunteer involvement, and donation-based activity.
- Maintain exemptions for business income **reinvested into charitable activity**.

2. Donor-Controlled Charities

ATAINZ recognises the need for governance and tax integrity, particularly around donor-controlled structures. However, changes should be targeted to avoid penalising genuine philanthropic activity.

Concerns with the proposed changes:

- Over-regulation may deter legitimate charitable foundations and gifts.
- Some donor-charity arrangements provide greater-than-market benefit to the charity.
- Mandatory annual distribution rules may not align with long-term capital project funding.

Recommendation:

- Define donor-controlled charities using thresholds for **governance and donation sources**.
- Permit **long-term fund accumulation** for planned charitable projects.
- Introduce **anti-avoidance provisions** to address circular or non-arm's length arrangements.

3. Integrity and Simplification Measures

ATAINZ supports the goals of improving integrity and simplifying tax obligations but believes the current proposals risk undermining mutual organisations and small volunteer-led NFPs.

Concerns with the proposed changes:

- Taxing **membership fees and subscriptions** would severely impact professional associations and civic groups.
- The existing **\$1,000 small-NFP threshold** is outdated and excludes many modest organisations from simplified compliance.

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- Increased tax obligations would shift focus from service delivery to administration.

Recommendation:

- **Retain tax exemptions** for membership fees, subscriptions, and internal member transactions.
- **Update or redesign** the \$1,000 income threshold to reflect modern NFP operating conditions.
- Limit tax obligations to organisations with meaningful **operational scale**, such as Tier 1 and 2 charities.

4. Additional Recommendations

- Reforms should be supported by **transparent, data-based evidence** of abuse or fiscal risk.
- Use **charity law (not tax law)** to address non-compliant entities through governance improvements.
- **Publish fiscal analysis** on tax concessions, and the estimated costs and benefits of proposed changes.
- **Engage further with Tier 3 and Tier 4 charities** to understand real-world implications.

Conclusion

ATAINZ supports policy settings that uphold the integrity of the tax system while recognising the enormous public benefit delivered by the not-for-profit sector. Tax changes must not undermine the financial and operational sustainability of charities—particularly those serving local communities through volunteer effort and limited funding.

We urge the Government to:

- Limit new obligations to larger Tier 1 and Tier 2 charities.
- Preserve existing exemptions for member contributions and volunteer-led income.
- Adopt a fair, internationally-informed model for classifying unrelated business income.

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We thank you for the opportunity to contribute to this consultation and are available to discuss these matters further.

Yours sincerely,

s 9(2)(a)



Amie Lorenzen
Chair
ATAINZ

Gary Upson
Chief Executive Officer
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Submission to: policy.webmaster@ird.govt.nz

Taxation and the not-for-profit sector

This submission is on behalf of Karori Baptist Ltd - CC62133

Karori Baptist Ltd (KBL) was set up by the Karori Baptist Church (KBC) in 2023 and was registered as a charity in early 2024 to manage the church's property assets (so KBC can stay focused on its core business of caring for people in our church and wider community) and KBL can provide income to enable the church to sustainably deliver services to the community.

Using the assets of the church, KBL purchased an adjacent property so that the church, in the medium term, can develop both sites to provide facilities that are not currently available within the local community and to provide facilities and an income stream to support KBC's outreach into the community.

The profits from KBL are either used to support the church's current activity, accumulated to fund larger budget items, or pay down debt so that we can begin the process of providing facilities that neither the government nor the local Council can afford to support.

All KBL's staff and governance are voluntary. A tax on charities would add further complexity and compliance costs to a business that relies on volunteers to make it profitable so that the bulk of the proceeds from the business can be applied to charitable purposes. This would also add to the difficulties we currently experience in attracting younger people to volunteer in our business.

We understand that the reason for reviewing the charitable tax status is because of the purported \$2 billion difference between the income and expenditure of NZ charities. We would challenge this figure because the income recorded in the annual returns filed with Charity Services includes general grants, capital grants and donations, and other revenue (potentially the sale of assets for example). Those "capital items" should be eliminated from total income to provide a more accurate number of the real "gap" between charitable "income" and "expenditure".

The recent disclosure changes to Charity Services compliance requirements ensure there is now more transparency around the operation of charities than is required by IRD or Companies Office reporting.

The imbalance in reporting between commercial businesses delivering returns to shareholders (i.e. for individual gain) and those who are working in "for-purpose" businesses is inequitable, especially if you then add the requirement for charities to pay tax.

The Charities Services improved reporting requirements should enable better compliance monitoring of charities against their charitable purposes. We believe that closer monitoring of charitable activity to identify the small number of organisations that are rorting the system would be simpler and have better outcomes than a blanket tax.

Yours sincerely,

Sue Dobbie

Chair, Karori Baptist Ltd

Kia Ora,

My name is Dellwyn Rhind, and I work with The Salvation Army at Transitional Housing Papakura East 3years. I'm writing to share my thoughts on the proposed tax changes affecting charities and not-for-profits.

At our centre, we walk alongside people going through really tough times — whether that's needing food, help with bills, finding housing, or just someone to talk to. A lot of this work is supported by the income we receive through our Family Store or fundraising.

We support women and children who have become homeless for many reasons, often not what they foresee their lives to be or become, from domestic violence, overcrowded whanau homes, the family nest has broken due to financial difficulties and abandonment.

We provide a safe environment supported by a chaplain who is available 24/7 to our Tangata we support.

One of our ladies came to us after many years of physical and psychological abuse from her partner, knowing no way out but to turn to drugs and alcohol. This led to her children being taken from her and her partner in prison. Her own whanau disowning her.

When she came to our housing we offered wrap around support with warm secure housing, spending a lot of time reflecting on her life. She came to our Chaplain wanting to surrender this life and she volunteered to get help and is now doing so in a program.

That kind of support is only possible because of the resources we have — and that includes the money our store earns and generous donations we receive from the public.

If the Government starts taxing this income or making the admin more difficult, it will take away time, money, and energy we'd rather be spending on the people who need us. We already work with limited resources — we don't want to spend more of it on red tape.

Please keep these kinds of charities tax-free where the money is clearly being used for good. We're not here to make profit — we're here to make a difference.

Ngā mihi,

s 9(2)(a)

Dellwyn Rhind
Property Co-ordinator

From: Anton & Jo s 9(2)(a)
Sent: Saturday, 29 March 2025 8:36 pm
To: Policy Webmaster
Subject: Submission – Taxation and the Not-for-Profit Sector

External Email CAUTION: Please take **CARE** when opening any links or attachments.

Dear Sir/Madam,

My name is Anton van Wyngaarden, and I have attended The Salvation Army at Hamilton City Corps for 10 or so years.

I'm writing to share my thoughts on the proposed tax changes affecting charities and not-for-profits.

At our corps, they walk alongside people going through really tough times – whether that's needing food, help with bills, finding housing, or just someone to talk to. A lot of this work is supported by the income we receive through our Family Store or fundraising.

I have seen many individuals and families helped by the work that the Army does here.

Whether it be counselling, financial mentoring, a listening ear and housing support to name a few.

This kind of support is only possible because of the resources they have – and that includes the money their Family Stores earn and generous donations received from the public.

If the Government starts taxing this income or making the admin more difficult, it will take away time, money, and energy the Corps would rather be spending on the people who need them. They already work with limited resources – and they should not have to spend more of it on red tape.

Please keep these kinds of charities tax-free where the money is clearly being used for good. They are not here to make a profit — they are here to make a difference.

Regards

Anton van Wyngaarden

The Salvation Army - Hamilton City Corps

Submission on Taxation and the not-for-profit sector

This submission is on behalf of the Grace Presbyterian Church of New Zealand, a nationwide network of Christian congregations committed to the advancement of Christianity in New Zealand. Our congregations separately register as charities, many by way of a Charitable Trust or an unincorporated association, in carrying out this and other related charitable aims. We thank Inland Revenue for the opportunity to submit.

This submission is not intended to address all points raised in the consultation document but to place on record specific concerns we have with the proposals made in the document.

Executive Summary

We do not agree with the arguments presented for taxing charity business income. We believe it incorrectly conflates the motives of charities and for-profit entities, will be counter-productive to the overall net Government fiscal position in the long-term, and will weaken charities. It will also increase compliance costs for charities and cause charities to reconsider activities or decisions which have a positive benefit but attract taxation.

Any taxation of “unrelated” business income of charities, if progressed, will require a strict definition and should apply only to the very largest (and hence, best resourced) charities, with the greatest possible opportunity for those charity-owned businesses to still provide tax exempt income to further charitable purposes.

We also point out that removing FBT exemptions from charities will have real impacts on the financial circumstances of both our congregations and the ministers who serve them and undermine the charitable work they perform. The labour market assumption underlying the view presented in the paper does not reflect the varying reasons that individuals choose (or feel called to engage in) charitable employment.

General concerns

Charitable exemptions for religious activities have a very long history, well preceding the European settlement of New Zealand. Many Christian churches, including our own, seek the freedom to worship our God without interference and with the recognition that our aims are directed towards the God we serve and the message he has given us to proclaim, not to amassing wealth for individuals. Unfortunately, churches are often mischaracterised today (whether due to ignorance or otherwise) as being both culturally undesirable and profit oriented.

We appreciate that this document takes the time to dispel myths regarding certain business activities undertaken by charities. However, we believe that the document missed an opportunity to similarly dispel some of the myths regarding religious charitable entities which appear to lie behind some of the “push” for these reviews and more widely, the attempt to redefine religious activity as somehow not charitable.

More broadly, we are concerned that this document represents the “thin edge of the wedge” and that it will become the precedent for future, more aggressive redefinitions of charitable purpose or what income is exempt income for tax purposes. Any recommendations should very strenuously protect and support the continued existing recognitions of the existence of charitable activity (including all those currently recognised by law) and not serve as a “back door” implied repeal of these recognitions by carving out fewer and fewer forms of income as charitable and exempt.

Specific responses

Q1. What are the most compelling reasons to tax, or not to tax, charity business income? Do the factors described in 2.13 and 2.14 warrant taxing charity business income?

Taxing charity business income conflates the ultimate end goal of the business trading purpose. Profit seeking entities engage in business activity to derive income for personal benefit (eg, of shareholders). Charities engage in business activity to derive income to ultimately devote to (and, in a sense, leverage other charitable receipts) for charitable purposes. Taxing business income of charities ignores that end purpose on the assumption that Government is “missing out” on revenue to fund public services. However, the taxation simply shifts the funding for public services between the charitable and government sectors. Since charities provide services either in supplement to or which government cannot or should not, there is no overall benefit generated by increasing tax revenues through taxing charitable business income. Because of the significant amount of volunteer input, charities can achieve higher “bang for the buck” than Government agencies undertaking similar work thus giving greater overall benefit to society. Charities deriving such income will be forced to reduce expenditure on charitable purposes, resulting in either increased cost to government or a net loss in social value (aka “wellbeing”) to society.

Taxing the business income of a charity also forces a greater reliance on donations from the public and grants from government and other third parties, reducing their sustainability. This could result in greater donation activity (reducing income tax receipts by way of greater donation tax credits). It could also reduce the leverage accorded to

government grants provided to contribute towards charitable aims that meet a particular public good at the time.

Q2. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what would be the most significant practical implications?

Removing the tax exemption would inevitably lead to increased compliance cost and burden on charities, including our congregations.

For this income to be taxed, charities would need to file income tax returns which requires greater scrutiny of bookkeeping to ensure that only appropriate deductions are made against the assessable income. For charities (including churches) who do not have ready access to qualified accountants with working knowledge of the Income Tax Act who are willing and able to advise or assist *pro bono*, this may require charities to purchase professional accounting support out of an abundance of caution or take the risk of being found to have adopted an incorrect tax position subject to penalties and use of money interest. If there is no assessable business income against which to offset this income, then this is a reduction in funds available for charitable activities.

Even if charities do not incur business income, there will be additional costs associated with annual filing of income tax returns. There could also be accidental mis-filings, where for example a church reports as business income the fees charged to cover the cost of a family camp and have to go through the process of an income tax reassessment.

This change would also likely cause our congregations to reconsider possible activities with charitable ends where business income is an incidental or subsidiary concern, as it is unlikely to be clear where the boundary is on “unrelated” business income, and none of our congregations are resourced to engage expansively with the inevitable testing of this boundary through the legal process.

For example, many of our congregations are not currently in a position to purchase buildings in which to conduct worship without risk of arbitrary eviction or other circumstances. There may be opportunities to purchase facilities (such as a premise currently partly or fully occupied by lease-paying businesses) which allow our congregations more security over their future and a permanent “base of operations” for various charitable activities during the week.

Removing the business exemption may result in our congregations not purchasing facilities for future use once an existing lessee’s occupancy ends, due to the potential (or actual, depending on the development of case law around what constitutes “unrelated” business income) additional taxation and compliance costs. It could also cause additional

complications where a congregation chooses not to purchase a facility which exceeds its present (but not future) needs, because it would have to restrict too far its charitable activities to carry the cost of the excess square meterage, or engage in costly compliance activity to sublease a portion of the facility to cover the cost (less income tax thereon). Even if carve-outs existed to exempt business income earned by say subletting to other charitable entities, there would still be ongoing costs and administrative burden associated with ensuring that the other entity remained a registered charity.

Q3. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what criteria should be used to define an unrelated business?

The criteria used to define an unrelated business should be as broad as possible to exclude the following sorts of activities:

1. Activities where there is a clear intent to provide a social good or service rather than maximise returns
2. Income arising from business activities which are subsidiary to, or consequent of, a charity furthering its charitable aims in some way (for example, a sports club's social bar, a church subletting or renting out part of its facility to various organisations and groups whether or not associated with the charity, etc)
3. Income arising from business activities between charitable entities, such as a charity which owns a "commercial" property leasing facilities to other registered charitable entities

Consequently, this would infer that unrelated business income would have the following characteristics:

1. Activities which are operated on commercial terms
2. Activities which are entirely unrelated to the charity furthering its charitable aims
3. Activities that are not operated from a facility where a charity operates services to further its charitable aims (or, if this is too broad, where a not-insubstantial portion of the facility is used for charitable aims)

There ought to be a clear boundary establishing that only income which does not presently have or will not have in the future a distribution for charitable purposes or a use which supports or enables such charitable purposes (whether by the original charity or another) is unrelated business income. The burden of proof should rest on any party seeking to establish that such final purposes are not or will not be accomplished.

Even then, there would need to be clear guidance and examples expressed in the legislation and by Parliament, so that “Parliamentary intent” is not redefined according to the whims of empowered parties to increase tax revenue.

For instance, in the example of a charity owning and leasing a “commercial” property to other charities, if this were considered unrelated business income then unless clearly forced to accept the actual circumstances, a future tax interpretation or Court decision could deem the charity to be renting out at market rates irrespective of the economic and contractual facts, to increase tax revenue.

Q4. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what would be an appropriate threshold to continue to provide an exemption for small-scale business activities?

The object of this exemption would be to exempt as much as possible most charities from incurring significant extra compliance costs. Ideally, only the largest charities with access to appropriately qualified expertise (eg, via employees and/or accounting consultants) would be captured.

Theoretically, this would apply to Tier 1, and possibly Tier 2, NFPs under the Accounting Standards Framework issued by the XRB. However, there are difficulties with this arrangement. For instance, some other churches and charities operate under a “branch” structure for charity reporting purposes and so they may be caught into this net, even though in practice they may not have the requisite expertise at an unconsolidated level (and presumably each branch would have to file an income tax return individually). While this is not likely to affect our congregations, as almost all are individually registered charities (either as incorporated societies, charitable trusts, or unincorporated associations), we acknowledge that other churches and other charitable bodies may not be in the same position as us.

If a decision is taken not to exempt such entities then a transition period would be required yes.to allow those charitable organisations to register individually rather than as branches should they so choose, to avoid the additional compliance costs.

At a bare minimum, if Parliament contemplates extending the business income net as wide as possible, a *de minimis* threshold should be set that will exempt all but the largest 10% of charities. A fixed dollar amount will inevitably narrow the number of exempt charities as inflation continues, so if any fixed dollar threshold is employed to achieve this end, to be workable it should have a CPI inflator built into it.

Q5. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, do you agree that charity business income distributed for charitable purposes should remain tax exempt? If so, what is the most effective way to achieve this? If not, why not?

Yes, we do agree that business income distributed for charitable purposes should remain tax exempt. As we noted above, business income generated by charities is often done so for charitable purposes rather than for a return to shareholders. Taxing the income which is intended to ultimately further charitable aims would be counter-productive and effectively become a tax on charities. It would also place this form of funding on a different tax footing to donations from individuals who may receive a donation tax credit against taxable income for their charitable donations, which does not seem consistent from an entity-neutrality (and horizontal equity) perspective.

Effecting this exemption could be done in different ways depending on the relationship of the business income to the entity. For any business which is legally distinct from its charity owner, any income distributed by it to a charity should be non-taxable for that business, which could be achieved through providing that income donated (or declared to be destined for charitable purpose) is treated as fully deductible for tax purposes. Where pre-tax income is declared to be destined for a charitable purpose (such as distribution to a charitable entity), this could be achieved by crediting a “charitable recipient current account.” The charity could choose to withdraw those funds at any time, just as a shareholder can from a shareholder current account. The charity and the business could agree to transfer funds between the current account and retained funds since this is relatively neutral from an ownership perspective anyway and still furthers the aim of the parent charitable entity since the additional retained funds would generate future charitable revenue for it to apply to charitable purposes.

For a charity which runs a business “inside” the main charitable entity vehicle, there is no need for any further action since the income will be, by default, provided for achieving a charitable purpose whether in the short or longer term and so should be deemed distributed and tax exempt. The charitable rules which govern the entity (and its continued registration as a charity) would require the business income to be used for a charitable purpose ultimately in accordance with those rules.

Qq6-12

We have no comments to make on these questions.

Q13. If the compliance costs are reduced following the current review of FBT settings, what are the likely implications of removing or reducing the exemption for charities?

The consultation document essentially assumes that all charity workers participate in work which has a private sector equivalent paying a market wage, and that the FBT exemptions distort the labour market. This is not the case. For example, our pastors lay aside other vocations to pursue their calling. Many may take a substantial pay cut from leaving their vocation to enter Ministry. Their stipend package, cash or non-cash, is to allow them to pursue this calling, ideally full time and is not a payment for services rendered. The labour market distortion assumption is a nonsense since it wrongly assumes that all individuals make such decisions solely based on income-maximisation motives.

Not all of our congregations are well resourced financially, and for example the option of providing a motor vehicle which enables both religious and pastoral visitation and private use is an effective way of providing for these pastors to pursue their religious charitable calling, recognising that there is no neat distinction between “work” and “private” since in a sense which does not apply to a wage or salary earner they are always “working”. A number of our congregations provide a motor vehicle for their pastors, especially since they cannot always pay the additional taxable stipend instead. Indeed, for some pastors, this may be the only vehicle available to them due to the financial sacrifice they take in assuming a call.

The assumption in removing the FBT exemption is that charities will simply pay the FBT on the private use component of a vehicle (or other non-cash compensation or benefits provided) and reduce the ostensible labour market distortion. In practice, many pastors will simply face a reduction in their stipend package as their congregations will not be able to meet the additional cost. Alternatively, congregations will be forced to reduce their expenditure on charitable relief to the community to “balance the books” since our congregations are funded by donations from the community, which has also faced increasing costs and stagnant income over recent years.

Ironically, the consultation document earlier dispels the myth that charitable businesses (eg, Sanitarium) receive a market benefit from lower costs which places them at a competitive advantage. And yet, this consultation in a later section asserts the same myth in respect of the labour market.

We consider the view that any FBT review will decrease compliance costs with skepticism. In our experience, the benefits of new processes or procedures are usually overstated, and not generally realised. At any rate, even if there are decreased overall compliance costs in

relation to the FBT regime, imposing FBT onto the charitable sector overall will, by definition, still increase compliance costs on charities (including churches) overall, just to a slightly lesser extent. Since many of our churches rely on voluntary support to comply with our existing tax and reporting obligations (eg, Charities Services reporting, PAYE filing), adding additional compliance and difficulty on volunteers will undermine charities' abilities to function or result in increased diversion of charitable funds to paying for professional accounting services, to the detriment of the public.

If at least part of the motive behind this proposal is to close a perceived loophole where certain charities may be utilising the FBT concessions for the undue benefit of prominent individuals associated with a charity, there are existing laws and regulations regarding charitable purpose which the Government should consider using. Alternatively, the Government may need to accept that all laws are subject to a minority seeking to take advantage, and this must be accepted for the greater good. Collective punishment is no more effective in tax law in discouraging incorrect behaviour (or incentivising peer pressure) than it was in primary or secondary school in discouraging classroom misbehaviour.

Q14. What are your views on extending the FENZ simplification as an option for all NFPs? Do you have any other suggestions on how to reduce tax compliance costs for volunteers?

While honoraria are not common for our churches, as most trustees or officers (eg, Treasurer) serve in their roles out of a desire to serve God and their congregation, we agree that this simplification has merit. We note, though, that this would presumably have the effect of transferring the ACC levy burden from the honorarium recipient to the NFP making the payment, and therefore increase the tax compliance costs for the NFP.

If honoraria are tokens of appreciation and not payments rendered for contracted (eg, employment) services, then one approach to simplify tax treatment of honoraria is to treat them as exempt income for tax purposes. As with minor income (sCW 55BB Income Tax Act 2007) there could be a threshold to limit the exemption to help ensure that payments are truly honoraria and not employment income under another guise.

Q15. What are your views on the DTC regulatory stewardship review findings and policy initiatives proposed? Do you have any other suggestions on how to improve the current donation tax concession rules?

We have no strong position on these initiatives. If individuals choose not to claim a donation tax credit, that is their prerogative. It is possible that some individuals consider the effort of claiming the credit outweighs the benefit. We are not aware of any logistical

issues from donees to our congregations, and as a general rule we advise donees that they are currently entitled to claim a donation tax credit should they choose.

Conclusion

Once again, we thank you for the opportunity to submit, and ask that you consider our points as set out above with a view to preserving our ability to continue to worship our God without interference and to reflect God's love for the world through our other charitable activities for the benefit of New Zealanders.

Ruling Elder Ash Clarkson, CA

Rev. David Bayne, Stated Clerk

On behalf of the Administration and Finance Committee

Grace Presbyterian Church of New Zealand

77 Rogers Road, Manurewa, Auckland 2112

From: Tim Bennetts s 9(2)(a)
Sent: Sunday, 30 March 2025 1:09 pm
To: Policy Webmaster
Subject: Taxation and the not-for-profit sector

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To Whom it May Concern
28/03/2025

Submission on IRD Discussion Document on the Taxation and the Not for Profit Sector

While comment could be made on many questions laid out in this discussion document, it is my submission that the first two questions posed, hold in them the evidence that there is not a compelling enough reason to undergo the necessary work and expenses such a law change would require of the government, or require charities to follow through with the arduous ongoing requirements compliance would place upon them.

Q1. What are the most compelling reasons to tax, or not to tax, charity business income? Do the factors described in 2.13 and 2.14 warrant taxing charity business income?

An organisations tax exempt status, has always been measured by what they spend their money on, not how they make their income. A vast majority of charities (large and small) are mostly funded through donations or related business. Non-related business income is used as a supplementary income to support a charities purposes, and an attempt to assist with the ongoing sustainability of that organisation, providing an income that the charity has some level of control over - a reliable, regular source of income. Not for Profit organisations that survive solely on donations or charitable trust funding have no direct control over what they will, or will not receive in any given year. Non-related business activities are often a charities attempt at ensuring they have some sense of a stable income despite fluctuations in people's generosity.

This stability allows charities to conduct their activities with some level of assurance that they will be able to provide their much needed services in an ongoing manner.

The benefit our nations many charities provide to the country are not in doubt - with the tangible and intangible impacts on our society being vast and varied. This is the main factor we should be considering when discussing the taxation of charity business income - the fact that charities deliver services to our nation that the government either can not provide, or can not provide in as ab efficient manner as the charitable sector.

The 'advantages' laid out in 2.13 and 2.14 of this document are somewhat minimal when considered against the flip side of the coin (e.g. a charities difficulty in obtaining external capital) and ignore the main reason we do not tax these organsiations - that being that not taxing them allows them to have more money to put towards their charitable purposes. It is my argument that the benefits to the nation of continuing to provide charities with a full tax exemption far outweigh the benefits of the modest tax take the nation would receive from the taxation of charities unrelated business activities.

The number of charities operating at a size and significance to have a true impact on the 'fairness' of an industry is very small - as Table 1 points out - presumably this argument is aimed at Tier 2 and 1 organsiations,

leaving us with just 1300 charities reporting business income of any potential significance. Any law change will likely place compliance requirements on all 29,000 registered charities, many of whom are too small or limited in their capacity to be able to handle those compliance requirements well.

Q2. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what would be the most significant practical implications?

The most obvious, immediate and troublesome impact of the removal of any tax exemption is the reduction in available funds for our charities to put to good work in our communities.

Most charities have what I would refer to as a "core purpose" which then flows on to their other positive outcomes, for example religious institutions core purpose would be the provision of religious services, the propagation of that religion and the care of the members of their religious community. Their secondary purposes which flow from their activities are the broader community good projects - food pantries, housing support, emergency care for domestic violence victims, breakfast programmes etc. It is my argument that it is the secondary purposes that will suffer the most from any reduction in available funds through the taxation of business income and the associated compliance costs.

For these organisations to exist (the same can be said of sports organisations, community health, ethnic charities etc) their core purposes must continue, so any reduction of available funds will hurt the community good arm of that organisation - leaving the government with the burden of further supporting those in the greatest need.

It is for the above reasons that I believe that the negative impacts of a loss of income and the related compliance costs of any changes to the current tax exemptions far outweigh the positive impacts of the same changes.

Thank you for your work on this, all the best as you consider the path forward.
I am happy to be contacted to discuss my submission if necessary.

Thanks,

Tim



Tim Bennetts

Church Executive

Phone (03) 343 4935

Mobile s 9(2)(a)

Postal P.O. Box 6473

Upper Riccarton

Christchurch 8442

Subject: Taxation and the not-for-profit sector

Submission to Deputy Commissioner, Policy Inland Revenue Department regarding the “Taxation and the not-for-profit sector” issues paper.

From Waikato Ecological Restoration Trust (WERT) .

Issues Addressed by Submission

Question 2. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what would be the most significant practical implications?

Question 3 If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what criteria should be used to define an unrelated business?

Background

WERT is a charitable trust (#2651172) incorporated on 15 September 2016. Its principle purpose is to foster and support ecological restoration of indigenous habitats within the Waikato Ecological region through the provision of plants, donations and technical support for restoration projects, support of weed control groups and disseminating information about enhancing indigenous biodiversity.

The Trust operates a community nursery, in which eco-sourced native plants are propagated by volunteers throughout the year. At least 2,500 hours of volunteer help are provided annually. From the nursery WERT supplies up to 20,000 plants each year for restoration projects, focusing on a wide diversity of species not usually offered by other nurseries. Plants are sold to volunteers, many of whom run their own restoration projects, and to other individuals and agencies undertaking restoration work. Revenue from plant sales covers the nursery’s operational costs, with surplus funds being used to support ecological restoration projects throughout the Waikato region, as identified in the purposes of the Trust. WERT budgets \$25,000 annually for donations to restoration projects.

Implications of removing tax exemption

The implications of income from WERT’s nursery activity becoming taxable would be significant. A direct effect would be that the funds available to support projects giving effect to our purposes would be significantly reduced.

A secondary effect would be a significant increase in compliance costs. Currently administration of WERT is carried out by volunteers with a small amount of paid clerical assistance. The requirement to file detailed tax returns, including determining what is unrelated business activity, would require the engagement of a certified accountant, with that cost further decreasing the Trust’s ability to provide donations, supporting restoration projects.

If income from unrelated business activities becomes taxable, this introduces the requirement to determine what is a related or unrelated business. This introduces uncertainty into the legislation and makes self-assessment by taxpayers more difficult. While the WERT nursery activity appears related to its wider ecological restoration objectives, the activity includes the receipt of income that supports the objectives, rather than directly delivering the objectives. We do not consider the method that WERT uses to generate funds is relevant to whether the income is exempt; for example we do not differentiate between income from interest on term deposits or from plant sales; both provide funds to enable WERT to pursue its objectives.

A related issue is that the projects that receive WERT donations are carefully selected and then managed and supported to ensure that they optimally meet the purposes of WERT . This frequently involves extensive consultation and planning, so it is often not possible to distribute surplus funds in the year that they are accrued. Similarly the Trust may want to resource significant restoration projects whose implementation spans several years. Therefore funds need to be accumulated without penalty.

Conclusions

As noted above, the issues paper seeks input on what criteria should be used to define unrelated business income, therefore it is uncertain whether changes to tax exemption for charitable business income would apply to WERT's income. Our view is that income from WERT's nursery activity is directly related to the Trust's charitable purposes and its use is for those purposes, so is not unrelated business income. However the paper notes "Distinguishing between related and unrelated business activities could be difficult in practice unless the legislation and associated guidance is clear" (s. 2.21). Accordingly, any changes to the legislation, and associated guidance resulting from it, should ensure that income derived from business activities that contribute directly to a trust's charitable purposes will be continue to be tax exempt.

Summary

- Removal of tax exemption for charity business income would have significant negative effects on the ability of charities to meet their charitable purposes, by reducing funds available for distribution and increasing compliance costs.
- Determining whether income is from business that is unrelated or related to charitable purposes is open to debate and is unclear. Any change to the legislation should give clear guidelines, ensuring that charities can continue to provide the services that are so important for New Zealand communities.

Submission on IRD Consultation Paper – Taxation and the not-for-profit sector

To: policy.webmaster@ird.govt.nz

From: Whirinaki Whare Taonga Trust

Date: 30 March 2025

Introduction: Whirinaki Whare Taonga Trust (*Whirinaki*) is a registered charitable entity and council-controlled organisation, operating in the arts, culture, heritage, sport, and recreation charitable sectors. The content of IRD's consultation paper is critical to the ongoing operations of the Trust. We appreciate the opportunity to provide our input.

About the Trust: The Trust was established in 2001 and is dedicated to community belonging and wellbeing through engaging, enriching, inspiring and connecting people with art, culture, and events in Upper Hutt. The Trust's core services are to:

- present exhibitions, shows and performances for the people of, and visitors to, Upper Hutt;
- lease facilities for hire in the community for regular sporting activities, cultural events, and gatherings, and other community-based activities;
- leasing the rights to an on-site café, to be run by a third-party vendor; and
- run a free curriculum-based learning programme for students and community members.

We generate a portion of our income (operational revenue) from venue hire, venue hire services, a café lease, gallery sales commission, in-house events, ticketing services, sponsorship, grants, and donations. In FY25/26 the Trust's operational revenue budget is \$270,600. In addition to other forms of income (e.g. donations, interest and grants received from the Upper Hutt City Council), the Trust's total income budget for FY25/26 is \$1,330,000 and we operate on tight margins with either a small surplus or deficit, depending on the activities and expenditures the Trust incurs. These details are publicly available through our annual Statement of Intent.

Responses to specific questions:

1. **Question 1: What are the most compelling reasons to tax, or not to tax, charity business income? Do the factors described in 2.13 and 2.14 warrant taxing charity business income?**
 - **Response:** We strongly support the retention of the current tax exemption for business income derived by charities. The exemption is crucial for the sustainability of charitable organisations like the Trust, which relies on diverse income streams to fund our activities. Removing this exemption and taxing business income (which for

the Trust, is the only income we can largely control) would place a significant financial burden on us and hinder our ability to deliver valuable services across the community. We would instead be incentivised to focus on obtaining donations and deriving income from investments, and not on focusing on providing core charitable activities.

- The factors in clauses 2.13 and 2.14 do not, in our opinion, warrant taxing charity business income. While the argument for creating a level playing field between charitable organisations and for-profit businesses is understandable, it is important to note that charities operate with fundamentally different missions and goals, and in different regulatory environments, compared to for-profit businesses. The Trust exists to provide arts, cultural and event opportunities in our community through a range of mediums, filling a gap that the private sector cannot or will not address. The Trust's primary focus is not on generating profit - but on delivering services and support to the community.
- For some charities, there are already significant regulatory and compliance burdens. The Trust, for example, complies with the requirements in the Charities Act 2005, Local Government Act 2002, and other Council specific requirements, resulting in a high level of public transparency. Adding tax obligations on business income would increase administrative costs and complexity, further straining limited resources. This could lead to a situation where the Trust is forced to allocate more funds towards compliance rather than its charitable objectives.

2. Question 2: If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what would be the most significant practical implications?

- **Response:** If the current exemption is removed, there would be a substantial financial burden on small-medium sized charitable organisations, such as the Trust, given the requirement to pay on this income and pay accountants to ensure compliance. This would reduce overall funds available for core charitable activities, limiting our ability to deliver key services and support to the community – effectively reducing the impact of the local government expenditure we are provided.
- As a practical example, in addition to the funding it receives from the Upper Hutt City Council, the Trust engages in various business activities including selling activity related merchandise and hosting events to generate additional income. If these activities are taxed, the net income available for our core charitable purposes would decrease, forcing us to either cut back our core services or find alternative funding sources, which is already particularly challenging in the current fiscal environment. Based on the Trust's current budget, it is possible that around one-third of our income could be subject to tax if this tax exemption were removed. This is a significant portion of our income.

3. Question 3: If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what criteria should be used to define an unrelated business?

- **Response:** We have no firm views on appropriate criteria but are conscious these can be hard to define and apply in practice. We recommend that further public consultation is undertaken when developing the guidelines should this approach be taken.
4. **Question 4: If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what would be an appropriate threshold to continue to provide an exemption for small-scale business activities?**
- **Response:** The Trust does not have strong views as to what threshold could apply, but broadly supports a de minimis threshold, which could be determined by considering the average annual gross receipts of small businesses and the specific needs of that part of the charitable sector in which a charity falls. Ultimately, the appropriate threshold should balance the need to support charitable activities with the goal of ensuring a fair and equitable tax system. It should be high enough to allow charities to engage in necessary small-scale business activities without being overly restrictive.
5. **Question 5: If the tax exemption is removed for charity business income that is unrelated to charitable purposes, do you agree that charity business income distributed for charitable purposes should remain tax exempt? If so, what is the most effective way to achieve this? If not, why not?**
- **Response:** In response to the references in this section of the consultation paper to taxing accumulated business surpluses, we do not support a policy decision to target taxing business accumulated surpluses – this is particularly important for the Trust, who undertakes CAPEX projects that require multi-year planning and fundraising (e.g. bringing ‘headline’ shows and events to Upper Hutt). Such a policy decision would have a significant effect on how the Trust operates.
6. **Question 6: If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what policy settings or issues not already mentioned in this paper do you think should be considered?**
- **Response:** Please see our response on question 1 in relation to the reporting requirements that currently apply to us – we do not consider removing the charity business income for unrelated charitable purposes would create a level playing field between charities and not-for-profit business entities.
 - We would also stress that changes to the taxation of charities will increase compliance costs not just for the charities themselves, but also for IRD.
7. **Question 13: If the compliance costs are reduced following the current review of FBT settings, what are the likely implications of removing or reducing the exemption for charities?**

Response: The current FBT exemption for us is a useful and meaningful way to support our volunteers and our charitable workforce in a non-monetary way, including by paying for mobile phone plans and providing discount on merchandise. Allowing charities to

offer competitive salaries (at a lower cost to the charity) is a mechanism to ensure that charities can remain well resourced. Removing this exemption would significantly increase operating costs and add additional complexity (e.g. the Trust may have to consider investing in additional accounting software or engage further tax professionals to manage FBT compliance, which we would expect to be a significant expense).

Finally, we note that while IRD's consultation paper is focused on tax rules, compliance costs and integrity risks, we stress that a number of the questions raised by IRD relate to the overall purpose of New Zealand's Charities Act 2002 – particularly any introduction of taxing business income unrelated to charitable purposes. We query whether IRD has given sufficient thought as to whether some of the key concerns should be better addressed through (or in connection with) changes to the charities laws, rather than using tax rule changes as a proxy to determine whether an entity is really a charity. Some of the changes proposed by IRD will have far-reaching consequences for a number of charities operating in New Zealand, including the Trust.

Thank you for the opportunity to provide our input. We look forward to the outcomes of this consultation.

Zoe Juniper

Chair, Whirinaki Whare Taonga

From: Ann Rhizsa Detangco s 9(2)(a)
Sent: Sunday, 30 March 2025 2:17 pm
To: Policy Webmaster
Subject: Taxation and the not-for-profit sector

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CHURCH OF THE RISEN LORD JESUS CHRIST

*OUR TITHES AND OFFERING FROM OUR INCOME HAS BEEN TAXED FROM WHAT HAS BEEN DEDUCTED FROM OUR WEEKLY WAGES.

* AS A CHARITABLE ORGANISATION, WE ARE HELPING THE GOVERNMENT TO PRODUCE: LAW ABIDING CITIZENS BY FURTHERING THE FAITH THAT TEACHES RIGHTEOUSNESS, SUPPORTING LAW AND ORDER OF EVERY COMMUNITIES.

* THE CHILDREN ARE BEING TRAINED TO DO THE SAME TO BE A GOOD EXAMPLE OF GOOD BEHAVIOUR AT SCHOOL, AT HOME, COMMUNITIES.

* CHARITABLE ORGANISATIONS (CHURCHES) DISCOURAGES USE OF DRUGS, ALCOHOL, GAMBLING,

* CHURCH TEACHES MEMBERS NOT TO BE A BURDEN TO THE GOVERNMENT BY RELYING ON BENEFITS.

* THE CHURCH TEACHES TO BE PRODUCTIVE LIKE WHAT THE BIBLE TEACHES
ON: 1 THESSALONIANS 4:11 And that ye study to be quiet, and to do your own business, and to work with your own hands, as we commanded you; That ye may walk honestly toward them that are without, and that ye may have lack of nothing.

RECOMMENDATION:

* IRD TO CATEGORISE THE CHARITABLE ORGANISATIONS THAT ARE NOT CONTRIBUTING TO ANY IMPROVEMENT OF THE PEOPLE IN THE SOCIETY, REMOVE THEM OR TAX THEM.

* IF THOSE CHARITABLE ORGANISATIONS ARE NOT HELPING THE COMMUNITY, TOWN OR THE NATION TO PRODUCE GOOD ABIDING CITIZEN THEN, CHANGE THEIR CATEGORY.

* RE-EVALUATE THE POLICY AND REVIEW THE CATEGORIES OF THE REGISTERED CHARITABLE ORGANISATION.

* TAX THOSE WHO ARE EARNING HUGE AMOUNT LIKE A BUSINESS AND USING THE CHARITABLE ORGANISATION FOR THEIR OWN PURPOSE AND NOT RETURNING ANYTHING TO THE COMMUNITY, CITY OR NATION.

Regards,

Ann Rhiza Detangco

CRLJC Member

From: Sharon Detangco s 9(2)(a)
Sent: Sunday, 30 March 2025 2:19 pm
To: Policy Webmaster
Subject: Taxation and the not-for-profit sector

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Regards,

Sharon Detangco

CRLJC Member

From: Ricky Detangco s 9(2)(a)
Sent: Sunday, 30 March 2025 2:22 pm
To: Policy Webmaster
Subject: Taxation and the not-for-profit sector

External Email CAUTION: Please take **CARE** when opening any links or attachments.

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Regards,

Ricky Detangco

CRLJC Member

[Sent from Yahoo Mail for iPhone](#)

From: Paul Hughes s 9(2)(a)
Sent: Sunday, 30 March 2025 2:39 pm
To: Policy Webmaster
Subject: Tax Policy Issue Veterinary Club tax exemption

External Email CAUTION: Please take CARE when opening any links or attachments.

Hello,

My name is Paul Hughes and I have been a veterinarian in Taihape since 1979. From 1982 we have been a contract practice to the Taihape and Waimarino Veterinary club. Fortunately for us since that time we have been able to operate as a commercial enterprise paying a rental to the club for the lease of it's premises. For the entire 43 years since then we have had to compete against a neighbouring practice which has had the privilege of having a tax exemption by retaining a club status.

Our business has paid \$M in tax revenue during all those years which the neighbouring practice has been able to use to beat us down on pricing and put into a cash reserve.

This is a ridiculous situation which has no logical basis. It is simply a relic of an era (1940s) when it was set up to encourage veterinary services to rural NZ. This has made absolutely no sense since the early 1960s when veterinary services became widespread and the club exemption had served its role.

The current situation is grossly unfair to the majority of tax paying entities that operate veterinary services in NZ. Veterinarians worth their salt do not wish to have their businesses run by a farmer committee so, as we have done, have chosen to leave the vet club system behind. This is far preferable for not only the veterinarians concerned but the community in general as it provides a pathway for succession and incentives entrepreneurship in these businesses and of course they contribute to the tax revenue of the district.

I did put a submission in for the last Labour governments Michael Cullen tax review but unfortunately this topic did not see the light of day.

This is such an old anomaly that surely it cannot get a free pass again this time.

Yours faithfully,

Paul Hughes BVSc, MRCVS, MIPIM, CMIOd.

Submission on Officials Issues Paper – Taxation and the not-for-profit sector – Issued 24 February 2025

Submission made by the Robert Gibson Methodist Trust

Background Information on the Trust

The Robert Gibson Methodist Trust is an incorporated charitable trust with a scheme approved by the High Court in 1965 under part 3 of the Charitable Trusts Act 1957. The Trust is a separate legal entity from the Methodist Church of New Zealand but requires the consent of the Methodist Conference to enter a number of major transactions. The Trust Board is appointed by the Methodist Conference in the manner prescribed by the Trust's Constitution.

The Trust owns and operates two dairy farms in South Taranaki using 50/50 sharemilkers. Trust income is applied as prescribed by the Scheme, substantially to provide education grants to tertiary students and to students attending Wesley College, with a significantly lesser amount to youth work at the request of the Methodist Church. Although the Scheme provides for preferential criteria to be applied to educational grants, the primary criterion applied in practice is need. The Trust makes grants to students of all religious affiliation.

The Trust reports to the Charities Service under Tier 3 criteria.

Discussion Questions

Q1. What are the most compelling reasons to tax, or not to tax, charity business income? Do the factors described in 2.13 and 2.14 warrant taxing business income.

The paper deals with taxing charitable business income unrelated to the charitable purpose etc. But this question appears to advocate taxing all charity business income.

Charities provide social services that arguably should be provided by central government. For example ambulance and rescue helicopter services, largely provided by charities in New Zealand, are substantially covered by the NHS in the UK. Hospices are largely funded by 'Hospice Shops'. Is it Government's intention to curtail these services through taxation or to make them available only to the wealthy who can afford them?

The Robert Gibson Methodist Trust (RGMT) provides education funding to young people from low-income families who might otherwise find it difficult to complete tertiary education.

There seems no logical reason to reduce funding that meets the charitable needs shortfall that Central Government has provided in the past. (e.g, tertiary education grants)

Q2. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what would be the most significant practical implications

Presumably this relates to income earned that is not distributed for charitable purposes. It would be akin to taxing undistributed income of a trust at the trustee rate and distributed income at the rate applicable to the beneficiary. RGMT Board accepts this may happen to prevent charities from retaining income for growth at the expense of the charitable interest.

This would slow debt retirement or major capital improvements. Ultimately it would reduce the amount of distributable income as the Trust's ability to accumulate reserves is limited by its Scheme. All net income is ultimately applied to the charitable purpose.

Q3. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what criteria should be used to define an unrelated business.

All income of the Robert Gibson Methodist Trust is ultimately related to the Trust's charitable purpose. That is a condition of the Court approved scheme.

Q4. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what would be an appropriate threshold to continue to provide an exemption for small scale business activities.

In some instances the cost of compliance for small scale business activities may exceed the tax payable, particularly if assessable income is restricted to 'Trustee's income'. An appropriate threshold may be charities level 3 or higher.

Q5. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, do you agree that charity business income distributed for charitable purposes should remain tax exempt? If so, what is the most effective way to achieve this? If not, why not?

The questions in this paper relate to 'charitable purposes', being the relief of poverty, advancement of education, advancement of religion and other purposes beneficial to the community. There is an overriding criterion that the purpose must provide a public benefit. Rather than taking a broad-brush approach to all charities, it would be more appropriate to examine and redefine 'public benefit.' There is a huge difference in 'public benefit' if one compares a hospice, available to the public at large, to an exclusive religious group that serves only its members. Currently they both receive

similar treatment as charities. The threshold should be a matter for the Commissioner to determine.

Qs 6-9 The Robert Gibson Methodist Trust is not a donor controlled charity.

SUBMISSION ON THE IRD
TAXATION AND THE NOT-FOR-PROFIT SECTOR
OFFICIALS' ISSUES PAPER.

INTRODUCTION

DV Bryant Trust (the Trust) appreciates the opportunity to provide a response to the IRD on its *Taxation and the not-for-profit sector officials' issues paper*.

The feedback contained in this paper is focused on philanthropic trusts and Tier 3 and Tier 4 charities (referred to as small in this paper) that are front line, focused on delivering their Kaupapa and not well resourced for meeting compliance and regulatory. It is intended to be an insights-based response rather than 'technical' response, with observations and comments grouped under the question topics.

The proposed changes in the IRD paper will affect different charities in different ways – incorporated societies, those that have or don't have donee status, large and small, self-sustaining with business-type incomes and grant dependent, funders and funded charities and donor controlled or not. This means that the IRD will need to take care that changes do benefit or disadvantage different types of charities or unintentionally encourage charities to make changes to their structures purely to minimize the impact of these proposed changes.

BACKGROUND

As a family foundation we live the legacy of our founder Daniel Vickery Bryant every day. Founded in its original form as Bryant House Trust in 1921, DV Bryant Trust primarily provided services to the community until the late 1960's when it started to move its focus towards grantmaking.

Today the trust directs its philanthropic funds towards achieving our aspirations for a strong and resilient Waikato founded on social justice and equity where everyone, no matter who they are, where they came from or where they want to go feels valued and celebrated for who they are, lives as healthy and well as they can, have genuine and meaningful choices in their lives, and real opportunities to reach their potential and achieve their dreams. The Trust believes that everyone has the right to control their own lives, experience equity, inclusion, support, connection, kindness and hope in their life, a place they can call home where they feel safe, strong and resilient, and to live in and feel connected to an environment that is healthy and well.

The trust's history is grounded in land – the settlors' wealth having been generated through farming activities from the late 1800s. The trust holds a very strong affiliation to land and its single way of generating funds to be distributed into the community is through leasing of commercial property.

DV Bryant Trust distributes all its net earnings to the not-for-profit sector, and it is bound by its strategy to maximize its revenue for this purpose. All income earned is destined for charitable purposes.

Philanthropy consistently fills the shortfall of contract funding from government to community organisations delivering government outcomes in health, education, and many other services. The current tax exemptions enable philanthropic organisations to maximize their revenue and therefore maximize their grants. Taxing philanthropic trusts would significantly reduce the amount of funding they have to distribute to community groups delivery services for the government.

NFPs generally run more efficiently than government agencies delivering the same services – they have to be more efficient as they are underfunded compared to the government version of delivery, so essentially, they are ‘subsidizing’ the government. Ironically, current tax exemptions are one of the financial sources that community groups rely on to do that.

Q1 – TO TAX OR NOT TO TAX

- The tax changes proposed have two areas of impact – the tax itself and the added compliance. It is not an exaggeration to say either or both will cause some NFPs to close-up shop.
- It is often more difficult and costly for charities to meet compliance costs as it is harder to attract talented staff because of lower remuneration levels. Charities already face most of the compliance costs of for-profit business e.g. annual audited accounts, filing GST, PAYE, H&S etc.
- Charities are held to a much higher level of reporting and public transparency than similar sized for-profit organisations, for example the publishing of annual accounts. For-profit businesses benefit from not having to share their annual accounts with their competitors.
- Paragraphs 2.13 and 2.14 do not present valid reasons to tax small charities:
 - Not facing compliance costs relating to tax obligations may lower their relative cost of doing business but they can only function on a low cost model
 - Disagree that charities retained earnings are higher – most charities would struggle to retain any earnings. Raising capital is almost impossible for most charities who generally need to rely on philanthropic grants to operate.
 - Most small charities are not able to accumulate surpluses to increase capital – their need is here and now, however if they can do that to cover future funding shortfalls, they should not be disadvantaged.
 - Most small charities do not compete with for profit trading enterprises and where they do it is likely to be as a small social enterprise that doesn’t generate large funds and helps them to become sustainable and less reliant on philanthropy, which is being increasingly stretched as government pulls funding from the community sector. Alternatively, they may compete with government agencies.
 - Any tax ‘advantage’ received by small charities is used to deliver services and any tax ‘advantage’ to philanthropic trusts is distributed.
 - Grants are included in the statement of revenue and expenses for funders, meaning that most philanthropic organisations would typically have a zero or near zero result at year although they may carry over accumulated earnings in one year for distribution in future years. If any of those earnings were taxed the funder would need to either cut back on its grantmaking or operate at a loss.

Q2 & Q3 - UNRELATED BUSINESS ACTIVITY

- Having to distinguish between business and non-business, activities to account for them separately is again more compliance and potentially quite complex compliance.
- Any income earned that is intended to enable the charity to meet its charitable purpose should be considered as related business activity, regardless of how it is earned. To take any other approach is nonsensical.

- Raising funds is the biggest challenge many charities face and essential to their survival. Without funds they cannot provide or extend services. Relying on grants and donations is scattered and unpredictable, requiring a lot of time and effort to source. Changing donor preferences, donation fatigue, saturated fundraising markets and more commitments in people's lives can add more pressure. NFPs and charities need to optimize funding sources and diversify income. If anything, NFPs and charities should be incentivised to generate the income required to operate by whatever legal means they can including commercial-like businesses.
- Specifically for philanthropic funders, our 'business' is making grants and any activity to generate grant funding is also part of our 'business'.

Q4 - APPROPRIATE THRESHOLDS AND ACCUMULATION

- None of the increased compliance should be directed at small charities ie T3 or T4. They should also be able to generate income from any source/in any way without being taxed.
- In Table 1, 1,300 of 11,700 charities with total expenses of more than \$5M have business income. This represents 4.5% of all charities (29,000). This is where the changes should be focused – these are the charities that could evade tax at a material level, and the approach should be on addressing tax avoidance. The other 95% of charities in T3 and T4 should not be caught up in these charity tax changes.
- Accumulation should be allowed without having rules on the time period. Accumulation is in fact a prudent approach to long term sustainability for many NFPs.

Q5 - CHARITY BUSINESS INCOME

- All charity business income distributed for charitable purposes should remain tax exempt.

Q7 – Q9 - DONOR CONTROLLED CHARITIES

- It is critical that a clear definition of donor-controlled charities is made and that any changes account for the differences between philanthropic charities distributing funds, and charities raising funds to deliver services.
- DV Bryant Trust and other family philanthropic trusts generally don't fundraise outside of their business activities (investment returns from their corpus or activities such as leasing commercial property). There are not typically any issues of circular arrangements, purchasing assets or acquiring goods from donor or donor associates.
- Reporting of related parties and appointment of independent non-family trustees is sufficient compliance.
- Passive and non-passive income should not be treated differently for tax purposes. There should be no additional investment restrictions imposed on charities.
- If investment restrictions are in place they should only apply to large (T1 and T2) charities. Smaller charities could not abuse tax to the level that would warrant investigatory, or enforcement action being taken by IRD.
- Most charities, certainly T1 and T2 charities, are unlikely to accumulate much more funds than they require to 'save for a rainy day'.
- For philanthropic charities a minimum distribution based on net assets will mean philanthropic trusts grants will fluctuate according to fair value of assets, which is more influenced by economic conditions

than the trust's own decisions. Uncertainty about how much funding a philanthropic trust can distribute leads to uncertainty for the charities seeking funding.

- As an example, the trust's assets have been valued at between \$60M and \$80M over the last five years, which with these proposed changes of 5% of net asset value would see us granting around \$3-4M. Our current distribution is around \$1-1.5M. We could not distribute at the 5% level and still be able to maintain the value of our assets to provide for future distributions.

Q10 - IMPACT OF COMPLIANCE

- Tax compliance for small NFPs should be kept to a minimum. The burden of compliance with tax and other government obligations takes resources, effort and money away from furthering their cause. Many NFPs and charities find handling their tax issues challenging, and the compliance cost burden too high already.
- Most of the NFPs that we support are heavily reliant on volunteers. Compliance is hard when it is difficult to find people with the right skills and time to volunteer and the willingness to take on compliance responsibility. Volunteer turnover and lost knowledge exacerbate issues with compliance.

Q13 - TAX EXEMPTIONS

- FBT exemptions should remain. Offering non-taxable benefits in remuneration packages is one way that NFPs can attract staff. These benefits are not offered to reduce tax, but to attract good staff in a sector that cannot pay at the same levels as for-profit entities. Removing them would negatively affect recruitment.
- Any changes to tax exemptions should take account of the compliance demands on T1 and T2 NFPs

Q14 - FENZ MODEL

- Yes, assuming that the FENZ model is working with no unintended consequences, it should be considered for other volunteer organisations.

CONCLUSION

As noted in the introduction, small charities are going to get caught up in a widely flung net to catch the few, mostly large charities that might avoid tax at any material level and there are many unintended consequences for small charities in these proposals.

If the IRD is to focus its efforts to reflect current tax evasion issues, it should pay attention to the very small number of large charities not currently playing by the rules and with the resources and capacity to work around the current rules.

Most T1 and T2 charities are heavily reliant on volunteers and these changes create significant levels of additional burden on them. They are already working hard just to get by. These are the thousands of charitable organisations who already find it very real difficult to understand and meet compliance obligations and who fill in so many gaps the social, cultural, health, educational wellbeing of Aotearoa New Zealand.

Raewyn Kirkman
Chief Executive
DV Bryant Trust

30 March 2025 "Taxation and the not-forprofit sector" Consultation

Submission From Diane Robinson Chartered Accountant. I am currently the auditor of a number of registered charities and also community benefit organisations that are not registered charities, e.g. Business Associations, Amateur sports clubs. I am also a volunteer Treasurer for a registered charity and a volunteer Treasurer for a community organization that is not a registered charity. I have been the manager of a national charity and an employee or volunteer of several others. This experience goes back to the 1980's and I have participated in numerous discussions/webinars/surveys etc. about Charities and income tax, GST, Health and Safety legislation and so on.

Before responding to the specific questions, I wish to emphasise how difficult it already is for many registered charities to find an auditor, a Treasurer and other necessary roles. I seriously question whether there is the capacity to cope with calculating taxable income for charities if there are any significant changes. The apportionment of expenses between business and non-business would no doubt lead to endless training sessions for Treasurers and Accountants.

I hope the IRD will not have any future consultations with a closing date of 31 March. My experience of the IRD computer is that it 'overheats' on 31 March because of all the last day income tax returns being filed.

My submission will refer to the paragraph numbers in the consultation document and I will grey the questions.

2.1 What does 'business' activities mean. Organisations running op shops , or selling trees for conservation might not think of themselves as being in business. I've had decades of Sanitarium being name-checked as a business. Just remember its owned by the Sevent Day Adventist church and part of their belief system is about the food they put in their bodies. I suspect that was the reason this healthy food company was set up in the first place.

2.6 If you don't accumulate funds you will never have the funds to purchase capital items such as vehicles or buildings. Having accumulated funds is not a bad thing in itself. Many donors and especially the larger philanthropic funders want charities to have accumulated funds so that the donor can feel comfortable the charity will still be in existence next year. If you don't have accumulated funds you have no 'money for a rainy day'.

Questions for submitters Q1. What are the most compelling reasons to tax, or not to tax, charity business income? Do the factors described in 2.13 and 2.14 warrant taxing charity business income?

I note businesses exist primarily to make a profit for the benefit of their owners. Charities running 'businesses' have other motivations and I would argue consider more factors and spend more time discussing options than business owners when it comes to how they distribute their 'surpluses'.

Question for submitters Q2. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what would be the most significant practical implications?

Who decides whether something is unrelated? Should my church pay income tax on the hall hire received from community groups wanting to use the building? Or should we just say, if that is going to be taxable income, we'll save ourselves the bother of renting the building out and leave it to the councils and central government to construct and run buildings where the groups such as scouts, civil defence etc. can meet. As the volunteer dealing with the endless 'who forgot to turn the heater off' multi user issues of our church building, I'd be delighted not to have to deal with other building users. But, we see hiring out the building as doing community good. It is not a business by my definition.

Be careful how you define what is 'unrelated.'

Question for submitters Q3. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what criteria should be used to define an unrelated business?

I agree with the list in 2.24 but I'm not convinced it is sufficient and care would need to be taken to consider specific situations which may be highlighted by submitters to this review such as my earlier comment on hall hire. (Given the high compliance costs of Building WOF, H&Safety, earthquake strengthening etc. it's a wonder we still have community benefit premises left)

It may be that we should encourage registered charities to run businesses. Maybe if we had one running a chain of supermarkets or a bank...

I'm not sure where co-operatives sit in this consultation. There may be small ones in isolated communities being run as registered charities?

Question for submitters Q4. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what would be an appropriate threshold to continue to provide an exemption for small-scale business activities?

There needs to be a de minis. Otherwise, you will break the nut with your sledgehammer. The Tier 4 \$140k on expenses seems reasonable, BUT charities that are high on volunteers might have low expenses and high income. If there is a change, start at the Tier 4 and then after 2 years have IRD look at reported GST income over say \$1m compared to any registered Tier 4 charities and then go from there.

Question for submitters Q5. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, do you agree that charity business income distributed for charitable purposes should remain tax exempt? If so, what is the most effective way to achieve this? If not, why not?

Yes, if distributed for charitable purposes it should be tax exempt. But, I think it should be tax exempt anyway.

2.32 An important policy design issue is how to best target a tax on business accumulated surpluses and provide relief when accumulated surpluses are eventually distributed for charitable purposes.

Businesses get taxed on the profit made in that income year. They do not pay tax on accumulated funds, so why would charities have to pay taxes on their accumulated funds. Also, let's not forget that accumulated funds, can be made of buildings and equipment and precious little ready cash to pay any tax with.

2.39 Many charities choose to conduct business activities through limited partnership structures

My guess is that most registered charities have been around much longer than the Limited partnerships Act 2008. I wonder what many means? How many charities?

Question for submitters Q6. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what policy settings or issues not already mentioned in this paper do you think should be considered?

Hopefully these submissions will tell you what else to think about

Question for submitters Q7. Should New Zealand make a distinction between donor-controlled charities and other charitable organisations for tax purposes? If so, what criteria should define a donor-controlled charity? If not, why not?

The few donor controlled organisations I've been involved with, have not, as far as I'm aware exhibited any of the negative behaviours referred to in chapter 3

The financial reporting standards require disclosure of related party transactions, so the government's Charities Services department should be monitoring these and acting when required. Whether they are adequately funded to do so, is another question.

Question for submitters Q9. Should donor-controlled charities be required to make a minimum distribution each year? If so, what should the minimum distribution rate be and what exceptions, if any, should there be for the annual minimum distribution? If not, why not?

Minimum distribution rule

Sounds good, but... If we're in a GFC situation or similar and all the investments are at historic low tradeable values, surely it's better to wait till the investments return to a higher value i.e. stock market is back up, before withdrawing funds. There might also be situations where in a particular year the charity cannot give to its normal preferred charitable causes because of issues outside its control, e.g. if the Donor controlled charity normally provided funding for free community theatre, there wouldn't be a lot of open theatres during a pandemic. Likewise, there might not be a research proposal for the disease(s) the donor charity wants to fund in a particular year.

Questions for submitters Q10. What policy changes, if any, should be considered to reduce the impact of the Commissioner's updated view on NFPs, particularly smaller NFPs? For example: • increasing and/or redesigning the current \$1,000 deduction to remove small scale NFPs from the tax system, • modifying the income tax return filing requirements for NFPs, and • modifying the resident withholding tax exemption rules for NFPs. Q11. What are the implications of removing the current tax concessions for friendly societies and credit unions?

It is my impression that many people assume an incorporated society is income tax exempt. I have explained the mutual association rules to more volunteer committee/Treasurers/Accountants etc than I can possibly recall. My copy of IR255 is well thumbed, page 35 table of income types was brilliant. Bring it back!

I'd suggest having something in the registering of an incorporated society that specifically states Incorporated Societies are not income tax exempt or similar words.

Does the IRD really know how many mutual associations are out there?

Who is going to teach the poor Treasurers/Accountants how to make the necessary calculations?

Does the IRD have the capacity to cope with increased annual tax returns from the 'Associations.'

I recall coming across very few Friendly Societies in my work. How many are there?

Question for submitters Q12. What are the likely implications if the following exemptions are removed or significantly reduced: • local and regional promotional body income tax exemption, • herd improvement bodies income tax exemption, • veterinary service body income tax exemption, • bodies promoting scientific or industrial research income tax exemption, and • non-resident charity tax exemption?

I only have experience with the first group, local Business Associations who are exempted by CW40. The surpluses they generate are often spent on buying CCTV cameras which (sadly) are needed.

Question for submitters Q14. What are your views on extending the FENZ simplification as an option for all NFPs? Do you have any other suggestions on how to reduce tax compliance costs for volunteers?

Be aware that having employees' tips organisations into PCBUs under the Health and Safety Act. It's hard enough to find volunteers for committees without hitting them with the potential personal liabilities for a PCBU. I also note that wages come with holiday pay rules, which bring their own large complications.

Question for submitters Q15. What are your views on the DTC regulatory stewardship review findings and policy initiatives proposed? Do you have any other suggestions on how to improve the current donation tax concession rules?

Para 4.34 1/5th claiming the credit isn't the issue. What is the average \$ donation not being claimed? Many people will make small donations of \$5 to \$20 and just won't bother claiming the credit. Of the 57% surveyed who didn't know about the scheme, what %age actually make donations?

Some donors may give by automatic payment weekly.

Small organisations will struggle to provide timely information to the IRD other, than after they have prepared the annual donation receipts.

While I don't object to the IRD collecting DTC information, please be aware that some charities are small and it is unpaid volunteers who have to sit down at the weekend and carefully work out what each donor has donated over the past year. More regular reporting will once again make retaining Treasurers difficult

Charities do a lot of work in NZ, that the government would otherwise have to do and fund. Be very careful how you tread. You may find that whatever tax is generated by changing the system, simply goes out the door to fund the things the charities no longer have the funds to do. I'd also suggest that charities achieve a great deal at less cost than many government initiatives.

Sincerely

Diane Robinson, Chartered Accountant, Auckland

Submission re: "Taxation and the not-for-profit sector"

Submitter: Dave Barton

s 9(2)(a)

Background. I am very supportive of the current reappraisal of all tax incentives for NFP organisations, charities etc. My particular interest, however, is the vet club movement and its legacy tax advantage which is an ongoing frustration for all private practices in NZ

I am a 71 year old veterinarian, still practising part time, and have worked in several clinics in New Zealand – both club and private.

The issue.

Veterinary Clubs in New Zealand were set up formally in 1946 as a spin-off of the Veterinary Services Act created at that time. There was considered to be a significant need for veterinary services in rural areas, and so this Act enabled the formation of our unique 'vet club' system through farmer debentures and the granting of an income tax-exempt status.

The income tax exempt status was considered to be necessary as it meant more money available for improving buildings, buying gear, importing vets and generally improving the standard of veterinary care in rural New Zealand. This succeeded very well, as many such clubs were established and farmers were able to receive a reliable, quality veterinary service at a reasonable cost.

At one stage there were around 70 – 80 such clubs but they have slowly disappeared with around 20 now remaining. Most clubs changed to a contract structure over time as a result of staff frustrations with the club structure – veterinarians wanted some ownership and an opportunity to build some personal equity in the business.

We are now left with some very large and successful veterinary businesses trading as vet clubs in New Zealand. Many that have significant reserves in the bank and even share portfolios. This is all at the expense of private practices in the greater area who do not enjoy the same tax advantages.

I believe that vet clubs have served their purpose well, but there is now no reason for them to continue to receive their ongoing tax advantages. Income tax exemptions such as they enjoy are a big competitive advantage as they affect their pricing strategy making it very difficult for private practices in the area to compete.

I would therefore like the income tax exemptions removed for veterinary clubs – It will grow the tax revenue of the government with no reason for any decline in the level of veterinary services from the clubs.

Submission: Tax-Free Status of Veterinary Clubs in New Zealand

Tax-Free Status Vet Clubs New Zealand
Submission by Franklin Veterinary Services (1977) Ltd
28th March 2025
To: policy.webmaster@ird.govt.nz



Author

Mark Hosking is NZ veterinary graduate who has spent 25 years in the industry as a Veterinarian and Veterinary business owner. Mark is the CEO of Franklin Veterinary Services (1977) Ltd a large multisite, multi-species Veterinary business which has 22 working shareholders, and 13 sites across South Auckland, North Waikato and Hauraki plains / Coromandel regions.

The largest direct industry competitor of Franklin Vets is a Veterinary club, Animal Health Centre Waikato Inc (trading as Anexa).

Mark is a board member of the Veterinary Business Branch of the New Zealand Veterinary Association (NZVA) and also sits on the Member Advisory Board for the NZVA. Mark is also a director of 2 other veterinary businesses: Manukau After Hours Veterinary Clinic Ltd and Veterinary Centre Northland Ltd

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Background of Veterinary Clubs

To assist the recovery of the post-WWII economy, the New Zealand government of the day created the Veterinary Services Council by the Veterinary Services Act 1946. Given there were no Veterinarians trained in New Zealand until 1968, the purpose of this Council was to encourage farmers throughout New Zealand to create “vet clubs,” the intention being to facilitate international veterinary surgeons to relocate to rural areas of New Zealand to provide Veterinary services to developing farming industry.

In 1955 many vet clubs throughout the country were granted an exemption from income tax, such was the importance of their activities to the New Zealand economy, and the importance of increasing the number of Veterinarian’s in New Zealand.

Current status

The veterinary landscape has changed immensely since the 1950’s with the Massey University Veterinary school producing the majority of NZ Veterinary graduates since 1968. Most of the original Veterinary clubs have evolved over this time to reflect the changing needs of the profession, with the majority of NZ Veterinary businesses now structured as limited liability companies (LLC). For

example, the Franklin Veterinary Club, established in 1946, moved to a contract practice in 1963 (meaning it no longer employed veterinarians itself), with the current Franklin Vets LLC entity forming in 1977.

However, a number of 'veterinary clubs' have continued to exist as incorporated societies and have become large commercial businesses operating within the same environment as their for-profit competitors. They have evolved so a considerable amount of their income is being generated by providing veterinary care to companion animals to non-club members with some Clubs having built or purchased existing companion animal centers in urban areas that have no affiliation to their club members. Their ability to fund such activities significantly comes from their tax-free status and the considerable commercial and strategic advantage they have over taxpaying veterinary practices who they directly compete with.

Far from providing rural veterinary services in isolated communities that could justify ongoing tax exemptions for industry good, the dominant Veterinary Club's that remain as trading practices are located in highly populated areas and compete with many tax-paying businesses. The 2 largest non-tax paying Veterinary clubs by annual revenue, are located in the central Waikato. s 18(c)(i)

. All four clinics compete directly with multiple tax-paying practices operating in the same regions, who are at a significant disadvantage from the current tax exemption afforded to clubs.

New Zealand continues to face Veterinarian shortages and challenges getting adequate veterinary care into remote areas such as the North Island East Coast, or the South Island West Coast regions, but these are not areas where clubs now operate. While club practices are building new facilities, they are mostly doing so in areas that already have significant veterinary competition and are using their new facilities as a competitive advantage to attract Vets and new clients away from tax paying practices.

In fact, Veterinary clubs are quite comfortable to withdraw services where they are the only provider in the region, often because those areas are unprofitable and difficult to resource, which goes directly against the rationale for them having a tax exemption. s 18(c)(i)

A tax paying entity (Franklin Vets) has had to step in and open a clinic in 2021 to ensure there is a veterinary service available in the town.

In 2023, Animal Health Centre Waikato Inc (trading as Anexa) also shut the only veterinary clinic serving the Waikato town of Huntly, having purchased this clinic in 2006 from a taxpaying private entity (Northern Waikato Veterinary Services Ltd), turning it into a tax-exempt entity.

s 18(c)(i)

It is difficult to correlate the tax exemption on the basis of “promoting efficient veterinary services” with these actions, and that Animal Health Centre Waikato Incorporated would now be the largest farm-based veterinary practice in the North Island, having purchased many privately owned clinics with their accumulated tax-free revenues.

Today, Veterinary Clubs do not contribute to the ‘promotion of efficient veterinary services in New Zealand’ any more or less than their for-profit counterparts.

Clubs no longer invest any more time or money than their for-profit counterparts for developing the quality of education, increasing the number of students able to be trained, or any other aspect concerning the professional development of the sector. They contribute to their communities through sponsorship and support of events such as school calf clubs and pet days, however there is no evidence that this contribution is any more (and I believe in many situations less) than that provided to communities by tax paying vet private practices, who understand the importance of local sponsorship to maintaining client goodwill.

Given Veterinary Clubs are mostly governed by boards made up of their farmer members, it is not surprising that if you read the annual reports of these Veterinary clubs, they emphasize their main goal is the support of their farmer members. Despite the requirement under the act that *“No part of the income or other funds of the club, society, or association is used or available to be used for the private pecuniary profit of any proprietor, member, or shareholder thereof”*, the few Veterinary Clubs who publish Chairman reports with their Annual Accounts, provide an insight into where that non-taxed profit is going, and where their priorities lie. E.g. s 18(c)(i)

s 18(c)(i)

Veterinary clubs who have for decades been able to build up significant cash and asset reserves as a result of decades of untaxed profits. They use these untaxed reserves to purchase other private

taxpaying veterinary clinics s 18(c)(i)

The other 2 significant trading clubs, Vetora BOP and Clutha Veterinary club have also purchased private practices in the last 10 years.

The build-up of significant assets and cash reserves over decades of tax exemptions, also allows these businesses to have an artificially lower cost of service. E.g. most Veterinary Clubs own their own buildings, vehicles and equipment debt free and don't pay themselves rent. They can use this advantage to set their pricing below market rates, which has impact on both tax-paying competitors and suppressing wages and salaries in the industry, given the fine margins required to compete against them. For example, Benchmarking undertaken by the New Zealand Veterinary association shows that Veterinary salaries are now at least 15% below that of Australia, and we are now seeing a net migration of Veterinary graduates out of New Zealand.

s 18(c)(i)

It has an effective monopoly in the region. When reading their annual reports, its clear to see why it has no direct competition.

s 18(c)(i)

Question 12

What are the likely implications if the following exemptions are removed or significantly reduced (for veterinary service body income tax exemption)?

1. Additional tax revenue for the country through the fair taxing points of profits that are made by Veterinary Clubs practices who act as commercial entities and are providing commercial services in direct competition to tax paying private practices.
2. Alignment of the Veterinary industry to a broad-base, low-rate tax policy framework
3. Less risk of the current tax exemption being seen in NZ trade negotiations as a de facto Agricultural Subsidy to NZ farmers.
4. An even playing field with much fairer competition in the market.
5. A reduction in the number of the existing tax paying Veterinary clinics becoming tax exempt, after being purchased by Veterinary Clubs who have built up huge untaxed reserves (e.g. Anexa with \$2.7 million in cash.
6. New market entrants and more competition in regions where Veterinary Clubs are using decades of Tax-free cash reserves to undercut market pricing and their local (tax-paying) competition, as seen in the Golden Bay Veterinary Club example.
7. Improved sustainability of overall Veterinary business in NZ, and a growth in Veterinary and Nurse wages which are currently suppressed as tax paying entities try and compete with tax exempt veterinary clubs.
8. A more evenly balanced and attractive market where new competition could provide a growth in capacity and the services available, especially when competing against other countries for Veterinarians. Growth of the industry would in turn provide better resilience for farmers and a stronger private veterinary workforce, which the country relies as the first line defence against exotic diseases. (given a very number of state Veterinarians)
9. It is more likely that a level playing field will help drive new competitive services and innovation, better access to services, ultimately improving outcomes and options for animal owners across NZ.

Mark Hosking BVSc, MBA_(dist), MANZCVS

Chief Executive, Franklin vets

s 9(2)(a)

**Submission: Issues paper:
Taxation and the not-for-profit sector.**

Submission to: policy.webmaster@ird.govt.nz

Submitter: Dr Michael Gousmett

s 9(2)(a)

31 March 2025

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1 level teaspoon soda	1 egg	Pinch salt

METHOD

Pour the boiling water on to the dates and soda. Soak till the mixture cools. Cream the butter and sugar. Gradually add the beaten egg, soaked dates, water and soda. Crush the Weet-Bix. Add with the sifted flour and salt. Mix evenly. Grease the lids and sides of two nut loaf tins. Put half the mixture in each tin. Cover with lids. Bake in a moderately hot oven for about 40 mins. Remove cooked loaves from tins. Serve sliced, when cold, with butter.

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TEAR THIS OUT *Make him* **LOOK FORWARD** **TO COMING HOME FOR** **DINNER—Here**

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Recipes



Men like *savoury* dishes, and Marmite is the most *savoury*, piquant flavouring agent we know. Men need *nourishing* dishes, and Marmite is all nourishment—the world's richest known source of vitamin B. Serve your husband one of these tempting Marmite dishes to-night. You will be delighted when he expansively says: "Ah! **THIS** is very nice, my dear!"

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Scraps of bread to fill a pint basin. 4 good-sized cooked onions, 2oz butter, 1 teaspoonful powdered sage, 1 tablespoonful oatmeal, 1 or 2 eggs, 1 cup milk, season to taste and add 1 level dessertspoonful Marmite. Break bread into small pieces. Cover with boiling water. Soak till soft, then squeeze out water. Add butter, chopped onions, oatmeal, sage, and seasoning. Dissolve Marmite in the milk (made hot) and add with the beaten eggs to dry ingredients. Put mixture into greased pudding basin, cover with greased paper, and steam for one hour. Turn out and serve hot with brown gravy.

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Auckland Star 23 July 1930

Introducing the Submitter

Greetings. Dr Michael Gousmett is an independent researcher and public historian who has been active in the Third Sector since 1989, having held roles in management, fundraising and consultancy. He is also academically qualified with a Doctorate in the origins of the income tax exemption. His thesis, “The Charitable Purposes Exemption from Income Tax: Pitt to Pemsel 1798-1891,” can be found at <https://ir.canterbury.ac.nz/items/3c89a649-d50b-405c-b13f-90400eb16753>. His work can also be found in LinkedIn under his name.

As an independent research the submitter has no conflicts of interest as he does not act for charities as a professional adviser charging fees for services, apart from occasional contract work. As such he does not have a charity base of fee-charging clients.

This submission will focus predominantly on Chapter 2 – Charity business income tax exemption. Comment will also be made on the issue of so-called “vet clubs” discussed as “veterinary service bodies” at 4.19 – 4.21. This will be by way of a comprehensive report that the submitter wrote in 2021 on behalf of some professional vets; the report was presented to the MP for Rotorua, the Hon. Todd McClay, who showed no interest in this issue at all, as did IRD. See Appendix 2 for the full report.

History of tax reviews in New Zealand.

A person new to this issue may not be aware that there have been numerous reviews on the issue of trading by charities and taxation, as the Issues Paper makes no reference to them. The following is a summary of those reviews.

Report of the Taxation Review Committee (Ross Committee) (1967)

Report of the Taxation Review Committee.¹

It is in keeping with our recommendations regarding the taxation of business profits of other exempt organisations [ie trading charities] that veterinary and other similar clubs and societies or associations should be subject to tax on the profits derived from trading activities.

Report of the Task Force on Tax Reform (McCaw Report) (1982)

The Report of the Tax Force on Tax Reform,² chaired by P.M. McCaw (McCaw Report), whose Terms of Reference required the Task Force amongst other requirements “[t]o undertake a

¹ The Taxation Review Committee, “Taxation in New Zealand Report of the Taxation Review Committee” (October 1967) Wellington, R.E. Owen, Government Printer at \$783.

² Task Force on Tax Reform, “Report of the Task Force on Tax Reform” (7 April 1982) 265 pp. The McCaw Report was the third official Report on Tax Reform post-WWII the first being the Report of the Taxation

thorough and systematic review of all aspects of central government.”³ However, at Chapter 12 the Task Force gave consideration to life insurance and superannuation, building societies, co-operatives, and charitable organisations.⁴ The Task Force recognised that “[b]ased on information made available [to the Task Force], the cost of business incentives in revenue forgone is in the vicinity of \$470 million per annum,” with a “strong” recommendation that those incentives “be subject to a rigorous assessment of costs and effectiveness on a regular basis.”⁵ The Task Force “further recommend[ed] a more explicit accounting of all concessions and incentives to improve government management procedures in this area.”⁶ In this regard, the Task Force also discussed the concept of tax expenditure budgeting, noting that in order “[t]o meet the fundamental objectives of government accountability and [to achieve] efficient and effective management, requires, as a first step, more explicit accounting of the cost of tax expenditures and their allocation (where possible) to the government’s economic and social programmes.”⁷ Of significance is the observation by the Task Force that “[b]ecause they escape effective government control, *tax expenditures seem to be more difficult to terminate*.”⁸ Further, the Task Force also considered that “concessions intended to act as incentives ... [that are] provided through the tax system [are] inefficient.”⁹

Regarding the income tax exemption of commercial activities undertaken by charities within the same sector as income tax liable for-profit entities, the Task Force recommended that while charitable organisations should be permitted to undertake their traditional fundraising activities, at the same time *the government should “minimise” the scope for avoidance and reduce the advantages which accrue to income-tax exempt charities which operate in competition with taxable businesses.*

¹⁰

Committee in 1951, chaired by T.N. Gibbs, which dealt only with the reform of income tax, and the second, the Ross Committee in 1967. See B.M. Niculescu, “The McCaw Report on Tax Reform” (1982) 16 *New Zealand Economic Papers* 28 – 40 at 31.

³ Task Force on Tax Reform, above n 2 (a) at (i).

⁴ Task Force on Tax Reform, above n 2 Ch 12 Special Cases at 242.

⁵ Task Force on Tax Reform, above n 2 at 7.

⁶ Task Force on Tax Reform, above n 2 at 7.

⁷ Task Force on Tax Reform, above n 2, 4.7 at 62. The term “tax expenditure” is a concept created by former United States Assistant Secretary of the Treasury for Tax Policy, Stanley Surrey, which The Budget Reform Act of 1974 defined as “[t]hose revenue losses attributable to the provisions of the Federal tax laws which allow a special exclusion, exemption, or deduction from gross income or which provide special credit, a preferential rate of tax, or a deferral of tax liability” Stanley S. Surrey, “The Tax Expenditure Concept and the Budget Reform Act of 1974” (1976) 17 *Boston College Law Review* 679 - 736 at 683.

⁸ Task Force on Tax Reform, above n 2 4.8 at 63 (emphasis added).

⁹ Task Force on Tax Reform, above n 2 4.11 at 63.

¹⁰ Task Force on Tax Reform, above n 2 12.57 at 254 (emphasis added).

It must not be overlooked that “both the Ross Committee [1967] and the McCaw Report [1982] suffered from the same major disability: “the lack of relevant data,” with the McCaw committee being “both surprised and frustrated by the lack of reasonably up-to-date statistical information which could be made available to [the committee].”¹¹

Government Economic Statement (1987)

In 1987 the Minister of Finance, Roger Douglas, released his alternative economic statement¹² in which he proposed a raft of controversial measures, including the taxation of charities.¹³ Amongst other measures, Douglas proposed the removal of personal tax rebates and deductions,¹⁴ alternative funding support for charitable activities,¹⁵ a reduction in the company tax rate,¹⁶ the taxation of superannuation funds, life offices and related organisations,¹⁷ measures to eliminate tax avoidance and to broaden the tax base by introducing a tougher international tax regime, taxing exempt organisations at normal rates and a new petroleum mining tax regime.¹⁸ Douglas specifically targeted charities and sporting bodies, mutual associations, primary producer co-operative companies, primary producer and marketing boards, and milk treatment companies.¹⁹ Douglas intended to withdraw tax exemptions that “were intended to assist the farming sector,” such as “special tax concessions for primary producer co-operatives,” which he considered provided “opportunities for tax avoidance [as well as] distorting investment patterns.”²⁰

Report of the Committee of Experts on Tax Compliance (1998)

The issue of the exemption from income tax provided to certain organisations was also raised in the Report of the Committee of Experts on Tax Compliance in 1998.²¹ The report noted that (emphasis added):²²

[b]usiness income derived by charities is exempt from tax under section CB 4(1)(e). However, some charities may engage in business activities unrelated to the charitable

¹¹ Niculescu, above n 2 at 39.

¹² Roger Douglas, “Government Economic Statement” (17 December 1987) Government Printer 68pp.

¹³ See MJ Gousmett, “1987: Roger Douglas’ failed attempt to tax charities” (December 2013) 19:4 *New Zealand Journal of Taxation Law and Policy* 279-287.

¹⁴ Douglas, above n 12 at 7.

¹⁵ Douglas, above n 12 at 7.

¹⁶ Douglas, above n 12 at 8.

¹⁷ Douglas, above n 12 at 8.

¹⁸ Douglas, above n 12 at 8.

¹⁹ Douglas, above n 12 Annex 5 at 33-37.

²⁰ Douglas, above n 12 at 33.

²¹ Rt Hon Sir Ian McKay, Tony Molloy, John Prebble, and John Waugh, “Tax Compliance A Report to the Treasurer and Minister of Revenue by a Committee of Experts on Tax Compliance” (December 1998).

²² McKay, above n 21 at §4.16.

purpose for which they are provided a tax exemption. ***This exemption gives charities a competitive advantage over taxpaying business competitors.***

The report recommended that (emphasis added):²³

the government should review the tax treatment of charities and other tax-exempt entities that engage in commercial activities unrelated to their purposes. ***No reason exists in principle why business income, unrelated to the core purpose, should not be taxed.***

The committee made reference to the unrelated business income tax (UBIT) regime applied in the United States and suggested that “[t]he government may wish to refer to the relevant United States legislation in designing rules for New Zealand.”²⁴

Tax Review 2001 (McLeod Report)

The report in October 2001²⁵

In its submission, the New Zealand Business Roundtable of the report noted that:²⁶

[i]n particular, the pattern of domestic investment is distorted by significant differences in the effective marginal tax rates applying to income from alternative investments. Those differences in effective marginal tax rates arise from:

- differences in the tax treatment of different forms of income
- ...
- Differences in the income tax treatment of different entities (e.g. Maori Authorities, qualifying companies, mutual associations and cooperatives, and charities) ...

Further, the authors noted that:²⁷

[s]ome of these differences are due to practical problems associated with the assessment and collection of tax on certain types of activities ... *other differences are due to explicit decisions made by past governments to use the tax system as a means of encouraging certain ‘desirable’ activities and discouraging certain ‘undesirable’ activities.* Unfortunately, it is not clear to what extent the concessional tax treatment of certain activities is due to the practical difficulties associated with taxing those activities as opposed to a deliberate decision by the government to assist or deter certain activities. ... We believe the Review has an important role to play in affirming the view that the tax system should, as far as feasible, tax all activities and classes of entities on a neutral basis. ***It should also identify those activities that are currently subject to concessional tax treatment and determine the extent to which those***

²³ McKay, above n 21 at §4.17.

²⁴ McKay, above n 21 at §4.19.

²⁵ Rob McLeod (Chair), David Patterson, Shirley Jones, Srikanta Chatterjee, and Edward Sieper, “Tax Review 2001” (available at www.treasury.govt.nz).

²⁶ New Zealand Business Roundtable, “Submission on the Tax Review 2001” (March 2001) at 49 at <http://nzinitiative.org.nz>.

²⁷ New Zealand Business Roundtable, above n 26 at 49.

concessions arise from either explicit government policies aimed at subsidising particular activities or entities, or practical income measurement problems.

Tax and Charities (2001)

The 2001 report “Tax and Charities” focussed specifically on the non-profit sector, making some interesting comments made concerning the income tax exemption, trading by charities, and tax policy.²⁸ While the issue of competitive advantage was raised, the final price of products was competitive with for-profits, therefore pricing was not the issue.²⁹ The issue, it was suggested, was the competitive advantage a charity could gain *through the ability to accumulate tax-free profits thus enabling “a faster accumulation of funds [which would allow it] to expand more rapidly than its competitors.”*³⁰ This was *“the real competitive advantage that trading activities owned by charities have over their competitors.”*³¹ On that basis the Discussion Paper proposed that *“[t]rading operations owned by charities would be subject to tax in the same way as other businesses,* but with an unlimited deduction for distributions made to relevant charitable purposes.”³² Ultimately it was not until 2007 when the new concessions for charitable giving by donors, companies and Maori Authorities were adopted by the removal of the caps on donations and deductions.³³ However, the issue of taxing the trading activities of charities was not pursued further by the government.

Tax Working Group (2018)

During 2018 the Tax Working Group (“TWG”), chaired by Sir Michael Cullen, widely consulted with the public before releasing an Interim Report in September 2018, followed by a final report on 21 February 2019. I made two submissions to the TWG, on 30 April 2018, and also on 30 October 2018 in response to the Interim Report. In essence I argued that allowing charities to run commercial businesses that are not related to their charitable purposes was a failure of tax policy that needed to be rectified. However, as far as the TWG were concerned, the Group decided to await the outcome of review of the Charities Act that was underway at about the same time. Subsequently, nothing happened as the review of the Charities Act considered the issue of the taxation to be “out of scope.”

²⁸ Policy Advice Division, Inland Revenue Department. “Tax and Charities – A government discussion document on taxation issues relating to charities and non-profit bodies” (June 2001) at www.ird.govt.nz.

²⁹ Tax and Charities, above n 28 at §9.2 – §9.5.

³⁰ Tax and Charities, above n 28 at §9.6.

³¹ Tax and Charities, above n 28 at §9.6.

³² Tax and Charities, above n 28 at §9.7.

³³ See Taxation (Business Taxation and Remedial Matters) Act 2007 (19 December 2007) No 109.

Modernising the Charities Act 2005 (2019)

In May 2018 the Government launched a comprehensive review of the Charities Act 2005 “to ensure that the Act is effective and fit-for-purpose.”³⁴ This was followed by the release, in February 2019, of a discussion document for public consultation, “Modernising the Charities Act 2005.”³⁵ Previously, it had been government’s intention to review the Act ten years after its implementation, in 2015, but that did not happen until 2019. The Terms of Reference, which outline what feedback was required about, noted that charities and business activities were “out of scope.”³⁶ However, as the TWG had stated that it wanted to hear what the outcome of the review of the Charities Act 2005 might be, I made a submission. In particular the Final Report of the TWG had stated that the issue of the income tax exemption required “further work by the Government.”³⁷

As far as the outcomes of the Tax Working Group and the review of the Charities Act are concerned regarding charities and businesses, nothing has changed, and the Charities Act 2005 remains as it was before, but subject to the proposed amendments to be put to the House.

Other commentaries on income tax exemption: National Interim Provider Board

In 1992, in a report to the Government, the National Interim provider Board submitted a report, “Providing Better Health Care for New Zealanders”³⁸ in which the issue of income tax exemption was discussed. This was in the context of a competitive environment:³⁹

[o]ne of the issues critical to competitive neutrality for all [health care] providers is taxation. Clearly, where some providers have tax-exempt status and other do not, a major element of competitive neutrality is missing from the system.

The NIPB was asked by the Government “to investigate this problem and report on it in a separate paper,”⁴⁰ (see below).

³⁴ Charities Services, “Annual Review 2018/2019” at 13.

³⁵ Department of Internal Affairs *Modernising the Charities Act 2005* Discussion Document (21 February 2019).

³⁶ Department of Internal Affairs, above n 35 at 7.

³⁷ Tax Working Group, *Future of Tax Final Report* Volume 1 Recommendations (21 February 2019) at 103.

³⁸ National Interim Provider Board, “Providing Better Health Care for New Zealanders” (May 1992) at www.moh.govt.nz.

³⁹ NIPB, above n 38 7.7 at 57.

⁴⁰ NIPB, above n 38 7.7 at 57.

The environment referred to was one where Crown Health Enterprises, which were created in 1993, were to have “clear commercial objectives with the *Commerce Act 1986* as the cornerstone,” and that “tax neutrality would exist with no disadvantage to the private sector.”⁴¹

In May 1992 CS First Boston submitted its Final Report, “Structural, organisational and legislative issues relating to the reform of public health care providers” to the NIPB and the Department of the Prime Minister and Cabinet (DPMC).⁴² It is worth citing in full the extensive comments made by CS First Boston about the tax exempt status of non-profits:⁴³

[o]ur preferred “default” option for the [Crown Health Enterprises] involves their establishment as commercial organisations. As such, they would be required to pay tax on the profits that they earn. This will place them at a disadvantage *vis-à-vis* private not-for-profit health care organisations [such as St George’s Hospital] that are [income-tax] exempt. In our view, there are no sound tax policy reasons for retaining the tax exempt status of health care services provided by not-for-profit organisations and government should remove this non-neutrality. The tax exemption distorts choices about appropriate organisational form thereby introducing inefficiency. It allows organisations to gain advantages that are not available to other businesses which differ because of their ownership structure. ***The exemption provides a loophole that can be exploited to extend tax exemption into areas not previously envisaged by government. If government wishes to encourage certain activities, e.g. some forms of charity, this can generally be achieved more efficiently through a direct subsidy.***

⁴¹ Rod Perkins et al, “Corporate governance of public health services: Lessons from New Zealand for the State sector” *Australian Health Review* 23: 1 (2000) at 11.

⁴² CS First Boston, “Structural, organisational and legislative issues relating to the reform of public health care providers: (May 1992) Parliamentary Library, Wellington.

⁴³ CS First Boston, above n 42, 5.2.2.5 at 130.

Unpublished Doctoral Thesis: Anonymity of the Author

In the course of his doctoral research the submitter became aware of an unpublished Doctoral thesis undertaken by a New Zealander at a prominent international university. As the author has not responded to the submitter's request to publicly identify the author, the submitter must respect the privacy of the author. The theme of that thesis is the taxation of charities, with a comprehensive chapter on trading. The thesis, which is dated 1976, was preceded by an LLM thesis at a New Zealand university in 1972.

The author's recommendations in the 1976 thesis are entirely relevant to the trading of charities as discussed in the Issues Paper, and are reproduced here in full.

105. Recommendations

Although there is no significant incidence of abuse known to exist among business charities in New Zealand it is felt that for reasons discussed exemption for business income should not be granted. It is therefore recommended that:

- (1) That section 86(1)(o) of the Land and Income Tax Act 1954 be repealed.
- (2) That charities should be denied exemption from income tax for income derived from the carrying on of a business but not from profit-making activities carried out in the carrying on of a primary charitable purpose or where the work in connection with the business is mainly carried on by the beneficiaries of the charity.
- (3) That the exclusion provision should stipulate that where any charitable institution holds an interest of 20 per cent or more in the capital of any commercial enterprise (incorporated or unincorporated) it shall be deemed to be carrying on business for the purposes of any income derived from that enterprise.
- (4) That legislation withdrawing the business exemption should be published at least one year in advance of its taking effect in order to allow existing business charities to make appropriate reconstructions of their corporate or other business structures.

The following is an extract from the Land and Income Tax Act 1954 referred to above; for interest subsections 86(p), 86(q) and 86(x) are also included.

1954, No. 67 AN ACT to consolidate and amend the law relating to land tax and income tax. [30 September 1954]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. (1) This Act may be cited as the Land and Income Tax Act 1954.
- (2) This Act shall come into force on the first day of April, nineteen hundred and fifty-five.

...

Part VI-Income Tax. (Sections 76 to 172.)

Exempt Income

86. (1) The following incomes shall be exempt from Incomes wholly taxation:

...

(0) Income derived directly or indirectly from any business carried on by or on behalf of or for the benefit of trustees in trust for charitable purposes within New Zealand, or derived directly or indirectly from any business carried on by or on behalf of or for the benefit of any society or institution established exclusively for such purposes and not carried on for the private pecuniary profit of any individual:

Provided that if the aforesaid purposes are not limited to New Zealand the Commissioner may apportion the income in such manner as he deems just and reasonable between such purposes within New Zealand and the like purposes out of New Zealand, and may allow to the trustees, society, or institution a partial exemption accordingly:

(p) Income derived by any society or association, whether incorporated or not, which is, in the opinion of the Commissioner, established substantially or primarily for the purpose of promoting any amateur game or sport (other than horse racing or trotting) if that game or sport is conducted for the recreation or entertainment of the general public, and if no part of the income or other funds of the society or association is used or available to be used for the private pecuniary profit of any proprietor, member, or shareholder thereof:

(q) Income derived by any society or association, whether incorporated or not, which is, in the opinion of the Commissioner, established substantially or primarily for the purpose of advertising, beautifying, or developing any city, borough, or other district so as to attract trade, tourists, visitors, or population, or to create, increase, expand, or develop amenities for the general public, if no part of the income or other funds of the society or association is used or is or may become available to be used for any other purpose, not being a charitable purpose:

...

(x) Income expressly exempted from income tax by any other Act, to the extent of the exemption so provided.

Submission to IR March 2024

The submitter has appended his comprehensive Submission of March 2024 to Inland Revenue as this canvases many of the issues raised in the Issues Paper. Further comment will be made on those issues as requested.

Responses to Issue Paper

Before responding to the Issues Paper, the submitter wishes to note the following.

Coincidentally, in *The Press* and the *Sunday Star Times* recently, two lawyers have unhelpfully contributed to this debate by obfuscating the fact that this issue is one of fiscal policy, not charity law. One author stated that “[w]hen *Oliver Twist* said, ‘[p]lease sir, I want some more,’ it accurately characterised the mindset that many still carry today when thinking about charities. It’s a mindset of reliance on donations from others, with hands outstretched in hope of some crumbs falling from plate[s] of the wealthy. ... [T]hat *Oliver Twist* mindset underpins the current consultation from Inland Revenue about whether charities should pay tax on unrelated business income.”⁴⁴ How patronizing by that author; how condescending. As a fundraiser of many years’ experience, the submitter takes exception to such language, from a person who should know better. Another “charity lawyer” entered the fray by saying that New Zealand’s charity legislation is “neither fit for purpose nor well understood. What’s really at play is that we don’t have agreement on what the Charities Act is for: what’s it trying to do, and why. ... [W]hat is a charitable purpose in 2025? ... We see these feverish calls for charities’ business income to be taxed but they [sic] don’t understand that charities are, by definition, not-for-profit entities subject to non-distribution constraints.... All funds must be destined for charitable purposes.”⁴⁵ “Feverish calls” for what is right and proper? Really? Who doesn’t understand the nature of charities especially given the centuries-long history of charities, legislation and case law across the Commonwealth, as well as the work of the Charities Commission, now Charities Services?

In recent times there has been an opportunity to “modernize” charity law with the Government of the day retaining the status quo. There is a well-developed body of charity case law across Commonwealth countries emanating from the famous *Pemsel* case of 1891. The courts continue to evolve charity law as they see fit without the need for legislative

⁴⁴ Author and details of publication withheld.

⁴⁵ Author and details of publication withheld.

intervention. The submitter considers that the Charities Act 2005 is indeed “fit for purpose;” it is certain lawyers that continue to confuse the nexus between charitable purpose and fiscal policy.

The submitter considers that as far as fiscal policy is concerned, the starting point is Adam Smith’s four maxims dating from 1776. There is no need to reinvent the wheel. Smith’s maxims, in part, were:⁴⁶

1. The subjects of every state ought to contribute towards the support of the government, as nearly as possible in proportion to their respective abilities; that is, in proportion to the revenue which they respectively enjoy under the protection of the state.
2. The tax which each individual is bound to pay, ought to be certain and not arbitrary. The time of payment, the manner of payment, the quantity to be paid, ought to be clear and plain to the contributor, and to every other person.
3. Every tax ought to be levied at the time, or in the manner, in which it is most likely to be convenient for the contributor to pay it.
4. Every tax ought to be so contrived, as both to take out and to keep out of the pockets of the people as little as possible, over and above what it brings into the public treasury of the state.

These maxims apply to any entity that is liable to tax, in this case income tax, regardless of its legal status.

Tax Principles Reporting Act: Annual Report (December 2023)

While the Tax Principles Reporting Act has since been repealed, Inland Revenue released its one and only report under that Act, in December 2023, although the publication that is available to be public was in draft format.⁴⁷ The submitter was surprised to see that the report discussed tax principles as detailed in Schedule 1 noting that these “can be traced back to at least Adam Smith’s *The Wealth of Nations*, while others are more recent innovations” [such as “vet clubs”].⁴⁸ It is even more intriguing to see that the Law Society stated in its submission before the Finance and Expenditure Select Committee on 15 June 2023 that there was “a lack of consensus around what are intended to be ‘widely accepted’ tax principles.” It would

⁴⁶ Adam Smith, “An Inquiry into the Nature and Causes of the Wealth of Nations,” Volume II, Book V “Of the revenue of the Sovereign or Common Wealth,” Chapter II “Of the sources of the general or public revenue of the society,” Part II “Of taxes” 472 - 473 (first published in 1776).

⁴⁷ Inland Revenue, “Tax Principles Reporting Act: Annual Report” (December 2023) at www.taxpolicy.ird.govt.nz.

⁴⁸ Inland Revenue, above n 47 at p. 4.

appear that the Society has not heard of, let alone read, Adam Smith’s maxims.⁴⁹ However, to be fair, the Society considered that the “descriptors” accompanying the tax principles were political in nature as regards the Government’s tax policies at that time.⁵⁰ Perhaps objective debate would have modified those to be neutral and in line with Smith’s maxims.

Issues Paper: Chapter 2 – Charity business income tax exemption

It is encouraging to see that the key focus of the Issues Paper concerning income tax is the unrelated business activities of charities.⁵¹ This allows large-scale charities such as s 18(c)(i) to restructure in order to protect its s 18(c)(i) assets “for future generations.”⁵² s 18(c)(i)

s 18(c)(i)

Loan documents released by MBIE under an OIA request “indicate that the iwi had spent at least \$1m on a ‘high level feasibility study’ in 2022 that got as far as identifying several sites for further assessment.”⁵⁵ In the end, the project was dropped, but because of their accumulation of wealth they clearly felt that they could become involved in such an undertaking. This was only possible because of years of being exempt from income tax on their many successful unrelated commercial undertakings.

The Issues Paper correctly observes that “[t]ax concessions for unrelated charity businesses reduce government revenue, and therefore shift the tax burden to other taxpayers.”⁵⁶ It can also be argued that these concessions “relieve the government of burden,” in that the government does not have to fund those activities.

⁴⁹ New Zealand Law Society, “Law Society seeks improvements to Taxation Principles Reporting Bill” (22 June 2023) www.lawsociety.org.nz.

⁵⁰ New Zealand Law Society, “Taxation Principles Reporting Bill” Submission on the Taxation Principles Reporting Bill, (* June 2023) www.lawsociety.org.nz.

⁵¹ Issues Paper, Clause 2.3 page 6.

⁵² Press, “[TRONT] proposes restructure” 28 February 2025 p. 7.

⁵³ Tom Pullar-Strecker, “Iwi bid to challenge supermarket duopoly suffers setback” (Sunday Star Times) 23 February 2025 www.thepost.co.nz.

⁵⁴ Pullar-Strecker, above n 53.

⁵⁵ Pullar-Strecker, above n 53.

⁵⁶ Issues Paper, Clause 2.15 page 8.

Questions for Submitters

Q1. What are the most compelling reasons to tax charity [unrelated] business income?

The submitter suggests that the primary reason is tax equity. In its last financial report, s 18(c)(i) declared income from its many commercial holdings of s 18(c)(i), while other landlords would be taxed on such income. New Zealand Health Foods Limited produces high-quality health products, such as “Weetbix,” but pays no income tax on those unrelated products, while Hubbard’s is as far as the submitter is aware is a for-profit private company which pays income tax. Mission Estate Wines, New Zealand’s oldest winery, produce and export its products – where is the nexus between advancing religion and producing wine? Trinity Lands is another example with its kiwifruit operations, being “the single largest shareholder in Zespri. .. Trinity’s policy was to reinvest half of its profits and distribute the remainder. The Board believes this is prudent commercial practice and reflects the agribusiness environment we operate in.”⁵⁷ Trinity also acknowledged that “it is a privilege to operate tax free.” Trust lawyer Vicki Amundsen said “Trinity’s operations were entirely within the law but they appeared inequitable. ... It does create an anti-competitive advantage. If one of you is paying tax and the other isn’t, it’s hard to dress that up as OK,” she said.

s 18(c)(i)

The factors as described at 2.13 and 2.14 more than adequately warrant the taxation of the examples given above, without the need for more detail.

Q3. Defining unrelated business

There is no reason why New Zealand should not turn to the UK for the model of an unrelated business; South Africa also follows the UK model. As discussed elsewhere in this document, Winston Churchill solved this problem in 1927 (see discussion on *Brighton College*). Once again, we do not need to reinvent the wheel, as happens so often in Godzone.

s 18(c)(i)

⁵⁷ Matt Nippert, “Brethren charities worth \$300m under investigation,” (8 July 2017) www.nzherald.co.nz.

s 18(c)(i)

s 18(c)(i)

While any capital gains will be tax-free, why should the sale of timber extracted from those forests not have been taxed as unrelated trading activities payable the share-holding charities?

Q5. Distribution of charity business income for charitable purposes

The Income Tax Act 2007 contains the answer to this issue.

From 1 April 2008, companies were able to claim a deduction for donations to approved donee organisations up to the amount of their taxable income. Previously the limit was 5% of a company's taxable income. This provision is found in the Income Tax Act 2007 s. DB 41.

This was as a consequence of the Dunne/Cullen coalition agreement in Budget 2007 to encourage philanthropy in New Zealand.⁵⁹ However, Inland Revenue does not encourage

⁵⁸ Timberbiz, "Private school sells forest investments in NZ" (7 May 2015) www.timberbiz.com.au

⁵⁹ Michael Cullen and Peter Dunne, *Tax incentives for giving to charities and other non-profit organizations: a government discussion document* (Policy Advice Division of Inland Revenue Department), (October 2006).

companies to take advantage of this provision, probably because it would reduce their income tax revenue.

So how would this work in practice? It would be no different from a for-profit company in deciding to what extent it could afford to pay a dividend to its shareholders. In other words it becomes a commercial decision. As far as a trading charity is concerned, the amount that they decide should be paid to its charitable arm becomes a deductible item in its trading accounts, with income tax paid on retained funds after the deduction. Such charities would be required to prepare two sets of financial statements, one being the trading accounts, the other the charitable accounts. The charity would be required to file an income tax return to declare the taxable funds retained, and the amount/s distributed to its charitable arm. As far as Ngai Tahu is concerned, for example, they could consolidate their more than 40 unrelated trading entities, with each of those entities determining how much to distribute to the Ngai Tahu Charitable Trust and how much to retain for the furtherance of their commercial activities. That is, to answer Question 5, the funds distributed for charitable purposes would be exempt from income tax.

Q 6. Policy settings

With reference to 2.39, the submitter agrees that new rules may be required to close any loopholes with respect to limited partnerships and unrelated business income. If this is not done tax lawyers will be working overtime to create new LP's in an attempt to bypass the income tax on unrelated business income.

APPENDIX 1: Submission to Inland Revenue March 2024

Submission: xposure raft Interpretation Statement:

Charities – Business Income xemption.

Submission to: Angela Low

Tax Counsel

Tax Counsel Office

Inland Revenue

s 9(2)(a)

public.consultation@ird.govt.nz

Submitter: Dr Michael Gousmett

s 9(2)(a)

15 March 2024

Introductor Comments

The Interpretation Statement (“IS”) is a well-crafted document which explains the issues relating to charities and business income exemption under the Income Tax 2007 in detail, but in an understandable way. There is only one point that I wish to comment on, which I will attempt to do so below.

“Carrying on a business”

The issue of carrying on a business is discussed at clauses 21 to 27. Beginning with a discussion of the leading case “on what constitutes a business,” the IS sets out the characteristics which arose from *Grieve v CIR* (1984) 6 NZTC 61,682 (CA). These characteristics are well known to Stage 1 students of taxation and for a person coming to this issue for the first time they would find the explanation to be of considerable value. The aspect that I wish to comment on is the statement at clause 27 that “[c]ase law shows that it is possible to be in business even though the trading activity is related to the charity’s charitable purpose,” with the case being cited an English case from 1925, *Brighton College v Marriott* [1925] All ER 600. The key word here

is “related.” This case had an interesting history, being heard in the High Court in 1924, the Court of Appeal in 1924, and finally the House of Lords in 1925 with wins and losses along the way. The history of the cases was as follows:⁶⁰

- High Court The College wins (1924) 40 TLR 763
- Court of Appeal Inland Revenue wins [1925] 1 KB 312
- House of Lords The College loses [1926] AC 192

This led to section 24 of the Finance Act 1927, when exemption was granted. This 1927 legislative victory completed the legal process begun in 1807 (*Attorney-General v Earl of Clarendon* (1810) 17 Ves. Jun. 491; speeded up in 1827 (*Attorney-General v Lord Lonsdale* (1827) 1 Sim. 105; and sealed in 1882 (*Goodman v Mayor of Saltash* (1882) 7 AC 633.)

It is noteworthy that:⁶¹

[w]hen *Brighton College v Marriott* [10 TC 213] reached the House of Lords ... it was ruled that the schools were indeed carrying on a trade from which the profits were taxable under Schedule D. Intensive political lobbying followed until, in the Finance Act 1927, Winston Churchill rather reluctantly granted exemption from income tax to all charities *if their profits were derived from the main purpose of the charity*.

In fact:⁶²

Brighton College’s twelve-year fight started by publicizing an anomaly in income tax law and ended by securing total exemption not only for schools but all other non-profit-making charities. Along the way, exemption from corporation profits tax had also been obtained.

However, while that may have been so, it was a change in taxation legislation by the Chancellor of the Exchequer, the Rt. Hon Winston Churchill, which cemented the income tax exemption in law. The consequence of the judgment was that the Chancellor amended the Finance Act 1927 as follows:⁶³

⁶⁰ Geoffrey Walford (ed), “British Private Schools Research on Policy and Practice” Woburn Press, London (2003) at 150.

⁶¹ Mark H. Robson and Geoffrey Walford, “UK Tax Policy and Independent Schools” *British Tax Review* (1988) at 39 [Issue 2]. (Emphasis added).

⁶² Martin D.W. Jones, “*Brighton College v Marriott*: Schools, charity law and taxation” (History of Education) 12:2 (1983) No. 2 at 131.

⁶³ Finance Act 1927 Ch 10. [17 & 18 Geo. 5] 29 July 1927.

24 Amendment as to the exemption from income tax in respect of the profits of trades carried on by charities

The following shall be substituted for paragraph (c) of subsection 1 of section 30 of the Finance Act 1921:-

“(c) from income tax under Schedule D in respect of the profits of a trade carried on by any charity, if the profits are applied solely to the purposes of the charity and either-

- (i) The trade is exercised in the course of the actual carrying out of the primary purpose of the charity; or
- (ii) The work in connection with the trade is mainly carried on by beneficiaries of the charity.”

The clause in the Finance Act 1921 that was amended was as follows:⁶⁴

30 Exemption from income tax in respect of lands owned and occupied by charities and of profits of trades carried on by beneficiaries of charities

(1) Exemption shall be granted

(c) from income tax under Schedule D in respect of the profits of a trade carried on by any charity, if the work in connection with the trade is mainly carried on by beneficiaries of the charity and the profits are applied solely to the purposes of the charity

The wording from 1927 is mostly reflected in the Income Tax Act 2007 [UK]:⁶⁵

524 Exemption for profits of charitable trade

...

(2) (a) the profits of a trade carried on by a charitable trust,

...

“Charitable trade” is defined at section 525:

⁶⁴ Finance Act 1921 [UK] Ch 32 [4 August 1921].

⁶⁵ Income Tax Act 2007 [UK] Ch 3 [as at 11 March 2024].

525 Meaning of “charitable trade”

- (1) ... a trade carried on by a charitable trust is a charitable trade in relation to a tax year if throughout the basis period for the tax year –
- (a) the trade is exercised in the course of carrying out a primary purpose of the charitable trust, or
 - (b) the work in connection with the trade is mainly carried out by beneficiaries of the charitable trust.

For our purposes, the key element throughout these sections is the “carrying out of a primary purpose.” As explained by O’Halloran:⁶⁶

The profits from [primary purpose trading] are exempt from tax when carried on directly by the charity as a means of giving effect to one or more of its objectives and thereby fulfilling the charitable purposes as stated in its governing instrument. Examples of such trades would include: an art gallery or museum holding an exhibition and charging an admission fee; a school providing an educational service on a fee-paying basis; a theater selling tickets for a production that it is staging; or a hospital providing health care services on a fee-paying basis.

It is clear to see from these examples that the primary purpose trading is directly related to the charitable purpose of the entity, and therefore exempt from income tax. On the other hand, there is also “non-primary purpose trading.”⁶⁷

[which] is intended to raise funds for the charity, as distinct from trading that furthers the charity’s objectives, and is the UK equivalent of “unrelated business activity” in the United States ... those profits will be liable to tax regardless of the ultimate destination of the income, and such trading may also, depending on the scale of this activity, threaten the charitable status of the organization.

⁶⁶ Kerry O’Halloran, “The Profits of Charity: International perspectives on the law governing the involvement of charities in commerce” Oxford University Press (2012) at 67. See also Pesh Framjee et al, “The Tax Implications of Charity Trading,” Charity Finance Directors’ Group, (March 2010) at 2.3 The direct exemptions for charity trading activities at p. 20.

⁶⁷ O’Halloran, above n 66 at 67-68.

“Non-primary trading” in New Zealand: A Case Study

How then would the principles of taxation with respect to non-primary trading from the UK be applied in New Zealand? To answer that question we will use a prominent charity and one of its many non-primary trading businesses as an example.

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⁷⁰ See <http://kingsfish.co.nz>.

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since 1967 and the first of many tax reviews through to the more recent Tax Working Group, consecutive governments continue to ignore.

Unrelated Business Income Tax (UBIT)

Reference was made above to the Unrelated Business Income Tax (UBIT) regime in the USA. O'Halloran cites the following in explanation:⁷²

Unrelated business income is produced from an activity that is conducted on a regular basis and is not directly related to an organization's tax-exempt mission. Income earned by an organization is treated as unrelated business income if it meets two basic requirements. First, the income is derived from a trade or business that is regularly carried on by the organization. Second, the income is earned from a trade or business that is not substantially related to the performance of the organization's exempt purpose or function. Even if profits from such activities are used by tax-exempt organizations to finance their exempt purposes, income that meets these two requirements generally is treated as unrelated business income [therefore liable to income tax under 26 U.S.C §§ 511-514 of the Internal Revenue Code with respect to § 501(c)(3) tax-exempt organizations].

DB 41 Charitable or other public benefit gifts by companies

The IS does not discuss section DB 41 of the Income Tax Act 2007. Yet this section contains a provision which if encouraged by Inland Revenue would go some way to levelling the playing field in terms of tax equity and fairness. The relevant parts of section DB 41 are:

- (2) A company is allowed a deduction for a charitable or other public benefit gift that it makes to a donee organization;
- ...
- (3) The deduction for the total of all gift made in an income year is limited to the amount that would be the company's net income in the corresponding tax year in the absence of this section.

Logically, then, a company cannot benefit to the extent of taxation concessions greater than the income tax benefits available to it, as with private donors not receiving tax credits in excess of any income tax paid in that tax year.

⁷² O'Halloran, above n 66 at 280 citing Ludlum, M., "Unrelated Business Income Tax Returns, 2005" *Statistics of Income Bulletin*, Department of the Treasury, Internal Revenue Service, Winter 2009, at p. 1.

s 18(c)(i)

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s 18(c)(i)

The implications, were IR to encourage the use of s DB 41, are obvious.

Amendment to C 42 Charities: Business income

Another approach that might be considered regarding the equity and fairness of taxation is an amendment to section CW 42 to provide that primary purpose trading is exempt from income tax, along the lines of that in the UK. Section CW 41 (1) might be simply amended to read “Income derived directly from a primary purpose business ... is exempt income if” This need not be a complicated exercise; the issue is the distinction between primary (or related) business activity and non-primary (or unrelated) business activity.

s 18(c)(i)

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APPENDIX 2: Redacted Report on “vet clubs”

**“VET CLUBS”
VETERINARY SERVICES BODIES
AND THEIR FISCAL PRIVILEGES**

**A O T
TO T I CTO S
ACT**

Dr Michael Gousmett FCIS PhD

15 November 2015

Veterinary clubs, societies or associations, and similar organisations which carry on trading activities should be subject to income tax in respect of the profits derived from such activities.

oss Committee October 1967

The main advantage [of the exemption from income tax] lies with the ability of these bodies to effectively re-invest their total profits in the provision of necessary infrastructure ... The concession is effectively one of allowing these activities to grow at a faster speed ... Over time, these exemptions are likely to be withdrawn.

O C or ing art on Agricultural olicies and ar ets 2005

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Executive Summary

Since 1951 veterinary services bodies, that is veterinary clubs and the Veterinary Services Council, have benefited from a concession which exempts them from income tax. This concession followed the creation of such bodies in 1946 following the introduction of the Veterinary Services Act in post-WWII New Zealand. The rationale for the concession was that the functions of veterinary clubs, as well as herd improvement associations which were also granted an exemption from income tax, were “of national importance and they should be exempt from tax accordingly.” Times have moved on and while the rationale was applicable at that time, New Zealand’s economic situation is now quite different from that of sixty years ago. However, there are certain entities that describe themselves as “vet clubs” which are anything but, and use the income tax exemption to gain a distinct competitive advantage over their for-profit competitors. This competitive advantage through the ability to accumulate funds at faster rate than that of their for-profit entities is due not only to the exemption from income tax, but also to the exemption from resident withholding tax which was introduced in 1989. In 2001 a submission to the Tax Review described the income tax concession as an anachronism. Further, even the OECD had concerns in 2005 about such a concession, as well as tax experts in New Zealand since 1967.

This research paper explores the history of the income tax concession for veterinary services bodies, as well as that of RWT, and provides a number of case studies to demonstrate how these concessions are being used in a manner that was unlikely to have been contemplated by Parliament on their introduction. Finally, the paper concludes that the Income Tax Act 2007 requires amendment to ensure that such concessions are applicable only to bona-fide non-profit veterinary services bodies as intended by Parliament in 1955.

Part A The Income Tax Concession

Part A of this research paper explores the history of the veterinary services bodies and their income tax concession, and discusses the findings of various tax experts on the issue, including the classification of the concession as a tax expenditure.

Introduction

Following discussions in 2014 and further communications in 2015 to the Hon Todd McClay, the Minister of Revenue, the author was approached with a request for a report on the income tax exemption granted to veterinary services in 1955 which, in the 21st century, is now considered by some commercial veterinary practices (“the group”) as a matter of tax policy to be wholly unnecessary and unfair. In 2014 the Minister wrote to [REDACTED], the representative of the group, noting that:⁷⁴

- New Zealand has a broad base low rate system;
- Officials had reviewed the latest financial statements filed with the Companies Office by 12 qualifying veterinary clubs;
- The annual net profit of those clubs was about \$2.3 million;
- Income tax forgone on that amount was about \$600,000;
- The clubs are required to have commercial arrangements between themselves and their members which should limit any excesses;
- As non-profit bodies the clubs are prohibited from distributing profits or gains back to their members;
- Officials have been asked to further consider this issue when the tax policy work programme is next renewed later in the current year.

On 16 February 2015 [REDACTED] wrote to the Minister observing:⁷⁵

- The benefits that the forgone income tax would provide to the revenue base, noting the broad base low rate system used in New Zealand;

⁷⁴ Letter from the Minister of Revenue, Hon Todd McClay, to [REDACTED], 22 April 2014.

⁷⁵ Letter to Hon Todd McClay from [REDACTED], 16 February 2015.

- That substantial assets may be being created without proper consultation with the members of veterinary clubs and that the excesses may not be limited;
- That there is evidence of abuse of the tax system through the payment of bonuses to veterinarians to reduce profits and rebates being allocated in the following financial year;

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The Origin of Veterinary Clubs

In 1985, as a project for the Kellogg's Rural Leadership Course, Alan Grant of Lincoln University wrote an excellent study on the history of the veterinary club movement in New Zealand.⁷⁸ Grant considered that at that time the history of the development of veterinary services in New Zealand could be divided into three phases:⁷⁹

1. Pre 1946 – as farming developed in New Zealand post WWII the need for an adequate veterinary service was identified;
2. 1946 to 1970 – the Veterinary Services Council (VSC) was created by the Veterinary Services Act 1946 with the role of the VSC to be the establishment and maintenance of a veterinary service for farmers and the eventual graduation of students from the new veterinary faculty at Massey University;
3. Dissatisfaction with the level of funding required by the VSC from producer boards.

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⁷⁸ Alan Grant, "The Veterinary Club Movement in New Zealand" [A] Project for the 1985 Kellogg's Rural Leadership Course 41 pp. See also: H.G. Pearce, "Development of the club practice in New Zealand and some thoughts on its future" *Canadian Veterinary Journal* 5:6 (June 1964) 128-134; Edgar Burns, "Difficult times ... between veterinarians and farmers; Occupational control in the New Zealand veterinary club system, 1930s-1960s" *Journal of Historical Sociology* 20:4 (December 2007) 579-604; Edgar Burns, "Urged for more than fifty years: Veterinary education in New Zealand c 1900-1964" *History of Education Review* 38:1 (2009) 63-77 for a detailed discussion of the farmers vet clubs as well as vet clubs generally. Neither of these papers discuss the issue of the exemption from income tax. For an interesting historical perspective on training as a veterinary surgeon in England in the nineteenth century see Roger M. Ridley-Smith, "The apprenticeship model in [England in] 1842" *Journal of the New Zealand Medical Association* 124:1332 (15 April 2011) 3pp.

⁷⁹ Grant, above n 78 at 2.

The establishment of the VSC followed the work of a ministerial committee in 1943 and 1944 which was tasked with investigating and making recommendations on veterinary services in New Zealand, with the recommendations becoming the basis of the Veterinary Services Act 1946 (“VSA”)⁸⁰: “to make provision for the establishment and maintenance of veterinary services for farmers, and for that purpose to constitute a Veterinary Services Council and define its functions and powers.”⁸¹

Section 12 (1) of the VSA described the functions of the VSC as follows:⁸²

[t]he functions of the Council shall be to promote and encourage the provision of efficient veterinary services for owners of livestock in New Zealand; with a view to the maintenance and improvement of the health and general condition of livestock and the quality of produce derived from any livestock, and the increased production of such produce; and for those purposes to promote the training of a sufficient number of persons in veterinary science and their employment, when qualified, as veterinary surgeons.

Grant noted that “in practical terms, these functions were classified into (a) training and employment; (b) formation of a policy statement to cover the formation of veterinary clubs, and (c) the organisation of veterinary services.”⁸³ In particular, with respect to veterinary clubs, Grant noted that (emphasis added):⁸⁴

[t]he aim of this policy was to co-ordinate the formation of veterinary clubs throughout New Zealand and *to protect the interests of existing private veterinary practices* where they adequately covered the needs of the area they served. The policy statement provided for contracts between the new clubs and the stockowners involved, and the club and the vet or vets employed. It also provided for a salary scale to make the remuneration of club veterinarians consistent throughout the country. The Veterinary Services Council would approve the areas serviced by each new club *to ensure the economic viability [of the club]* and define the boundaries of these areas to prevent overlapping of services. The policy statement also outlined the basis and level of subsidies to veterinary clubs and to private practitioners who either serviced areas not covered by a vet club, or who were in practice in an area before the Veterinary Services Act 1946 came into force. The aim of these subsidies was obviously to encourage the formation of clubs and to a lesser degree private practices in areas not yet serviced by a club, ***and at the same time not to give the veterinary clubs an unfair trading advantage over existing private practitioners.***

⁸⁰ Veterinary Services Act 1946 [9 October 1946] No 26.

⁸¹ Grant, above n 78 at 3.

⁸² Veterinary Services Act, above n 80 at s 12(1); see also Grant, above n 78 at 3.

⁸³ Grant, above n 78 at 4.

⁸⁴ Grant, above n 78 at 4.

The first task of the VSC was “to produce a policy statement to cover the formation of the vet clubs.”⁸⁵ By 1951 56 veterinary clubs (“vet clubs”) had been formed and, by 1955, there were 63 vet clubs employing 150 veterinary surgeons (“vets”) which, by 1985, were employing 234 vets.⁸⁶

Then, in 1955 (emphasis added):⁸⁷

[t]he government played its part by enacting the Land and Income Tax Amendment Act which exempted from taxation the Veterinary Services Council and veterinary clubs provided that they met certain criteria on disposal of assets should [a] club stop practicing[,] and if they provided a predominantly veterinary service. This has played a very important part in the improvement of veterinary services *by allowing all of the profits to be re-invested in better facilities or higher standards of service to farmers. It is not surprising that the advantages conferred by this [income] tax exemption are regarded as unfair by those in private practice who do not receive such an exemption.*

The VSC itself was also able to benefit from the income tax exemption as, according to Grant:⁸⁸

the VSC gave substantial financial assistance to fledging clubs in the form of direct subsid[ies] and grants, and was also expending large amounts on the training of New Zealanders at universities overseas and the bringing into New Zealand of suitably qualified foreign vets. However, it was also able to accumulate quite large sums of money in its reserve fund and accumulated fund into which any excess income from the year’s operations was paid.

This gave the VSC the ability to fund its operations in later years when, in the 1970s, the VSC was “forced” to draw on its reserve and accumulated funds.⁸⁹

Grant concluded his study with his view of the future of the vet clubs (emphasis added):⁹⁰

I see for the future the vet club movement playing an equally important part in a farmer co-operative role *providing an effective competition to the other forms of practice.* By providing sound business management and *utilising their inherent advantages of exemption from [income] taxation and generally larger scale of operation,* the farmer executive members of veterinary clubs have the very real

⁸⁵ Grant, above n 78 at 4.

⁸⁶ Grant, above n 78 at 8.

⁸⁷ Grant, above n 78 at 9.

⁸⁸ Grant, above n 78 at 11.

⁸⁹ Grant, above n 78 at 12.

⁹⁰ Grant, above n 78 at 33.

opportunity to greatly influence the form and efficiency of the veterinary service and the cost of that service – they must not underestimate or neglect this opportunity.

And of the VSC itself? Grant saw a limited role for the VSC “as an organisation purely to act on behalf of the veterinary clubs and without its other functions, or to be handing full responsibility to the New Zealand Federation of Veterinary Clubs.”⁹¹ The Federation was formed in 1976 following dissatisfaction with the VSC that many considered “was becoming too autocratic and not truly reflecting the views of the farmer executive members throughout the country.”⁹²

The VSC was ultimately replaced in 1994 by the Veterinary Council of New Zealand, which also took over the functions of the Veterinary Services Board which until that time had been responsible for registering and regulating vets.⁹³ The VSC itself had previously taken over the roles of the Dominion Federation of Farmer Veterinary Services, and the Veterinary Services Committee⁹⁴ with the Veterinary Services Committee having been formed by the New Zealand Veterinary Association in 1943; the Association was incorporated on 4 April 1924.⁹⁵

Types of Veterinary Clubs

Veterinary clubs were funded through a variety of means: grants from the Veterinary Services Council, debentures from farmers, and loans from banks and dairy companies.⁹⁶ There were three types of veterinary club:⁹⁷

- Dairy-factory clubs, which had compulsory membership of all farmers who supplied a particular factory;
- Clubs set up in association with dairy factories, but with voluntary membership;
- Clubs in dairying or meat and wool farming areas, with voluntary membership and no dairy factory involvement.

⁹¹ Grant, above n 78 at 33.

⁹² Grant, above n 78 at 21.

⁹³ Hamish Mavor and Bob Gumbrell, “Later developments” in *Veterinary Services* (available at www.teara.govt.nz).

⁹⁴ Mavor and Gumbrell, “Veterinary Services Council” above n 93, at [2].

⁹⁵ Mavor and Gumbrell, “New Zealand Veterinary Association” above n 93 at [2]; New Zealand Veterinary Association, No. 219096 at www.societies.govt.nz.

⁹⁶ Mavor and Gumbrell, “Types of vet clubs” above n 93 at [3].

⁹⁷ Mavor and Gumbrell, “Types of vet clubs” above n 96 at [3].

The Formation of the Veterinary Services Council

The Veterinary Services Bill was introduced into the House of Representatives on 4 October 1946 for its First Reading,⁹⁸ followed by its Second Reading on 7 October 1946.⁹⁹ The Third Reading took place on 9 October 1946,¹⁰⁰ and was given Royal Assent on that same date as the Veterinary Services Act 1946.¹⁰¹

Nothing further was heard about the VSC in the House until 1950, when a question was asked concerning subsidies to veterinary clubs payable by the VSC being withheld due to issues over the signing of standard contracts with veterinarians.¹⁰² Then, in 1952, the Veterinary Services Council Annual Report for the year ended 31 March 1952 was “referred to the Government for consideration,” but no further action was taken.¹⁰³

The Income Tax Acts 1946-2007

While the Veterinary Services Council was created by statute in 1946 under a Labour government (Peter Fraser), with one of its functions being the establishment of so-called “vets’ clubs,” it was not until 1955 that the VSC and its siblings were granted an exemption from income tax by the National government (Sidney Holland) when the Land and Income Tax Amendment Bill provided, at clause 8, “an exemption from income tax and from social security charge on the income derived by the Veterinary Services Council, and also veterinary clubs and herd improvement associations.”¹⁰⁴ In moving the Second Reading of the Bill on 26 October 1955, the Hon Mr Watts, Minister of Finance, stated that:¹⁰⁵

[c]lause 8 confers exemption from income tax, and, therefore, also from social security charge, [on] the income derived by the Veterinary Services Council, and also all veterinary clubs, and herd improvement associations. ***Their functions are of national importance and they should be exempt from tax accordingly.*** One condition of the exemption will be that *no individual member will be able to derive private pecuniary profit from the clubs or associations.* It is necessary to provide for the exemption to be made retrospective to 1951, to regularize the exemption which has already been granted, on the assumption – now found to be erroneous – that the present law was sufficient to grant the exemption.

⁹⁸ First Readings, New Zealand Parliamentary Debates (NZPD) (4 October 1946) vol 275 at 418.

⁹⁹ Veterinary Services Bill, NZPD (7 October 1946) vol 275 at 504.

¹⁰⁰ Veterinary Services Bill, NZPD (9 October 1946) vol 275 at 574.

¹⁰¹ Veterinary Services Act, above n 80.

¹⁰² Subsidies to Veterinary Clubs, NZPD (11 October 1950) vol 292 at 3199.

¹⁰³ Veterinary Services Council Annual Report, NZPD (18 July 1952) vol 297 at 410.

¹⁰⁴ Land and Income Tax Act Amendment Bill, NZPD (19 October 1955) vol 307 at 3196.

¹⁰⁵ Land and Income Tax Amendment Bill, NZPD (26 October 1955) vol 307 at 3381.

What then, was that “present law” that was “now found to be erroneous?” The principal income tax legislation in force in 1951 was the Land and Income Tax Act 1923¹⁰⁶ until the legislation was consolidated and amended in 1954 in the form of the Land and Income Tax Act 1954.¹⁰⁷ There is no evidence of any amendments to the 1923 Act between 1923 and 1951 regarding veterinary services bodies, and it was not until 1955 that a specific exemption from income tax for the VSC, veterinary clubs, and herd improvement associations, was provided in the amendment to s 86 of the principal (1954) Act in the Land and Income Tax Amendment Act 1955 at s 8 (1)(oo).¹⁰⁸

Income derived by the Veterinary Service Council established under the Veterinary Services Act 1946; and income derived by any veterinary club, society, or association, whether incorporated or not, which is, in the opinion of the Commissioner, established substantially or primarily for the purpose of promoting efficient veterinary services in New Zealand, if no part of the income or other funds of the club, society, or association is used or available to be used for the private pecuniary profit of any proprietor, member, or shareholder thereof:
Income derived by any herd improvement society or association ...

Section 8(2) provided that the section was to apply “with respect to the tax for the year of assessment that commenced on the first day of April, nineteen hundred and fifty-one, and for every subsequent year.”¹⁰⁹

The proposal regarding the exemption from income tax prompted some interesting and rare debate in Parliament on the concept. In the author’s experience, little attention has been given by parliaments in common law countries to rationale for exemptions from income tax, with the exception of personal income tax concessions, particularly with respect to charities,¹¹⁰ so to find at least some debate is significant in itself in understanding how such exemptions come to be. For that reason, the author has transcribed the debate in full because of its relevance both to this project and to tax history in particular.¹¹¹

¹⁰⁶ Land and Income Tax Act 1923 [28 August 1923] No 21.

¹⁰⁷ Land and Income Tax Act 1954 [30 September 1954] No 67.

¹⁰⁸ Land and Income Tax Amendment Act 1955 [27 October 1955] No 91 s 8 (1).

¹⁰⁹ Land and Income Tax Amendment Act, above n 108 s 8(2).

¹¹⁰ See MJ Gousmett, “The Charitable Purposes Exemption from Income Tax: Pitt to Pemsel 1798-1891” (2009) Unpublished Doctoral Thesis, University of Canterbury at <http://hdl.handle.net/10092/3448>.

¹¹¹ Land and Income Tax Amendment Bill, NZPD (26 October 1955) vol 307 3383 - 3384.

The ight on r ash (Leader of the Opposition). - Sir, there is only one point on which the Minister might give us a little more information. He has already given the major information I required. Representations have been made in regard to the exemption of veterinary clubs from income tax. *I am not concerned about that if they are not profit making organizations, but if they carry on trade to make profit the profit so made would be taxable*, if my memory serves me rightly. The representations I have had are that a club itself is completely exempt from tax. I would have thought that the portions of the club's income that came from ordinary activities would be all right, provided the income was non-profit income. That is probably defined as income, but in the general run of things, you can have non-profit income, and that should be free from tax. I do not know if the representations which were made to me were also made to the Minister.

The on r atts inister of inance . - I did not get those representations, although I think they have reached the Prime Minister. A Member of the Opposition also showed me a copy of a letter.

The ight on. r ash. - If the Minister knows about it he can answer the question.

I would be glad to get the information so that I can clear my mind. *I should like to know whether anyone engaged in trading and making a profit can be exempt from tax.* Even co-operative companies are subject to tax in the ordinary way if they make a profit on their trading activities.

The on r atts. - Sir, the Member for Dunedin Central showed me a copy of a letter which had been written to the Prime Minister, but which has not yet come to me in the course of business.¹¹² The letter contained representations from a private veterinarian, who said *that the provisions of this Bill would make the position of veterinary clubs more favourable than that of private veterinarians*. On the face of it I cannot see that. This veterinarian went on to say that the veterinary clubs went in for a fair amount of trading; they sold drugs, vaccines, treatments, and so on, and in that way they engaged in trading. *As they did not pay tax, they put the private veterinarians at a disadvantage.*

The on r S inner. - A private veterinarian does that sort of trading.

The on r atts. - Yes, but he has to pay tax on the profit he makes on the sale of vaccines and so on. First of all, the Bill provides that no shareholder or member of or a private person connected with a veterinary club shall make any profit out of

¹¹² The Member for Dunedin Central was the Hon George Connolly (1899-1970). The author has not

been able to locate the Member's private papers, which may have contained a copy of the letter.

the dealings of that club. If he does, then it would be taxable. Secondly, *the inquiries that we have made so far lead us to believe that there is very little trading by veterinary clubs. It is so small that it is not worth doing anything about at this stage.* They are not in the same position as dairy companies, which do a lot of trading. The veterinary clubs might carry some vaccines or drugs for the convenience of their members, but they sell them at cost or a little above cost. There is nothing involved in this, but between now and the next session I shall get the Department of Agriculture to make some further inquiries so that I can see whether there is anything in the representations that have been made, *not so much from the point of view of protecting the private veterinarians, because I think they are rare and are in such*

great demand that they need no protection, but from the point of view of protecting the revenue against a growth of private trading which I do not think would be particularly desirable. We would then have a look to see *whether the trading of veterinary clubs should be taxed.* That is the position as I have found it.

The ight on. r ash. – If the veterinary clubs do not make a profit, even though they sell goods –

The on. r atts. – They would not be taxed.

The ight on. r ash. – They could not be. If they engage in trading on a non-profit basis they would not be subject to tax because there would be no profit to tax.

The Hon. Mr Watts. – That is right.

Bill read a second and a third time.

A search of the New Zealand Parliamentary Debates (NZPD) in the following Parliamentary session failed to locate any material that suggested that the question of trading by vets clubs, and whether they should be taxed, was followed up by either political party. However, the author did find a reference to the VSC (as discussed above) in that in October 1965 the Controller and Auditor-General, Mr A.D. Burns, drew the attention of the Public Expenditure Committee (PEC) to a number of matters in his report, one of those being concerns about the VSC's financial position.¹¹³ Burns had suggested in his report "[t]hat the Council had permitted its accumulated funds and reserves to increase steadily over the years and that there should be greater utilisation of reserves before further assistance was given."¹¹⁴ However, the PEC found:¹¹⁵

[t]hat in fact the accumulated funds and reserves had not increased over the past 10 years and that since 1962 the [VSC] had been using reserves to supplement current revenue ... [which] comes jointly from funds of the producer boards and Government and it is clear that the [VSC] is adopting a responsible attitude towards budgeting and its use of these funds. ... There appears to be no case for criticism on the grounds used in the report of the Controller and Auditor-General and the Audit Department was unable to substantiate its criticism under examination.

There are two points to note about this exchange. The first is that the ten year period referred to followed the introduction of the exemption from income tax granted to veterinary services bodies in 1955, with the second point being that no mention was made of the impact of the exemption on the funds of the VSC, even when Treasury discussed the matter of the VSC reserves with the Department of Agriculture which advised Treasury that "because of the Veterinary Services Act 1946 [neither the Department nor Treasury] had any control over the finances of the VSC."¹¹⁶

¹¹³ Public Expenditure Committee (PEC), "Part II – Miscellaneous matters and matters arising out of the Controller and Auditor-General's Report" (1966) Appendix to the Journals of the House of Representatives vol III Reports of Select Committees I12 at p. 14.

¹¹⁴ PEC, above n 113 at p. 14

¹¹⁵ PEC, above n 113 at p. 14

¹¹⁶ Report of the Controller and Auditor-General, "Veterinary Services Council" (1965) Appendix to the Journal of the House of Representatives vol 1 B.1 Part II at p. 40

Reports of the Veterinary Services Council

The author had expected to find reports submitted annually by the VSC to Parliament, having found a reference to such a report in the NZPD of 18 July 1952.¹¹⁷ In moving that the report “be referred to the government for consideration,” the Hon Mr Skinner considered the report to be “not only of great interest, but ... also of the greatest importance to the Dominion, because we depend so much on the production of live-stock for a huge proportion of our national income.”¹¹⁸

However, a thorough search of the Journals to the House of Representatives for 18 July 1952 and of the volumes of the Appendix to the Journals of the House of Representatives from 1946 to 1972 failed to locate any such reports. The only item that was found (as discussed above) was the reference to a matter arising out of a report by the Controller and Auditor-General to the Public Expenditure Committee concerning the utilisation by the VSC of its accumulated funds and reserves which the Council “had permitted ... to increase steadily over the years and that there should be greater utilisation of reserves before further assistance was given.”¹¹⁹ The Committee was of the opinion that there was “no case for criticism [of the VSC] ... and the Audit Department was unable to substantiate its criticism under examination [having failed to undertake] an adequate in-depth investigation.”¹²⁰

The New Zealand Veterinary Association

On 25 January 1952 the New Zealand Veterinary Association decided, at its Annual General Meeting, to publish its own official journal, the New Zealand Veterinary Journal (NZVJ) to provide a service to the Association’s 179 members.¹²¹ In his Presidential Address to the Association on 12 February 1954, the President, Mr A.D.M. Laing, M.R.C.V.S., referred to the role of the Farmers’ Veterinary Clubs, describing the function of the veterinary clubs as the development “[of] veterinary services for farmers by veterinary surgeons.”¹²² In a later letter

¹¹⁷ NZPD, “Veterinary Services Council Annual Report” (18 July 1952) vol 297 at 410.

¹¹⁸ NZPD, above n 117 at 410.

¹¹⁹ Public Expenditure Committee (PEC), “Part II Miscellaneous matters arising out of Controller and Auditor-General’s Report – Veterinary Services Council” (1966) Appendix to the Journals of the House of Representatives vol III I Reports of Select Committees I. 12 at p. 14.

¹²⁰ PEC, above n 119 at p. 15.

¹²¹ J.M. Filmer, “Foreword” *The New Zealand Veterinary Journal (NZVJ)*, (1952-1953) vol 1 at 1. The New Zealand Veterinary Association was founded in 1923 – see *NZVJ* (1954) vol 2 at 62.

¹²² A.D.M.G. Laing, “The History and Development of the Veterinary Profession in New Zealand” *NZVJ* (1954) vol 2 iss 3 61 - 68 at 67.

published in the NZVJ to explain a point that Laing had made in his address concerning subsidies, Laing stated that the funding of £100,000 provided from “public and semi-public money received by the Veterinary Services Council is to be directly or indirectly used to support the veterinary club system.”¹²³ Laing also stated that:¹²⁴

[t]here is room in New Zealand for both types of clinical veterinary service, individual private practice, and farmer-controlled veterinary clubs, and for reasonable competition between them. *But such competition must not be unfair through the one-sided use of public funds* controlled by a body such as the Veterinary Services Council.

This statement predated the introduction of the exemption from income tax for veterinary services bodies in 1955. The question is, was the introduction of the concession in 1955 seen by private veterinary practices as giving an unfair advantage to the veterinary clubs? Writing in the same edition of the NZVJ in which Laing’s letter was published, a letter from a private veterinary surgeon suggests that there were such concerns in 1954, as the author of a letter, A.E.N. Egan B.V.Sc., was of the opinion that the achievements of the VSC were “made possible by sub-cost fees, levies and government subsidies.” Significantly, however, Egan stated that (emphasis added):¹²⁵

[r]ecently, *comment was made on the taxing of the profits of these subsidized clubs* and at the same time it was considered desirable that the Veterinary Services Council be empowered to increase its expenditure in continuation of its subsidies. The aspect which is most prone to criticism is the fact that the Veterinary Services Council has so exceeded its aims in the promotion of veterinary services in an unresponsive community that, in some areas, it is now *subsidizing what appears to be a lucrative business*; a business controlled by and for lay persons and which, in some cases, is *in competition with private practice*. The latter is an extremely objectionable feature and is certainly not permissible ethically.

Another veterinary surgeon noted in his letter in 1955 that the VSC was “[a] body which subsidizes clubs which are *a burden on taxation* [yet] refuses to extend subsidies to those farmers who prefer to support private practice (emphasis added).”¹²⁶

¹²³ A.D.M.G. Laing, “Correspondence” NZVJ vol 2 at 141.

¹²⁴ Laing, above n 123

¹²⁵ A.N. Egan, “Correspondence” NZVJ (1954) vol 2 141 – 142 at 142.

¹²⁶ Y.H. Leewenburg, “Correspondence” NZVJ (1955) vol 3 82 – 83 at 83.

A review of the NZVJ through to 1965 revealed little on the issue of the income tax exemption for veterinary services. In fact, the only comment was that in a letter by R. Jackson B.V.Sc, of the Lower Maitara Farmers' Veterinary Club, in which he wrote that:¹²⁷

[t]he *tax free* [sic] profits from drug sales are used by some clubs to help keep visit fees at a ridiculously low level, in one case as low as 5s. A fee of 7s 6d for a bovine Caesarean section has been, and probably still is, charged by some clubs. Is it any wonder that a farmer would consider 2s 6d per animal too high a fee for tuberculin testing?

Of interest, however, was the observation by M.B. Buddle B.V.Sc, D.Sc, President of the New Zealand Veterinary Association, in his Presidential Address in 1964, that:¹²⁸

[o]ur association is vitally interested in the current considerations of the future responsibilities of the Veterinary Services Council, particularly as to its role as the co-ordinating body for the veterinary club system with which more than half of our members are directly associated.

Herd Improvement Associations

What also of the herd improvement associations to which the exemption from income tax also applied? A review of the Societies Register reveals that of the ten herd improvement associations registered, only three are currently registered, with one of those being of the same name as an entity previously struck off, The Normal Herd Improvement Society Limited.¹²⁹ Interestingly, of the ten entities, five were incorporated under the Incorporated Societies Act 1908 and five under the Industrial and Provident Societies Act 1908. Only one of the three currently registered entities had ever filed its financial statements, those of s 18(c)(i)

¹³⁰ It was with some surprise to read that the Society, in its notes to the financial statements declared that the Society, which was incorporated under the Incorporated Societies Act 1908 on 14 May 2002, "meets the test for an income tax exemption as its net assessable taxable surplus is less than \$1,000 per annum,"¹³¹ especially as the Income Statement reported a net surplus of s 18(c)(i)

¹²⁷ R. Jackson, "Drug sales and the veterinarian" *The New Zealand Veterinary Journal* (1961) 9:4 at 81.

¹²⁸ M. V. Buddle, "Presidential Address" *The New Zealand Veterinary Journal* (1964) 12:3 43 - 48 at 46.

¹²⁹ The Normal Herd Improvement Society Limited, No. 2220730 at www.societies.govt.nz.

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While it might seem unfair to single out this Society, this does raise the issue of what the intention was behind the exemption from income tax when it was introduced, and how it is being applied in practice, at least by this particular entity. Given that the Society's financial activities are purely trading, with no evidence of any expenditure on the items listed as the Society's objects, is it fair, in terms of tax policy, that the income tax exemption at s CW 51 should continue to be available to the Society?

s 18(c)(i)

A final comment – of the ten herd improvement entities listed on the Societies Register, the earliest date of incorporation was The Waikato Herd Improvement Society on 13 June 2001, but the Society was struck off on 17 June 2004.

Given that the exemption for herd improvement societies was first granted in 1955, why were so few such bodies registered and, given the importance of the dairy industry to the New Zealand economy, why are there so few today, with only one that appears to be financially viable but with questions concerning its activities?

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Today, the format and wording of the relevant section in the Income Tax Act 2007 that provides an exemption from income tax to veterinary associations, clubs and societies differs from that of 1955, as seen in s CW 50 Veterinary services bodies:¹³⁷

Exempt income: veterinary clubs

- (1) An amount of income derived by a veterinary association, club, or society is exempt income if –
 - (a) the association, club, or society was established mainly to promote efficient veterinary services in New Zealand; and
 - (b) none of its funds is used or available to be used for the private pecuniary profit of a member, proprietor, shareholder, or associate of any of them.

Exempt income: Veterinary Council

An amount of income derived by the Veterinary Council of New Zealand is exempt income.

The intent of s CW 50(1)(b) was broadened as part of the rewriting of the Income Tax Act 1994, which was finally completed on the passing of the Income Tax Act 2007 on 1 November 2007, by adding the term “associate” into the existing section CB 4(1)(f) on the basis that “the policy underlying [the wording ‘proprietor, member or shareholder’] is defeated if any person, not just a proprietor, member, or shareholder, is able to obtain a pecuniary profit.”¹³⁸

The exemption from income tax for herd improvement bodies now resides in s CW 51 Herd improvement bodies of the Income Tax Act 2007:

An amount of income derived by a herd improvement association or society is exempt income if –

- (a) the association or society was established mainly to promote the improvement of the standard of dairy cattle in New Zealand; and
- (b) none of its funds is used or available to be used for the private pecuniary profit of a member, proprietor, shareholder, or associate of any of them.

¹³⁷ Income Tax Act 2007 [1 November 2007] No 97 (reprinted as at 1 April 2015).

¹³⁸ Rewriting the Income Tax Act 1994 – Exposure Draft Part C: Income, CW Exempt Income at 220 (available at <http://taxpolicy.ird.govt.nz>). Note that neither of the two issues papers that were written by the Policy Advice Division of Inland Revenue, their purpose being “to promote discussion of minor policy issues relating to policy intent or clarification of legislation that arise from the rewrite, and to seek comment from interested parties,” discussed the veterinary services exemptions. See Policy Advice Division, Inland Revenue, “Rewriting the Income Tax Act [1994]: Parts C, D, and E” (March 1998) Issues Paper 1; (June 1998) Issues Paper 2.

Taxation Reviews

Report of the Royal Commission on Land and Income Taxation (1924)

The 1924 Report of the Royal Commission on Land and Income Taxation provides a precursor to the creation in 1946 of the Veterinary Services Council over two decades later.¹³⁹ In his submission, Mr P.J. Small, President of the Dairy-farmers' Union Incorporated (Wellington Branch), stated that:¹⁴⁰

[e]ach dairy farmer today has to be a practical veterinary surgeon to be able to live at all. He starts the beginning of the season with a good herd of cows. I know a man who paid £80 an acre for some of the richest land in New Zealand. He paid a high price for high-grade Jerseys, and his neighbour was envious of him. His neighbours thought that that was the proper way to go about dairy-farming. But at the end of the season there was only one cow left. (How is that man to pay his land tax?)

Report of the Taxation Committee (Gibbs Report) (1951)

While the Report of the Taxation Committee of 1951, chaired by Mr T.N. Gibbs (Gibbs Report, predated the exemption from income tax granted to veterinary service bodies in 1955, the report is enlightening from the fact of what was not discussed as much as what was.¹⁴¹ While farming production was a matter that was discussed in the Gibbs Report, no reference was made to support services such as veterinary surgeons. Yet in presenting the Financial Statement for 1952 and proposed tax revisions, the value of the primary sector to the economy was acknowledged by the Prime Minister, the Hon. Mr Holland, who stated that in the previous financial year, the sector had “exported £237 million worth of goods ... It is vital to the expansion of our primary industries that they should prosper and thrive, and that the number of successful farmers on the land should increase in proportion as the total population grows.”¹⁴²

¹³⁹ Report of the Royal Commission on Land and Income Taxation, (1924) Appendix to the Journals of the House of Representatives at B5.

¹⁴⁰ Report, above n 139 at p. 254.

¹⁴¹ Report of the Taxation Committee, (1951) Appendix to the Journals of the House of Representatives B. Finance at B8.

¹⁴² Financial Statement, (7 August 1952) NZPD vol 297 at 795.

Report of the Taxation Review Committee (Ross Committee) (1967)

In 1967 the Report of the Taxation Review Committee, chaired by L.N. Ross, (the Ross Committee,) in commenting on the veterinary clubs under s 86 (1)(00) of the Land and Income Tax Act 1954, noted that:¹⁴³

[m]any of these veterinary clubs carry on quite extensive business activities in the supply of stock medicines and veterinary services to members and others. They thus compete both in buying and selling markets with other forms of enterprise whose profits are subject to taxation. ***It is in keeping with our recommendations regarding the taxation of business profits of other exempt organisations [ie trading charities] that veterinary and other similar clubs and societies or associations should be subject to tax on the profits derived from trading activities.***

Accordingly, the Ross Committee recommended that “[v]eterinary clubs, societies or associations, and similar organisations which carry on trading activities should be subject to income tax in respect of such activities.”¹⁴⁴

However, a review of the New Zealand Parliamentary Debates following the tabling of the report in the House from 1967 through to 1970 suggests that this recommendation was not even debated, let alone implemented as a budgetary measure.

Report of the Task Force on Tax Reform (McCaw Report) (1982)

The Report of the Tax Force on Tax Reform,¹⁴⁵ chaired by P.M. McCaw (McCaw Report), whose Terms of Reference required the Task Force amongst other requirements “[t]o undertake a thorough and systematic review of all aspects of central government,”¹⁴⁶ made no mention of the exemption from income tax granted to veterinary clubs. However, the Task Force did consider tax issues concerning life insurance and superannuation, building societies, co-operatives, and charitable organisations.¹⁴⁷ An explanation for not considering veterinary clubs

¹⁴³ The Taxation Review Committee, “Taxation in New Zealand Report of the Taxation Review Committee” (Ross Committee) (October 1967) Wellington, R.E. Owen, Government Printer at §783.

¹⁴⁴ Ross Committee, above n 1 at p. 323. The Ross Committee also recommended at p. 313 that “[p]rofits from trading derived directly or indirectly by charitable organisations and dividends derived from any company substantially owned by such organisations are assessable for income tax at normal rates.”

¹⁴⁵ Task Force on Tax Reform, “Report of the Task Force on Tax Reform” (7 April 1982) 265 pp. The McCaw Report was the third official Report on Tax Reform post-WWII, the first being the Report of the Taxation Committee in 1951, chaired by T.N. Gibbs, which dealt only with the reform of income tax, and the second, the Ross Committee in 1967. See B.M. Niculescu, “The McCaw Report on Tax Reform” (1982) 16 *New Zealand Economic Papers* 28 – 40 at 31.

¹⁴⁶ Task Force on Tax Reform, above n 2 (a) at (i).

¹⁴⁷ Task Force on Tax Reform, above n 2 Ch 12 Special Cases at 242.

may be because “[a] consideration of the policy objectives giving rise to concessions and incentives was not a part of [the Task Forces’] terms of reference.”¹⁴⁸ However, the Task Force recognised that “[b]ased on information made available [to the Task Force], the cost of business incentives in revenue forgone is in the vicinity of \$470 million per annum,” with a “strong” recommendation that those incentives “be subject to a rigorous assessment of costs and effectiveness on a regular basis,”¹⁴⁹ thus foreshadowing the debate on the concept of tax expenditures as seen in its recommendation of “a more explicit accounting of all concessions and incentives to improve government management procedures in this area.”¹⁵⁰ It was in this regard that the Task Force discussed the concept of tax expenditure budgeting, (see following discussion at “Income Tax Concessions as Tax Expenditures”) noting that in order “[t]o meet the fundamental objectives of government accountability and [to achieve] efficient and effective management, requires, as a first step, more explicit accounting of the cost of tax expenditures and their allocation (where possible) to the government’s economic and social programmes.”¹⁵¹ Of significance is the observation by the Task Force that “[b]ecause they escape effective government control, *tax expenditures seem to be more difficult to terminate*.”¹⁵² Further, the Task Force also considered that “concessions intended to act as incentives ... [that are] provided through the tax system [are] inefficient.”¹⁵³

However, in addition to those categories mentioned above, the Task Force considered that wealth taxes and trusts were also areas where there “appears to be a clear need for reform of some kind.”¹⁵⁴ The driver for such reforms were concerns by the Task Force “*where the fairness of the system is most in question* and ... the source of erosion of the acceptability of the system in the absence of reform.”¹⁵⁵

¹⁴⁸ Task Force on Tax Reform, above n 2 at 7.

¹⁴⁹ Task Force on Tax Reform, above n 2 at 7.

¹⁵⁰ Task Force on Tax Reform, above n 2 at 7.

¹⁵¹ Task Force on Tax Reform, above n 2, 4.7 at 62. The creation of the term “tax expenditure” is a concept largely credited to former United States Assistant Secretary of the Treasury for Tax Policy, Stanley Surrey, which the [US] Budget Reform Act of 1974 defined as “[t]hose revenue losses attributable to the provisions of the Federal tax laws which allow a special exclusion, exemption, or deduction from gross income or which provide special credit, a preferential rate of tax, or a deferral of tax liability” Stanley S. Surrey, “The Tax Expenditure Concept and the Budget Reform Act of 1974” (1976) 17 *Boston College Law Review* 679 - 736 at 683.

¹⁵² Task Force on Tax Reform, above n 2 4.8 at 63 (emphasis added).

¹⁵³ Task Force on Tax Reform, above n 2 4.11 at 63.

¹⁵⁴ Task Force on Tax Reform, above n 2 1.12 at 7.

¹⁵⁵ Task Force on Tax Reform, above n 2 1.11 at 7.

Finally, regarding an issue which parallels the subject of this report, i.e. the income tax exemption of commercial trading activities undertaken by charities within the same sector as income tax liable for-profit entities, the Task Force recommended that while charitable organisations should be permitted “to undertake their traditional fundraising activities, at the same time [*the government should minimise the scope for avoidance and reduce the advantages accruing to income-tax exempt charities which operate in competition with taxable businesses.*”¹⁵⁶ The same argument could clearly also have been made for veterinary clubs. The question is: did for-profit veterinary practices see this as a threat in 1982, or has the issue only become more prominent in recent years? One hundred submissions were made to the Task Force, but the only farmer-focused groups to do so were the Ministry of Agriculture and Fisheries, and Federated Farmers of New Zealand.¹⁵⁷ However, it must not be overlooked that “both the Ross Committee [1967] and the McCaw Report [1982] suffered from the same major disability: “the lack of relevant data,” with the McCaw committee being “both surprised and frustrated by the lack of reasonably up-to-date statistical information which could be made available to [the committee].”¹⁵⁸

Government Economic Statement (1987)

In 1987 the Minister of Finance, Roger Douglas, released his alternative economic statement¹⁵⁹ in which he proposed a raft of controversial measures, including the taxation of charities.¹⁶⁰ Amongst other measures, Douglas proposed the removal of personal tax rebates and deductions,¹⁶¹ alternative funding support for charitable activities,¹⁶² a reduction in the company tax rate,¹⁶³ the taxation of superannuation funds, life offices and related organisations,¹⁶⁴ measures to eliminate tax avoidance and to broaden the tax base by introducing a tougher international tax regime, taxing exempt organisations at normal rates and a new petroleum mining tax regime.¹⁶⁵ Douglas specifically targeted charities and sporting bodies, mutual associations, primary producer co-operative companies, primary producer and

¹⁵⁶ Task Force on Tax Reform, above n 2 12.57 at 254 (emphasis added).

¹⁵⁷ Task Force on Tax Reform, above n 2 Appendix A at 261-264.

¹⁵⁸ Niculescu, above n 2 at 39.

¹⁵⁹ Roger Douglas, “Government Economic Statement” (17 December 1987) Government Printer 68pp.

¹⁶⁰ See MJ Gousmett, “1987: Roger Douglas’ failed attempt to tax charities” (December 2013) 19:4 *New Zealand Journal of Taxation Law and Policy* 279-287.

¹⁶¹ Douglas, above n 12 at 7.

¹⁶² Douglas, above n 12 at 7.

¹⁶³ Douglas, above n 12 at 8.

¹⁶⁴ Douglas, above n 12 at 8.

¹⁶⁵ Douglas, above n 12 at 8.

marketing boards, and milk treatment companies.¹⁶⁶ Douglas also intended to withdraw tax exemptions that “were intended to assist the farming sector,” such as “special tax concessions for primary producer co-operatives,” which he considered provided “opportunities for tax avoidance [as well as] distorting investment patterns.”¹⁶⁷ However, Douglas made no specific mention of the exemption provided to the VSC and veterinary clubs as provided at s 61 (28) nor of herd improvement societies or associations at s 61 (29) of the Income Tax Act 1976.¹⁶⁸

[Report of the Committee of Experts on Tax Compliance \(1998\)](#)

The issue of the exemption from income tax provided to certain organisations was also raised in the Report of the Committee of Experts on Tax Compliance in 1998.¹⁶⁹ The report noted that (emphasis added):¹⁷⁰

[b]usiness income derived by charities is exempt from tax under section CB 4(1)(e). However, some charities may engage in business activities unrelated to the charitable purpose for which they are provided a tax exemption. *This exemption gives charities a competitive advantage over taxpaying business competitors.* Significantly, while the committee did not specifically mention veterinary clubs, the report goes on to say that (emphasis added):¹⁷¹

The committee **recommends** [sic] that the government should review the tax treatment of charities *and other tax-exempt entities that engage in commercial activities unrelated to their purposes. No reason exists in principle why business income, unrelated to the core purpose, should not be taxed.*

The committee made reference to the unrelated business income tax (UBIT) regime in the United States which is applied to trading activities undertaken by exempt organisations such as charities under § 501 (c)(3) of the Internal Revenue code, and suggested that “[t]he government may wish to refer to the relevant United States legislation in designing rules for New Zealand”¹⁷² regarding unrelated trading activities. This did not happen.

¹⁶⁶ Douglas, above n 12 Annex 5 at 33-37.

¹⁶⁷ Douglas, above n 12 at 33.

¹⁶⁸ Income Tax Act 1976 [9 December 1976] No 65.

¹⁶⁹ Rt Hon Sir Ian McKay, Tony Molloy, John Prebble, and John Waugh, “Tax Compliance A Report to the Treasurer and Minister of Revenue by a Committee of Experts on Tax Compliance” (December 1998).

¹⁷⁰ McKay, above n 21 at §4.16.

¹⁷¹ McKay, above n 21 at §4.17.

¹⁷² McKay, above n 21 at §4.19.

However, the author considers that as well as the UBIT issue, the fact that veterinary clubs are mutual associations for the benefit of their members, if the clubs are trading with non-members, whether or not they are “commercial farmers,” is another tax policy issue that needs to be considered by the current government.

Tax Review 2001 (McLeod Report)

The report in October 2001 by the Tax Review Committee did not specifically discuss the issue of the taxation of veterinary clubs,¹⁷³ in spite of submissions to the contrary being raised in the June 2001 issues paper which reported that amongst “some of the other issues raised” was the taxation of “vet clubs.”¹⁷⁴ However, in its submission, the New Zealand Business Roundtable of the report noted that:¹⁷⁵

[i]n particular, the pattern of domestic investment is distorted by significant differences in the effective marginal tax rates applying to income from alternative investments. Those differences in effective marginal tax rates arise from:

- differences in the tax treatment of different forms of income
- ...
- Differences in the income tax treatment of different entities (e.g. Maori Authorities, qualifying companies, mutual associations and cooperatives, and charities) ...

Further, the authors noted that:¹⁷⁶

[s]ome of these differences are due to practical problems associated with the assessment and collection of tax on certain types of activities ... *other differences are due to explicit decisions made by past governments to use the tax system as a means of encouraging certain ‘desirable’ activities and discouraging certain ‘undesirable’ activities.* Unfortunately, it is not clear to what extent the concessional tax treatment of certain activities is due to the practical difficulties associated with taxing those activities as opposed to a deliberate decision by the government to assist or deter certain activities. ... We believe the Review has an important role to play in affirming the view that the tax system should, as far as feasible, tax all activities and classes of entities on a neutral basis. ***It should also identify those activities that are currently subject to concessional tax treatment and determine the extent to which those concessions arise from either explicit***

¹⁷³ Rob McLeod (Chair), David Patterson, Shirley Jones, Srikantha Chatterjee, and Edward Sieper, “Tax Review 2001” (available at www.treasury.govt.nz).

¹⁷⁴ Treasury, “Tax Review 2001 – Issues Paper” (20 June 2001) at Annex F Summary of Submissions F. 24 (available at www.treasury.govt.nz).

¹⁷⁵ New Zealand Business Roundtable, “Submission on the Tax Review 2001” (March 2001) at 49 at <http://nzinitiative.org.nz>.

¹⁷⁶ New Zealand Business Roundtable, above n 26 at 49.

government policies aimed at subsidising particular activities or entities, or practical income measurement problems.

As the author has found, it was an explicit government policy that the income of veterinary clubs should be exempt from income tax, on the basis that the work of the VSC, veterinary clubs and herd improvement associations, were of “national importance.”¹⁷⁷ However, while the farming sector continues to be of national importance, the historical basis for the tax concession to encourage the development of veterinary services has long since passed.

Submission to Tax Review Committee

Noting that the McLeod Tax Review Committee had recorded a reference to the issue of the income tax exemption of veterinary services bodies, the author submitted an Official Information ACT (OIA) request to Treasury for copies of submissions made to the committee.¹⁷⁸ This request was duly fulfilled and the author found that there was one submission with which he was provided that was directly related to the concession, a copy of which is appended to this report as a separate document. The submitter, whose name has been withheld by Treasury, in noting that “[o]ver many years numerous vets (sic) have written on this matter to MPs, Ministers of Revenue and the Inland Revenue Department without success,” also made a number of pertinent observations.¹⁷⁹ In particular, the submitter stated that:¹⁸⁰

- The original reasons for establishing a subsidised veterinary service have long since disappeared;
- The farming industry has adapted to the removal of subsidies in a competitive economic environment [s]o why should the business of providing veterinary services by vet clubs be exempt from income tax under any circumstances in 2001?
- This tax exemption is an anachronism and an inequity that should be removed from the tax legislation;

¹⁷⁷ See above n 105.

¹⁷⁸ The author wishes to record with appreciation the assistance accorded to him by Treasury officials in responding to his request for copies of submissions made to the McLeod tax review committee.

¹⁷⁹ [Anonymous], “Submission on income tax exemptions [S]ection 61 (28),” Private submission to the Tax Review Committee, 21 February 2001 provided to the author. On 26 October 2015 the author wrote to the Minister of Revenue and the Commissioner of Inland Revenue requesting copies of such correspondence, and also any subsequent correspondence on this matter as well as replies to the correspondence received. At the time of completing this report shortly afterwards, no response had been received by the author.

¹⁸⁰ [Anonymous], above n 179.

- Some [vet] club practices have accumulated enormous assets, have turnovers of many millions of dollars and have become monopolies;
- Their existence ... provides an unfair tax advantage;
- Vet clubs have an obvious commercial advantage over private practices;
- There is no logical reason for [vet clubs] to be exempt [from income tax].

Tax and Charities (2001)

While the 2001 report “Tax and Charities” focussed specifically on the non-profit sector (although it could be argued that vet clubs are also “non-profit,” at least in theory), nevertheless there were some interesting comments made concerning the income tax exemption, trading by charities, and tax policy.¹⁸¹ While the issue of competitive advantage was raised, the final price of products was competitive with for-profits, therefore pricing was not the issue.¹⁸² The issue, it was suggested, was the competitive advantage a charity could gain *through the ability to accumulate tax-free profits thus enabling “a faster accumulation of funds [which would allow it] to expand more rapidly than its competitors.”*¹⁸³ This was *“the real competitive advantage that trading activities owned by charities have over their competitors.”*¹⁸⁴ On that basis the Discussion Paper proposed that *“[t]rading operations owned by charities would be subject to tax in the same way as other businesses,* but with an unlimited deduction for distributions made to relevant charitable purposes.”¹⁸⁵ Ultimately it was not until 2007 when the new concessions for charitable giving by donors, companies and Maori Authorities were adopted by the removal of the caps on donations and deductions.¹⁸⁶ However, the issue of taxing the trading activities of charities was not pursued further by the government.

OECD Working Party on Agricultural Policies and Markets (2005)

According to the OECD, the income tax exemptions provided to veterinary clubs and herd improvement societies have had their day:¹⁸⁷

¹⁸¹ Policy Advice Division, Inland Revenue Department. “Tax and Charities – A government discussion document on taxation issues relating to charities and non-profit bodies” (June 2001) at www.ird.govt.nz.

¹⁸² Tax and Charities, above n 28 at §9.2 – §9.5.

¹⁸³ Tax and Charities, above n 28 at §9.6.

¹⁸⁴ Tax and Charities, above n 28 at §9.6.

¹⁸⁵ Tax and Charities, above n 28 at §9.7.

¹⁸⁶ See Taxation (Business Taxation and Remedial Matters) Act 2007 (19 December 2007) No 109.

¹⁸⁷ OECD Directorate for Food, Agriculture and Fisheries Committee for Agriculture, Working Party on Agricultural Policies and Markets, “Non-sectoral Policies for the Agriculture and Agri-food Sectors: Taxation and Social Security” (4 August 2005) AGR/CA/APM (2004) 13/Final (available at www.oecd.org).

185. Tax revenue from the agriculture sector [in New Zealand] is an important component of government revenue. ...

...

189. *Exempt income of veterinary clubs and herd improvement societies [s CB 4(f)-(g)].* These exemptions are historical. In the farming context they are not of any significance. ***The main advantage lies with the ability of these bodies to effectively re-invest their total profits in the provision of necessary infrastructure*** (buildings, equipment, vehicles, etc). Interest on borrowings for such infrastructure, and associate costs of depreciation and repair/maintenance are not tax deductible. ***The concession is effectively one of allowing these activities to grow at a faster speed (due to the ability to reinvest all net profits earned rather than net profits after tax).*** There is no distortion in investments decisions as a result of this measure, as the exemption applies to all income earned from the club or society. ***Over time, these exemptions are likely to be withdrawn.***

It is interesting to note also the recent report by the OECD on the taxation of small and medium-sized enterprises (SME) with one of the key findings being that “[t]he heterogeneity of the SME population means careful targeting is required to ensure that any government interventions, including tax preferences, achieve their stated policy objectives,” with careful targeting required to ensure that distortions are reduced.¹⁸⁸ The OECD also noted that “[e]xemptions may be temporary in nature, designed to ease the burden of the tax system in the first year of existence.”¹⁸⁹

Non-profit Institutions Satellite Account: 2004

In 2007 Statistics New Zealand released the first in-depth study of the non-profit sector in New Zealand, “Non-profit Institutions Satellite Account.”¹⁹⁰ This study was inspired by a series of similar international studies led by the Centre for Civil Society Studies, Johns Hopkins University, in Baltimore. The purpose of a satellite account is to “[rearrange] existing information in the national accounts so that an area of particular economic or social importance ... can be analysed more closely.”¹⁹¹ What is of interest is to find that “veterinary clubs” were classified as a community-based organisations, alongside A & P societies, as being “in scope” for the purposes of the study while licensing trusts, also classed as community organisations,

¹⁸⁸ OECD, “Taxation of SMEs in OECD and G20 Countries,” (2015) OECD Tax Policy Studies, No 23, OECD Publishing (Paris), at 14.

¹⁸⁹ OECD, above n 188, at 73.

¹⁹⁰ Statistics New Zealand, “Non-profit Institutions Satellite Account: 2004” (2007) Statistics New Zealand, Wellington.

¹⁹¹ Statistics New Zealand, above n 190 at 1.

were not in scope;¹⁹² “veterinary services” were classified under the subgroup “animal protection.”¹⁹³

s 18(c)(i)

The different language that was used in the Statistics New Zealand report, such as veterinary club, veterinary cooperatives, veterinary services, and in another report associated with the study, veterinary associations,¹⁹⁵ suggests some confusion about the activities of these entities, given that they are not mutually inclusive. With the NFP study due to be replicated in New Zealand in the near future, this point should be made when reviewing which institutions are to be in scope for the purposes of the study, particularly when some veterinary clubs are clearly based on the for-profit model.

Income Tax Concessions as Tax Expenditures

Each year at Budget time, the government issues a Tax Expenditure Statement, the purpose of the statement being “to provide additional transparency around policy-motivated ‘expenditures’ made through the tax system.”¹⁹⁶ The first such statement was produced in 1984 and included the exemption from income tax provided to veterinary clubs and herd improvement societies, with the general objective being “[t]o encourage these organisations,” but it was not possible to provide an estimate of the cost due to there being “[i]nsufficient

¹⁹² Statistics New Zealand, above n 190 at 7.

¹⁹³ Statistics New Zealand, above n 190 at 111.

¹⁹⁴ Statistics New Zealand, above n 190 at 59.

¹⁹⁵ Margaret Tennant, Jackie Sanders, Michael O’Brien and Charlotte Castle, “Defining the Nonprofit Sector: New Zealand” (2006) *Working Papers of The Johns Hopkins Comparative Nonprofit Sector Project* at 22 (available at www.philanthropy.org.nz.)

¹⁹⁶ Treasury, “2015 Tax Expenditure Statement” (21 May 2015) at www.treasury.govt.nz.

information available on which to base an estimate.”¹⁹⁷ The 2015 Tax Expenditure Statement was the sixth successive release of tax expenditure data, with 2010 being the first time that New Zealand had released tax expenditure data since 1984.¹⁹⁸ Treasury defines tax expenditures as “[taking] the form of an exemption, allowance, preferential tax rate, deferral or offset that reduce a tax obligation to achieve a specific policy objective.”¹⁹⁹ The basis for disclosing tax expenditures is because they are tax provisions that are “significantly motivated” by “non-revenue policy objective[s].”²⁰⁰ Some, such as deductions and tax credits for charitable or other public benefit gifts, are quantifiable. For example, the forecast value of the tax expenditure for 2014/2015 for donations claimed as deductions by companies is \$14 million, and for tax credits for private donations, \$236 million.²⁰¹ Not all tax expenditures are reported in this way, as while the Tax Expenditure Statement lists the tax expenditures that are included in the Income Tax Act 2007, not all are quantifiable.²⁰² This list includes Veterinary Services Bodies exempt income (s CW 50), as an uncosted “permanent” “business” expenditure,²⁰³ as well as Herd Improvement Bodies exempt income (s CW 51), also as a “permanent” “business” expenditure.²⁰⁴

Resident Withholding Tax (RWT)

Certain entities are eligible for an exemption from income tax on interest earned on bank deposits and dividend income under section 32E of the Tax Administration Act 1994,²⁰⁵ including Veterinary Services Bodies and Herd Improvement Bodies.²⁰⁶ Note that this is not a certificate for the exemption from income tax on net surpluses, as in this case the certificate only applies to interest on bank funds and dividend income. At a rate of 28% this exemption alone provides eligible organisations with a further cash advantage in addition to the exemption from income tax on net surpluses and on dividend income. The RWT was introduced in 1989 in order to “counter the substantial evasion and deferral of tax on interest and dividends that

¹⁹⁷ Hon R.O. Douglas, “1984 Budget Part II Tables” (8 November 1984) Table 17: Income Tax Expenditures at 21.

¹⁹⁸ Treasury, “2014 Tax Expenditure Statement” (15 May 2014) at www.treasury.govt.nz.

¹⁹⁹ Treasury, above n 198 at 1. This definition was not provided in the 2015 Tax Expenditure Statement.

²⁰⁰ Treasury, above n 196 at 3.

²⁰¹ Treasury, above n 196 Table 2 at 5.

²⁰² Treasury, above n 196 Table 3 at 7.

²⁰³ Treasury, above n 196 Table 3 at 10.

²⁰⁴ Treasury, above n 196 Table 3 at 8.

²⁰⁵ S 32E Applications for RWT exemption certificates, *Tax Administration Act 1994* (20 December 1994) No 166.

²⁰⁶ S 32E (k), *Tax Administration Act 1994*, above n 205 which provides for “an amount that is exempt income under sections CW 38(2), CW 39(2), CW 40 to CW 52, and CW 63 of the Income Tax Act 2007 in relation to their activities in the capacity in which they derive income.”

have been reported for several years, notably in the report of the McCaw task force on tax reform The Bill ... is consistent with our objective of closing tax loopholes and of attacking tax fraud.”²⁰⁷

IRD Rulings

The author was unable to locate any IRD rulings of significance with respect to the subject matter of this report.

Case Law

There is no case law of significance to the subject matter of this report. The only case directly related to a veterinary club that the author was able to identify was *Ashburton Veterinary Club (Inc.) v Hopkins* in Christchurch in 1960.²⁰⁸ This case concerned a dispute over a contract between the veterinary club and a veterinarian employed by the club, the issue of the “assigned area” in which he was required to work and a restraint of trade clause should he resign. Further, as an incorporated society, the Court held that the society “was not precluded from making gains unless the gains are distributed among members. It may, therefore, as the proprietor of any ordinary business may do, protect itself against unreasonable competition on the part of a former employee,” and an injunction was issued to restrain the defendant from practicing as a veterinary surgeon for a period of one year from 10 September 1959.

There is, however, an interesting parallel with the subject matter of this report, concerning unfair competition through the effects of the exemption from income tax on private veterinary practices which would be interesting to explore in a tax court setting. It is this issue to which this report now turns by way of a financial analysis of five veterinary clubs.

²⁰⁷ New Zealand Parliamentary Debates, *Income Tax Amendment Bill (No 8)* (Thursday 13 April 1989).

²⁰⁸ *Ashburton Veterinary Club (Inc.) v Hopkins* [1960] NZLR 564.

Part B Case Studies

Part B of the research paper discusses a number of case studies to illustrate how the income tax exemption is being applied contrary to Parliaments intent in 1955, and the resulting benefit of the income tax exemption to commercialised veterinary clubs.

s 18(c)(i)

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- A horizontal bar chart titled 'U.S. should take action to reduce greenhouse gas emissions' showing the percentage of respondents who believe the U.S. should take action to reduce greenhouse gas emissions, broken down by age group. The y-axis lists age groups: 18-29, 30-49, 50-69, 70+, and All. The x-axis represents the percentage from 0 to 100. For each age group, there are three bars: a dark gray bar for 'Total', a medium gray bar for 'Men', and a light gray bar for 'Women'.
- | Age Group | Total (%) | Men (%) | Women (%) |
|-----------|-----------|---------|-----------|
| 18-29 | 88 | 88 | 88 |
| 30-49 | 88 | 88 | 88 |
| 50-69 | 88 | 88 | 88 |
| 70+ | 88 | 88 | 88 |
| All | 88 | 88 | 88 |

Government	Percentage
Current government	85%
Previous government	15%

such benefits or services as the Board from time to time authorises and may be present and speak at General Meetings but may not vote or stand for office.”²¹³

As an incorporated society is only required to file financial information with the Societies Registrar, and not an annual report on the activities undertaken by the society, it is difficult to ascertain whether a society is complying with its constitution based on the financial information that is filed. s 18(c)(i)

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s 18(c)(i)

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Part C Conclusions and Recommendations

While the income tax exemption granted to veterinary services bodies in 1955 was done so with a particular economic policy in mind, sixty years later the concession is being used in a manner that would not have been contemplated by Parliament in that the concession is being applied to commercial trading activities by veterinary services bodies thereby providing them with a distinct competitive advantage over their for-profit competitors through the retention of funds that allows a faster rate of growth that would otherwise be possible if those funds were applied to income tax liabilities. As a submitter to the 2001 Tax Review Committee stated, the concession is indeed an anachronism that should be removed from New Zealand's income tax legislation. In 2005 the OECD also noted its inappropriateness and that in due course it was likely that it would be removed, yet ten years later the concession remains.

The author respectfully recommends that the government revisit the fiscal concession with a view to amending the Income Tax Act 2007 such that only bona-fide non-profit veterinary services bodies be able to apply the concession to their benefit and that the commercial trading activities now undertaken by veterinary services bodies be liable to income tax in order to level the playing field in terms of tax equity. Neither is it acceptable that because a shareholder, being a veterinary services body, has income tax exempt status therefore the concession can also be applied to the commercial activities of the related company.

Further, the issue of the use of the RWT concession that is also available to veterinary services bodies which are engaged in commercial trading activities also needs to be addressed by the government.

In order that all affected parties may exercise their democratic right to be heard, this amendment to the Income Tax Act 2007 should be considered through the Select Committee process. If adopted by the House, provision should also be made to allow affected entities an opportunity to reorganise their financial positions to accommodate their new income tax liabilities. It is not recommended that such an amendment should be back-dated.



Never so much goodness in one cereal

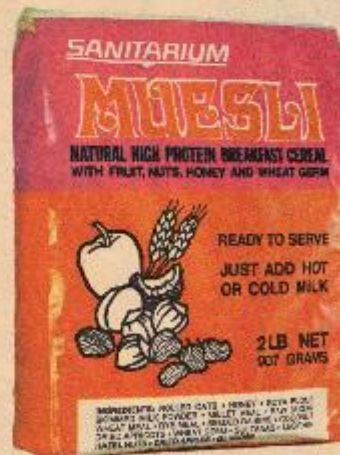
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Good to taste. Good for you. And absolutely full of naturally good things like rolled oats, honey, millet meal, wheat meal, rye meal, raisins, coconut, dried apples and apricots, wheat germ, sultanas, lecithin, hazel nuts and almonds. Never so much goodness in one cereal. Just a 2 ounce serving provides a significant portion of your daily requirements of protein, vitamins and minerals. So easy to serve, too. Just add milk, hot or cold, or for an extra treat try it with a little fruit or yogurt.

SANITARIUM MUESLI

From the people who believe food should not only taste good, it should be good for you.



AK2869

Nov 5 Nov 1923

“Advancing Religion” is a problematic archaic clause that should be discarded from the New Zealand Charities Act.

30.03.2025

By Mark Ottley, Registered Clinical Psychologist, MNZCCP, MNZPsS.

In New Zealand, organisations that promote religion can currently qualify for charitable status, but this policy raises concerns from both a scientific and human rights perspective. Research on the link between religion and human well-being challenges the assumption that religion inherently benefits people and society. While religious groups often highlight studies suggesting positive effects of faith on health and well-being, recent research has questioned these claims. A major review of early studies found significant flaws in their methods and concluded that any link between religion and health was premature (Sloan & Bagiella, 2002), and research since this time has steadily increased concerns. This article explores these issues and argues for reevaluating religion’s place in charity law.

Research suggests religion tends to have a positive average effect on a person’s well-being in highly religious societies (Diener et al., 2011; Eichhorn, 2011; Gebauer et al., 2012). This pattern is seen across major religions including Christianity, Islam, Hinduism, and Buddhism, in societies where that religion is the dominant religion and there is low economic prosperity. Effects are similar regardless of religion type. However, evidence suggests benefits come mainly from social connection and having a sense of purpose - factors that are not unique to religion and can also be found in non-religious worldviews, though these comparisons haven’t been as widely studied.

A key concern however, is that in highly religious societies, non-religious people often face discrimination and associated harms. For example, in countries like the United States, non-religious individuals may be viewed with suspicion or excluded from certain communities and opportunities (Edgell et al., 2006; Gervais et al., 2011). Those within religious subcultures can also experience abuse if they try to leave these subcultures (Parekh & Egan, 2021). In some Islamic nations, leaving religion can even lead to imprisonment or the death penalty (Wadsworth-Jones & O’Casey, 2023). In New Zealand, Atua Māori have reported facing discrimination because of their non-religious beliefs (Hiko-Tahuri & Patin, 2021; Rahmani et al., 2024). This suggests that some of the supposed benefits of being religious may actually come from the social advantages of fitting in and avoiding discrimination, rather than from anything more inherently beneficial about religion itself.

In countries with relatively lower levels of religious affiliation and higher living standards like New Zealand, personal religiosity does not appear to improve average wellbeing (Diener et al., 2011). In Christchurch New Zealand, rates of religiosity increased slightly following the trauma of the 2011 earthquake, but even among those personally affected, on average religious people did not experience greater wellbeing than non-religious people, other than compared to a subgroup who had recently left religion (Sibley & Bulbulia, 2012). A range of other research also strongly challenges the idea that religion or spirituality generally help protect mental health and wellbeing (King et al., 2012; Leurent et al., 2013; Prati, 2024).

Another important consideration is that if religion was generally beneficial, then controlling for confounds such as relative economic prosperity, one would expect highly religious societies to have superior outcomes on societal health measures. However, across the prosperous democracies, relatively non-religious societies score higher than religious societies on a broad range of societal health measures and lower on none, including rates of homicide, juvenile and early adult mortality, life expectancy, sexually transmitted diseases, teenage pregnancy, abortion, and scientific literacy, though there is no difference in suicide rates (Paul, 2005, 2009; P. Zuckerman, 2009). This pattern appears to apply within as well as between countries, with relatively non-religious states of the United States faring better than more highly religious ones, for example. Given this, it is questionable why "Advancing Religion" is still considered a charitable cause when the healthiest societies tend to be the least religious ones.

Research has additionally documented an association between religiosity and a range of problems that occur at higher rates in religious versus non-religious populations. These problems include sexism and misogyny (Burn & Busso, 2005; Seguino, 2011) homophobia (Rowatt et al., 2009), some harmful childcare practices (Bottoms et al., 2003; Ellison & Bradshaw, 2009), unfounded belief in intercessory prayer (Roberts et al., 2009), and rejection of scientific understanding vital to improving human wellbeing (Coyne, 2012; Sherkat, 2011). In the Covid19 pandemic, religiosity and spirituality was associated with lower rates of vaccination (Martens & Rutjens, 2022). Religiosity also appears to be associated on average with lower intelligence (Lynn et al., 2009; M. Zuckerman et al., 2013), and more frequent use of authoritarian rule based reasoning rather than deeper analytical reasoning (Carone & Barone, 2001; Gervais & Norenzayan, 2012; Stagnaro & Pennycook, 2025). Research has also found children with religious upbringings had greater difficulty distinguishing fantasy from reality (Corriveau et al., 2015).

In New Zealand, Destiny Church is a registered charity that has received much negative media attention, and vocal calls for it to lose its charitable status. It exhibits many of the problems described above in a very public and confrontational way, but other New Zealand megachurches share similar ideas to various degrees, including Arise, Life, City Impact, Vineyard, C3, Equippers, Elim and Curate (Farrier, 2025). A recent independent investigation into New Zealand's largest megachurch - Arise, found an additional list of egregious and systemic failures, including exploitation of young interns, sexual harassment, bullying, and manipulation (Crampton, 2022). The serious harm caused in New Zealand by charities which are religious cults, including Gloriavale, Jehovah's Witnesses, and Exclusive Brethren, amongst others, is also receiving increased recognition and concern (Decult Trust, 2025).

Given the above findings, it is perhaps not surprising that rates of religiosity have been falling for decades now in prosperous democracies including New Zealand, with a majority of the population, including a majority of both Māori and Pakeha, describing themselves as non-religious. (Diener et al., 2011; Statistics NZ, 2025). Religious teachings on homosexuality, hell, and repeated instances of hypocrisy and abuse are leading reasons people give for turning away from religion in New Zealand (Reed, 2018). Public opinion has also been changing, with evidence from countries with comparative levels of religiosity to New Zealand, suggesting most people believe religion does more harm than good, while simultaneously being more comfortable with pluralism and people having a wider variety of beliefs about religion (Boyon, 2023; Glover & Topping, 2006).

It seems that as living conditions improve and people have better personal security and education, popular religiosity falls away, with secular institutions and culture built on scientific evidence demonstrating greater reliability at improving human health and wellbeing (Paul, 2009; Rees, 2009). Some religious practices may still be helpful and worth preserving, and this possibility should be investigated further. Some religious organisations may also help promote wellbeing and tolerance towards others, amongst groups that may be challenging to support otherwise, for example members of existing religious subcultures. And given a person's cultural and developmental background, and challenges like poverty and a lack of access to services, sometimes even problematic religious coping strategies might also be better than alternatives realistically available to them. However, strategies with less personal and social cost and good evidence for their benefit are worth aiming for in the long term.

The idea that religion should be regarded as generally beneficial is untenable based on the past two decades of research and demographic shifts in New Zealand. Rather any claims about the benefits of religion need to take into account the specific social and cultural contexts in which they occur, as well as the potential risks. In many cases, apparent benefits of religiosity may stem more from avoiding social exclusion by conforming to religious norms rather than from any inherent advantage of religion itself. Some forms of religiosity are additionally associated with serious harm, while others may be more genuinely helpful. It is important to distinguish these cases rather than seeing them as equivalent.

Lastly, it is important to observe that the “Advancing Religion” clause is problematic from a Human Rights perspective. It effectively acts as the government privileging religious and supernatural belief-based organisations over secular groups or those that oppose harmful religious influence. This creates a form of discrimination that conflicts with New Zealand's Human Rights legislation and the Bill of Rights, which affirms the equality of all before the law and the right to freedom from discrimination, including on the basis of religion and belief (HRC, 2025). It also forces non-religious taxpayers, who are now a majority in New Zealand, to indirectly fund religious groups they may not support, including harmful cults.

Conclusion

Given the evidence reviewed above, “Advancing Religion” should no longer qualify as an acceptable charitable purpose in New Zealand. Instead, religious organisations seeking charitable status should do so under the other three established categories of “Relieving Poverty,” “Advancing Education,” or “Other services beneficial to the community”.

Additionally, religious organisations that repeatedly violate Human Rights legislation, or engage in other serious abuses, should lose their charitable status. Such violations not only cause significant harm to individuals' mental health and well-being but place additional strain on public health and other services.

Removing the “Advancing Religion” clause would bring charity law in line with modern, evidence-based, and fair principles - much like New Zealand's decision to repeal its related and outdated Blasphemy Law (Little, 2019). Religious organisations that genuinely contribute positively to society would still qualify for charitable status under other categories and benefit from an improved reputation, while those that do not contribute or cause harm would not receive public financial support.

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From: Selina Haami s 9(2)(a)
Sent: Sunday, 30 March 2025 5:49 pm
To: Policy Webmaster
Cc: Selina Haami; Bradford Haami
Subject: Taxation and the not-for-profit sector

External Email CAUTION: Please take **CARE** when opening any links or attachments.

Submission: Taxation and the not-for-profit sector

I am making a submission in opposition to changes that could adversely affect the public that rely on the support that Churches and faith-based organisations serve, I have been working within the Salvation Army Whakatane Corp under the Sustaining Tenancy Service within the 5+years that I have worked onsite and in the community I have seen first hand the support that the Bay of Plenty community receive, not only by SA but many other charitable services within this community.

Through the SA Food Bank and Family Store services, families and individuals can access food and household goods that they are often unable to afford due to living in financial hardship and this is becoming more unstable as many cuts to benefits and entitlements through Work and Income or reduced employment opportunities reduces household income.

I am concerned that the changes proposed will effect the most vulnerable families and individuals, because by reducing charities current income which would be taxed this could mean there will need to be more income that will have to be sort to fill this gap and would the Government cover this short fall or reduce the cost of living, where will this extra money that is allocated for come from??

Thank you for your time.

Selina Haami

From: Mike Gibbs s 9(2)(a)
Sent: Sunday, 30 March 2025 6:04 pm
To: Policy Webmaster
Subject: IRD Submission for Taxation and the not-for-profit sector - Personal

External Email CAUTION: Please take **CARE** when opening any links or attachments.

Kia Ora

I'd like to make a short submission on the topic "Taxation and the not-for-profit sector"

My name is Mike Gibbs, a member of The Salvation Army in NZ

If the removal of tax concessions to charities like the Salvation Army goes ahead, this will mean The Salvation Army will have less money to support our communities.

In real terms this means more people going hungry, more people made homeless, more people struggling with addiction, more people under pressure financially, more sick people, more people struggling to re-enter society after leaving prison and likely to fall back into old ways etc.

The services The Salvation Army delivers make a positive impact on individuals, communities and social well-being. If The Salvation Army had to reduce their services, this will push the cost onto government, either directly, with government needing to fund and deliver the services we can no longer provide and/or downstream due to increased costs in health, welfare, justice and social development.

We give as much as we can, but it is just a drop in the bucket to what is needed for organisations like The Salvation Army to operate, therefore having this tax concession makes the difference

Ngā mihi,
Kia pai te rā,

**Mike Gibbs**

Advocate, Mike Gibbs - Advocate

03 388.5811 | s 9(2)(a)

<http://mikegibbs8.weebly.com/> | Skype: s 9(2)(a)



"If you want to change the future, then you are going to have to trouble the present" William Booth - Founder Salvation Army.

From: Renata Davis s 9(2)(a)
Sent: Sunday, 30 March 2025 6:14 pm
To: Policy Webmaster
Subject: Taxation and the not-for-profit sector

External Email CAUTION: Please take **CARE** when opening any links or attachments.

Kia ora koutou

On Friday I attended a session with Phil and Liz from IRD with Te Hunga Rōia Māori o Aotearoa in respect of the Issues' Paper entitled *Taxation and the not-for-profit sector*. In that session I asked IRD if the government has or would be considering the impact of these proposals from a social return on investment point of view. I wanted to send an email to clarify my question.

1. The government is currently rolling out a 'social return on investment' (**SROI**) framework to measuring the social value obtained from its procurement of goods and services. A description of the approach is here: [Social Return on Investment | What Works](#) – it focuses on the broad value opened from social investments, not just the cost of delivering a programme. I understand this is being led by the Social Investment Agency.
2. Accordingly, a key focus of the current Government is ensuring that government funds invested in social service providers are delivering value for New Zealand. A concrete example of SROI can be found in the Whānau Ora space, which is a programme delivered through Te Puni Kōkiri. The government's new approach to Whānau Ora is based on measuring the social impacts of this programme through a SROI lens.
3. It seems that one result of the proposals in the Issues' Paper will be that funds which would otherwise have been available for a charity to distribute for charitable purposes will need to be diverted to the government (should they be captured by the unrelated business income tax). I think it is likely this will lead to less funds being invested in areas of 'social good'.
4. Given this context, and the current Government's focus on ensuring service providers deliver social value for the tax payer, have government officials considered the impact of the proposals in the Issues' Paper from a SROI perspective? If not, will this be considered in future?

Thank you.

E mihi ana
Renata

Renata Davis
Tumuaki | Partner

Kāi Tahu, Kāti Mamoe

p: 04 495 9980
m: s 9(2)(a)



Level 11, Diabetes New Zealand House, 15 Murphy Street, Wellington 6011
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Submissions on the “Taxation and the not-for-profit sector” for the Inland Revenue Department (IRD)

To: The Inland Revenue Department, Deputy Commissioner, Policy

From: Dr Sue Yong, Senior Lecturer in Accounting and Taxation, Auckland University of Technology, Faculty of Business, Economics and Law

Re: Taxation and the not-for-profit sector

Date: 30th March 2025

Dear Deputy Commissioner, Policy,

I hereby submit my comments regarding the consultation paper on the “Taxation and the not-for-profit sector” as below for each section.

Q1

Most compelling reasons not to tax charity business incomes are:

- Business incomes are their financial lifelines especially with the reduction of donations and fund raising due to economic downturn and ageing population. Most if not all, charities do not generally receive government funding and yet they provide services for the benefit of the community. Without their services, the community would be worse off, and the government had to step in to fill this gap, which would be costly for the government. In addition, the government may not have the expertise nor the relationship to deal effectively with the services provided in the community by the charities.
- There are many intrinsic and intangible benefits provided to the community by the charities that are often overlooked by the government nor acknowledged by the public until when they needed it. For example, support for the homeless by many charities is underreported and is not acknowledged. These charities which provide support in terms of food, clothing, and counselling relied on their business incomes to provide this support for free to the homeless and without having to beg for government funding or to rely on declining donations.
- Some of these business incomes are cyclical and are not stable. There are times when the business incomes are strong due to a demand but often, they are not. Having no business incomes or having their business incomes taxed like that of the commercial sector may jeopardise the sustainability of the charity. Any taxes on the charities can lead to reduction or the demise of services offered to the community for free.
- The factors in 2.13 and 2.14 do not warrant taxing charitable business incomes. This is because many of the business incomes from most charities are not large nor do they compete with commercial businesses. Of course, there are

exceptions. Let's not assume that all charities are able to compete with the commercial sector equally as they normally do not have the funding, resources, experience nor business expertise to do so. This is because their main focus is to service the community and not to operate with a profit in mind. Their business incomes enabled them to continue servicing the community without having the financial burden of not having enough funds (at times) to fulfil their charitable missions.

Q2

The most significant practical implications if tax exemptions are removed from charities are:

- Huge compliance costs of which most charities are unable to afford. Higher administrative costs for collecting the taxes for charities.
- Close the charities and terminate all services that are needed and beneficial for the community eg no benevolence, nor food support or mental health support. These will no longer be available and the community would have no where to turn for help.
- Difficulties in sustaining the continuity of charities due to additional costs of accounting/tax compliance costs, paperwork and having to find funds to pay taxes.

Q3

Criteria that should be considered for unrelated business are:

- When the founder/main donor has a vested interest in the business
- When the business is related to the founder/main donor's other business or incomes.
- When the founder/main donor directly benefits from it rather than the charity or the community.

Q4

The appropriate threshold to continue to provide exemptions for small-scale business activities is to follow the criteria of Tier 3 and Tier 4 charities reporting ie total expenses that are less than \$5m. This aligns with the high costs of maintenance, costs of living especially in the regions such as Auckland, Wellington and Christchurch of which the community needs are the highest due to the size of the population.

Q5

Yes – I agree that charity business income distributed for charitable purposes should remain tax exempt. The most effective way to achieve this is to ask charities to disclose their distributions (in terms of \$, frequency and to which other charities, and reasons for the distribution). This process should be given 3 years grace period for the charities to fully comprehend the requirements.

Q6

Other issues should be considered are:

1. Size of the charity
2. Duration of the charity and their track record in relation to compliance with the reporting requirements set out by the Charities Services
3. Large and frequent related party transactions especially by “officers” of the charities
4. Incomes of the officers of the charities and their associated persons.
5. The percentage of the incomes of the officers of the charities and their associated persons relative to the business incomes. If it is large or significant, then this should be accounted for.

Q7

Yes – there should be a distinction made between donor-controlled charities and other charitable organisations. Criteria to define a donor-controlled charity should be:

- The founder or main donor and their associates has a significant role in the decision making of the charity.
- The founder or main donor and their associates significantly influence the direction of the business and charity.
- The founder or main donor and their associates derives a significant and ongoing financial benefit from the charity.
- The charity has significant business relationships with the founder or main donor and their associates.
- Charities that are run by a group of people who are not the founder nor the main donor and does not have a significant influence in the running of the charities should be separated from the donor-controlled charities.

Q8

Yes there should be some investment restrictions introduced for donor-controlled charities for tax purposes. The restrictions should be that business transactions should be of arms'-length.

Q9

No as it depends on the work that they are doing in the community. Doing a service to the community is already likened to a distribution even though it is intangible and not measurable, but it is necessary.

Q10

Policy changes are:

- Increasing the current \$1000 deduction to \$10000 to remove small scale NPFs – to align with the inflation rate and cost of living.
- Simplify the income tax returns for small NFPs. Small in terms of the incomes received and the expenses incurred with a net surplus of no more than \$10000.
- Retain the current RWT tax exemption rules for NFPs

Q11

Implications if removing the current tax concessions for friendly societies and credit unions would be:

- Less available clubs and societies of which the society needs to address loneliness and mental health issues. This is because for many, these clubs and societies give them a sense of belonging. They are especially needed for the community to be able to come together for a common purpose.
- Less available credit finance available for those who do not qualify in the mainstream banking systems- this is for the credit unions.

Q12

Likely implications if the exemptions are removed:

- Reduction or the death of local and promotional bodies, herd improvement bodies, veterinary service bodies, bodies promoting scientific and industrial research.
- No impact on non-resident charity.

Q13

Difficulty in retaining or hiring skilled staff to the charity as they are not able to compete with the commercial sector.

Q14

The FENZ simplification should be extended to all NFPs.

Q15

Better awareness should be made by the NFPs and charities to the people affected through better and different modes of communication. Explain to the people affected the reasons for the DTC given.

I hope the above comments would be taken into account. I am available for further comments if needed. Please take into account that not all charities are the same and that there is no one-size fits all. Charities have been in New Zealand and their services the community cannot be undermined in order to keep New Zealand in order.

Thank you.

Kind regards,

Dr Sue Yong

PhD, MMS, B.Econs (Hons), CA

Senior Lecturer in Accounting and Tax

Accounting Department,

Faculty of Business, Economics and Law

Auckland University of Technology

Private Bag 92006, Auckland.

Tel: s 9(2)(a)

s 9(2)(a)

From: Christine De Maine s 9(2)(a)
Sent: Sunday, 30 March 2025 7:09 pm
To: Policy Webmaster
Subject: Taxation and the not-for-profit sector

External Email CAUTION: Please take **CARE** when opening any links or attachments.

Kia ora koutou,

I am making this submission as an individual and someone that has worked within The Salvation Army for the last 19 years.

I have oversighted 3 churches, and the second-hand stores associated with them and much of the work that we do within the communities that these centres are based in. For the last few years, I have had more to do with our national services and particular with the many of our Māori whānau that come in and seek our support from a number of services.

We provide to some of Aotearoa's most vulnerable tānagata, the provision of kai, given out items like beds etc, seek treatment for addictions and walked with people to seek better skills in relations, families and for themselves.

The income from our Family stores have been key in supporting our centres to support the community in these activities and also providing a place of connection as well.

With this new Taxing Charities bill, I have concerns about how this will impact our movement. The Salvation Army is a rather large and complex movement and adding changes that are proposed here could have big implications on the impact and our ability to continue to serve our communities.

I have been working for the last few weeks in Sydenham Ōtautahi and the demand/need for kai support is something many of our centres across the city, cannot keep up with. Families are struggling to make ends meet and I am fearful that the changes proposed here will affect our ability to respond to them. With the removal of tax concessions, this will mean less money to support these whānau as we already have to buy kai to top up shelves to provide kai for families that need it.

I am not a tax expert but happy to be contacted and to kōrero more.

Please consider the implications of this that I think will be far reaching with many ripples that will impact what we do and our communities.

Ngā manaakitanga

Christine De Maine (Major)
Pōkarekare Māori Ki Te Tai Aroha

Māori Ministry leader based in Ōtautahi

The Salvation Army

M: s 9(2)(a)

Mission Support Office | Wigram

E: s 9(2)(a)

| W: [Te Tai Aroha | Māori Ministry](#)

The Salvation Army Aotearoa, Fiji, Tonga and Samoa

caring for people | transforming lives | reforming society by God's power



The banner features a photograph of a man smiling and holding a baby, framed in a green, hand-drawn style border. To the right of the photo, the text reads: "Your choice today will give them choice tomorrow". Below this, it says "Please donate today" followed by the website "SalvationArmy.org.nz/1000Days" and the phone number "0800 53 00 00". On the far right is the red Salvation Army shield logo with the text "THE SALVATION ARMY" and "Te Ope Whakaora" below it.

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Submission to the New Zealand Tax Commission Regarding Charitable Tax Exemptions and Accumulated Reserves

To: The New Zealand Tax Commission

Subject: Review of Tax Exemptions and Accumulated Reserves in the Not-for-Profit Sector

Date: 30 March 2025

Submitted by: Ra Puriri

Introduction

This submission is made in response to Inland Revenue's consultation on taxation and the not-for-profit sector. s 18(c)(i)

his submission outlines concerns regarding excessive accumulation of reserves, lack of charitable transparency, use of tax-exempt tithing funds for commercial real estate ventures, and broader doctrinal and regulatory inconsistencies.

s 18(c)(i)

practices raise significant questions about public benefit, compliance with charitable purposes, and fair competition in New Zealand's marketplace.

Background

The February 2025 issues paper, *Taxation and the Not-for-Profit Sector*, identifies core areas for reform:

- Excessive accumulation of tax-free reserves.
- Misuse of charitable status for commercial activities.
- Lack of oversight for donor-controlled or non-resident charities.
- Inequities in how tax-exempt organizations compete with private businesses.

s 18(c)(i)

s 18(c)(i)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

s 18(c)(i)

Recommendations for Consideration

1. Enhanced Financial Transparency

Require all large religious charities to adopt terminology that clearly identifies sacred donations like tithing. Avoid corporate-style language such as “grant income” or “retained earnings.”

2. Doctrinal Alignment

Ensure all expenditures reflect scriptural and doctrinal purposes of tithing—such as worship, humanitarian aid, and ecclesiastical needs—rather than profit-seeking real estate ventures.

3. Regulatory Compliance

4. Expanded and Documented Public Benefit

Require the Church to significantly increase, document, and independently report its public benefit in New Zealand. This should include substantial funding for:

- Food pantries
- Community gardens
- Māori and Pasifika community development
- Disaster relief
- Mental health support
- Affordable housing assistance

Food for Thought – A Doctrinal Opportunity?

This inquiry presents a rare opportunity to reflect not only on financial reporting but on the spiritual framing of tithing itself. Could tithing be reframed doctrinally and administratively as **voluntary consecration** rather than **compulsory obligation**?


Suggestions for Reframing Tithing:

- **From:** A mandatory 10% rule tied to temple worthiness
To: A voluntary, Spirit-led offering inspired by 2 Corinthians 9:7
- **From:** Legalistic language (“requirement,” “obligation”)
To: Language of grace (“privilege,” “worship,” “offering”)
- **From:** Tithing as a condition for temple access
To: Stewardship as a matter of personal discipleship and spiritual intent
- **From:** Old Testament models of fixed percentages
To: New Testament patterns of giving based on need, justice, and love

- **From:** Shame for those who fall short
To: Support and compassion for all disciples, regardless of means

Conclusion

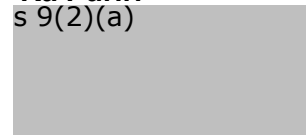
s 18(c)(i)



I urge the Tax Commission to act decisively—reforming how religious charities are monitored, taxed, and held accountable in New Zealand to ensure fairness, doctrinal integrity, and public trust.

Submitted by:

Ra Puriri
s 9(2)(a)



Submission to the New Zealand Tax Commission Regarding Charitable Tax Exemptions and Accumulated Reserves

To: The New Zealand Tax Commission

Subject: Review of Tax Exemptions and Accumulated Reserves in the Not-for-Profit Sector

Date: 5 March 2025

Submitted by: Ra Puriri

Introduction

This submission is made in response to the Inland Revenue's consultation on taxation and the not-for-profit sector, as outlined in the official issues paper and Q&A document provided by Inland Revenue. The focus of this submission is on the accumulation of significant financial reserves by charities, specifically the reported \$520 million "secret rainy day fund," and the implications of tax exemptions on business income unrelated to charitable purposes.

[REDACTED]

Background

New Zealand's charitable sector benefits from extensive tax exemptions to support their public benefit work. However, concerns have been raised about charities accumulating vast financial reserves without sufficient public benefit justification. This raises concerns about compliance, governance, and the equitable distribution of tax burdens across all sectors.

The issues paper *Taxation and the Not-for-Profit Sector* (February 2025) identifies several key areas requiring policy review, including:

- The accumulation of undistributed business income by charities.
- The potential competitive advantage charities may have over tax-paying businesses.
- The necessity of tax reforms for donor-controlled charities and non-resident charities operating in New Zealand.

s 18(c)(i)

[REDACTED]

[REDACTED]

[REDACTED]

s 18(c)(i)

2. Lack of Detailed Disclosure on the Use of Excess Funds

- **Insufficient Transparency:** There seems to be no requirement for detailed annual disclosure of how these excess funds are spent. Given the substantial amounts involved, it is concerning that there is no obligation for [REDACTED] to transparently report on the specific allocation of these funds. This lack of transparency raises questions about how these funds are being managed and whether they are truly being used for charitable purposes.

- s 18(c)(i)

s 18(c)(i)

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4. Clarification on Future Compliance and Monitoring

- **Ensuring Accountability:** With new regulations coming into effect, I seek assurance that Charities Services will enforce strict compliance, requiring detailed explanations for the accumulation of funds and ensuring these funds are used in ways that genuinely serve the public interest. s 18(c)(i)

5. Request for a Comprehensive Review

- **Independent Audit and Investigation:** Given the significant concerns about the use of retained earnings, I request that Charities Services conduct a thorough investigation, including an independent audit of the Trust's financial activities. This should particularly focus on ensuring that the funds are not being diverted to non-charitable projects and that all activities align with the Trust's charitable purpose.
- s 18(c)(i)

Conclusion

The *Taxation and the Not-for-Profit Sector* issues paper acknowledges that New Zealand's current tax exemptions for charities are ripe for reform, particularly concerning the accumulation of reserves and commercial activities unrelated to charity. s 18(c)(i)

urge the Tax Commission to take immediate action to address the market distortion caused by tax-exempt entities competing in commercial ventures and to implement policy changes that ensure all charities meet public benefit requirements.

Submitted by:

Ra Puriri

s 9(2)(a)

From: Chris Limmer s 9(2)(a)
Sent: Sunday, 30 March 2025 7:30 pm
To: Policy Webmaster
Subject: FW: Inland Revenue taxing on Charities feedback

External Email CAUTION: Please take **CARE** when opening any links or attachments.

From: Chris Limmer
Sent: Sunday, 30 March 2025 7:29 pm
To: 'policy.webmaster@ird.govt.nz.' <policy.webmaster@ird.govt.nz.>
Cc: Christina Tyson s 9(2)(a) Gerry Walker s 9(2)(a)
Subject: Inland Revenue taxing on Charities feedback

Thank you for the opportunity to give feedback on Inland Revenue's possible changes to the way it taxes the not-for-profit sector.

Although I admire some of the intent of the proposal, especially as it appears some organisations may be using the charities act as a possible tax loophole, I feel that Inland Revenue are unaware of the unintended consequences that this proposal would have. They could be "throwing the baby out with the bathwater" so to speak.

My role is the National Practice Coordinator for The Salvation Army (TSA) Communities Ministries, which is the social services arm of TSA. In the last 9 months we provided food support for 82,939 people across our 60 centres nationally. The main income for 76% of these was recorded as some form of government benefit. This highlights the role that TSA has in helping those who cannot survive on government support alone. And these are the people who will be most impacted by this possible proposal by IRD.

Already stretched services, and less support for the vulnerable.

Due to a combination of government decisions last year, the funding for our Auckland-based services have been significantly reduced. The Covid food funding has ceased which has resulted in us having to make drastic cuts to our foodbank output. The MSD contract procurement for financial mentoring resulted in TSA no longer receiving funding for our Auckland based centres. This accounts for x14 budgeters Auckland-wide (not all are full-time). And due to the Oranga Tamariki budget cuts last year we went from x9 Social Workers in Auckland down to just x4.

This means cuts to our services. We are stricter with our foodbanks and/or now doing a rigid booking system for food. We have a 5-week waiting list for people wanting our budgeting services. And in some cases, we are so stretched financially that we simply have to close the doors completely. Our East Auckland branch, which opened in 1987, last month closed its doors for good. [Salvation Army shutting down - Times](#)

Increase pressure on government organisations.

We highly value our relationships with our government partners, some of which we have had a very long standing relationship with. This includes MSD and our Regional Commissioners, our local WINZ offices, HUD with TSA being one of the larger Transitional Housing Providers, Oranga Tamariki especially over the last few years where we had a significant number of OT contracts, Kainga Ora with our work with Sustaining Tenancies, and recently MBIE working together with exploited migrants.

We rely on these collaborative relationships in order to provide better outcomes for our people. But these government organisations also rely on us in order to achieve their desired outcomes. One good example is Kainga Ora often refers to our Manukau branch as they find some of their tenants have a resistance to engaging with KO. Sometimes it's easier for NGO's, like us, to get a foot in the door.

Under this proposal by Inland Revenue, we potentially won't be able to continue a large chunk of our services. And that will put pressure on government organisations such as above. We are already turning away MBIE referrals for exploited migrants because we no longer have the social work capacity. We used to get referrals from Middlemore Hospital to help with families whose children were sick as a result of poverty related issues. We have told Middlemore we can no longer accept these.

These are the types of unintended consequences that the government didn't think of when making last year's policy decisions around budgets. And I fear there will only be more of these consequences with Inland Revenue's proposed taxation changes to charities.

Thank you for your time.

I am happy to contribute further if required

Chris Limmer National Practice Development Coordinator

Northern Divisional Headquarters
Level 1, 691a Mt Albert Road, Royal Oak, Auckland 1023
M: s 9(2)(a)



THE ARMY THAT BRINGS LIFE

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s 9(2)(a)

From: Tanya Nock s 9(2)(a)
Sent: Sunday, 30 March 2025 7:48 pm
To: Policy Webmaster
Subject: Submission for Charities bill

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Kia ora koutou. I would like to submit the following in regard of the IRD charities bill:

The large profit did not take into account last year there were 170,000 of us who volunteered a total of 1.4 million hours every single week.

If donors cannot claim a percentage back, this could have a significant impact on charities as we rely on our donors as part of our funding stream. I think it's great to introduce that donors can claim as they give rather than at the end of the tax year.

Respectfully

Tanya Nock

Pronouns: she/her/ia

Tangata Tiriti

Creative Director of Cultural Conversations

s 9(2)(a)

www.culturalconversations.co.nz



2024 medalist for Inspirational women awards

Women's Refuge Services



Whanganui Camera Club submission on taxation and the NFP sector

Background

The Whanganui Camera Club Inc (WCC).

We are an association of amateur photographers who pursue their hobby for private enjoyment. WCC relies on the income it receives from its members and term deposit to provide as wide a range of activities as possible to benefit members. Our aim is to help photographers to grow in the knowledge and understanding of the hobby of photography. We run activities such as workshops, trips to different parts of NZ to take advantage of local areas of interest, bring in expert speakers in photography from other parts of NZ, charging members as low a fee as possible to ensure as many members as possible can attend.

It should be noted that many of our members are in their senior years and for whom photography is their main recreational activity, one they currently can afford despite income limitations. It is also a hobby that suits many in their less physically active years because it can be of low impact on their mobility, an important feature for most senior citizens. Photography is a recreational occupation that enhances the mental and physical well being of its participants.

Key point

Taxing Society income

Policy framework

- 4.3 NFPs are generally subject to income tax under the broad-base, low-rate policy framework. There are three exceptions:
- NFPs that qualify for a specific income tax exemption (such as the exemption for registered charities or the exemption for bodies promoting amateur games and sport),
 - NFPs that have net income of no more than \$1,000, provided their constitution prohibits them from distributing property to members (this concession is intended to reduce compliance costs for small NFPs), and
 - NFPs that are permitted by their constitutions to make distributions to members can reduce their taxable income to the extent they distribute profits on member transactions back to members as a rebate. This tax concession provides a similar result to what would otherwise be provided under the common law mutuality principle.¹²

Reason for review

- 4.4 Many NFPs are mutual associations, that is, a body or association of people acting together to further an objective, which is often to provide benefits to members. Mutual associations supply or receive goods or services to or from members. Examples of mutual associations include clubs, societies, trade associations, professional and regulatory bodies, and industry councils.

If the income received by the WCC from its members by way of subscription or other services provided by the WCC were to be taxed, it would have a serious flow on

effect to our members by having to **reduce** services and/or subsidies. This would mean that our members would not have the same level of access to the enjoyment of their recreational hobby. Our income varies from year to year, sometimes in fact making a loss on the activities we provide, which means we need to draw on our reserves or raise subscriptions. In addition, our organisation is run by volunteers who willingly give up their time to ensure the WCC is able to operate effectively, there are no paid employees, and to impose a tax would require further administrative work and knowledge, much of which may be beyond the skills of the volunteers involved.

Accordingly the Whanganui Camera Club Inc opposes the introduction of income tax on subscription or other income received by the Society used solely for the benefit of members.

On behalf of the Committee and Membership of the Whanganui Camera Club

John Smart President

Maartje Morton Secretary

Ray Anderson Treasurer

31 March 2025

s 9(2)(a)

From: Sunil Kumar s 9(2)(a)
Sent: Sunday, 30 March 2025 8:28 pm
To: Policy Webmaster
Subject: Taxation and the not-for-profit sector

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Do not tax not -for-profit sector as it will have devastating effects in the community.

s 9(2)(a)

From: Rajni Kumar s 9(2)(a)
Sent: Sunday, 30 March 2025 8:30 pm
To: Policy Webmaster
Subject: Taxation and the not-for-profit sector

External Email CAUTION: Please take **CARE** when opening any links or attachments.

I am submitting this paper against taxation of non profit sectors as it will affect the disadvantage communities.

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s 9(2)(a)

From: Rajni Kumar s 9(2)(a)
Sent: Sunday, 30 March 2025 8:31 pm
To: Policy Webmaster
Subject: Taxation and the not-for-profit sector

External Email CAUTION: Please take CARE when opening any links or attachments.

I am totally against the taxation of non profit sectors.

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Taxation and the not-for-profit sector

A submission on behalf of the trustees of Graduate Women Canterbury Trust (GWC).

Email trust@graduatewomencanterbury.nz

About our organisation

GWC is a charitable trust whose vision is for barrier-free education for all women. Our mission is to break down barriers to enable women to succeed in education, through strategic partnerships, grants and awards. Our pillars include creating equity and encouraging women. Inclusion propels us and this is reflected in the principles | mātāpono that guide the charitable purposes of our trust deed.

This submission has been prepared by the trustees and reflects the Trust Board's position on the Officials' Issues Paper.

Q1. What are the most compelling reasons to tax, or not to tax, charity business income? Do factors described in 2.13 and 2.14 warrant taxing charity business income?

We have no convincing reason or argument to tax charities' business income if any surplus being derived by the charitable entity is being used for its charitable purpose.

Charities are often resource (including cash) poor but led by passionate committed individuals who achieve massive positive impact within communities. Amazing results can be achieved on what looks like the "sniff of an oily rag".

We believe a decision to tax business income of a charity would reduce the amount of cash available within the charitable sector and reduce the social good being done by these organisations. Most charities have limited resources and are trying to use these in the most efficient and effective way to create the biggest impact.

Additional business income for charities means less time needs to be spent competing for scarce funding opportunities through fundraising, donations or government contracts and funding.

We believe charities who are involved in business activities to support their charitable purpose within their communities should be incentivised rather than penalised through taxation.

From a practical perspective, if a charity's business income was to be taxed, considerable time, cost and energy would be needed by each charity to ensure its staff and volunteers understand the Income Tax Act and the Tax Administration Act. A lot of charities are very small and simply could not afford to employ additional staff, nor do they have the resources to engage external tax consultants. This would mean that both the Government and the registered charity would have wasted considerable financial and human resources which were destined for, and would now no longer be available for the charitable purpose of the entity.

We disagree with the view that because a charitable business does not pay tax it has an advantage over non charitable entities. All registered charities are required to disclose their financial results as part of their annual return through Charities Services, unlike non charitable entities who often claim disclosing their financial results would be releasing commercially sensitive information.

Registered charities are also often required to be independently audited, at a financial cost to the charity; however only companies who are publicly listed are required be audited.

Charities accumulate funds for a variety of different reasons. Often they need to accumulate cash reserves to cover for those “rainy day” expenses, or in the case of the last few years, COVID, when income for some charities was virtually nil. This means the charity needs to balance very carefully between spending on its charitable purpose and creating enough funding to be able to operate and deliver its charitable purpose into the future.

The question also assumes accumulated funds are supported by cash reserves. This is not always the case with charities, as accumulated funds can include revaluation reserves or even restricted reserves.

From: Stephen Scott s 9(2)(a)
Sent: Sunday, 30 March 2025 9:06 pm
To: Carole Scott; Policy Webmaster
Subject: Inland Revenue Issues Paper

External Email CAUTION: Please take **CARE** when opening any links or attachments.

I am writing a submission to register my concern regarding the taxing of charities. I work within The Salvation Army in a role that seeks to assist people who wish to improve the lives of their whanau/family and their own, through self-development gaining encouragement and practical knowledge in life skills.

I receive referrals from Oranga Tamariki, Lawyers, Corrections and other community services and find the need and demand to be quite urgent.

The work is relevant and meaningful to the community in Hamilton, where the needs are great. It is my concern that a reduction in funding through greater taxation will further disadvantage the people I serve, along with many others that are being cared for by both, The Salvation Army and other charitable social services in my community.

Reduction of financial benefits through greater taxation of our charitable activities would further diminish the existing delivery, where government and other contract related income falls short of the cost of providing these services. A case in point being the recent withdrawal of government funding for the provision of our professional Social Workers with insufficient charitable income

to maintain those roles. The effect of this across our community has negatively impacted the wider networking and integration of charitable NGO services across both The Salvation Army and it's wider service relationships.

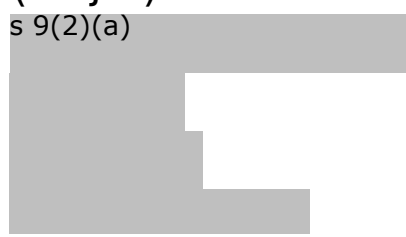
Thank you for this opportunity.

Your sincerely

Carole Scott

(Major)

s 9(2)(a)

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P O Box 133018 Mission Bay
Auckland 1146
T : +64 9 215 3626
E : impact@givingarchitects.com
W: givingarchitects.com

31st March 2025

Giving Architects New Zealand Limited submission on the taxation of registered charities

Giving Architects New Zealand Limited is a team of passionate fundraising professionals who provide fundraising consultancy and management services to charities. Founded in 2015 and with direct experience dating back to 2000, we have worked tirelessly with many of New Zealand's leading charities, as well as many small community organisations throughout the country. These organisations use all available resources possible to have a greater impact when addressing the many unmet needs in New Zealand society. In this work, we have also directly engaged with many thousands of donors who support these charities for a wide variety of reasons and at differing levels of generosity, ranging from millions to hundreds of dollars.

We are fervently opposed to the proposed taxation of the business income of New Zealand charities. We do not require our submission to be withheld on the grounds of privacy.

Philanthropic support of New Zealand charities, estimated to be within the range of \$4bn - \$5bn per year, is significant but constrained. The sector as a whole is under-funded and relies heavily on volunteers, donors and the creative generation of additional revenue to do the important work that neither the Government nor the business sector is able or willing to do. Very simply, our society would cease to exist as we know it without the important work that New Zealand charities undertake 365 days of the year.

Many charities, facing the shortfall of Government and public funding of core services, look to generate and build sustainable revenue-generating models that can sustain their critical work. This often involves revenue-generating activities that fall within the definitions specified in the 'Taxation and the not-for-profit sector' paper, as well as building active investment portfolios that provide essential annual revenue from a range of investments.

Whilst there have been a very small number of registered charities singled out as examples of not-for-profit organisations having a competitive advantage over tax-paying competitors, the proposed policy is a significant overreach that will have a profound and damaging impact on New Zealand society. This comes at a time when the recent and significant reduction of Government funding for social, health and environmental causes over the past year has already caused many charities to withdraw or reduce services in local communities throughout New Zealand. This proposed policy is ill-informed, ill-advised and poorly timed, with insufficient time and engagement to be considered with any ethical efficacy.

The idea that charities, as a general rule (given that this policy proposes blanket changes across the whole charity sector) are conducting predatory behaviour against the commercial sector, is wildly simplistic and insufficiently qualified.

More significantly, what the officials' issues paper does not consider in any meaningful way, is the unintended negative consequences that will directly affect New Zealand tax-payers. Specifically:

1. The number of charities reliant on the revenue that falls within the definitions loosely implied in this paper
2. The number of charities that will not be sustainable if this implied revenue is taxed
3. The cost of addressing the subsequent important, critical or undesirable unmet needs in society if these charities cease to exist
4. Or alternatively, a qualified estimate of the medium to long-term flow-on costs to New Zealand society, and subsequently New Zealand tax-payers, because of the economic, social and environmental negative impact of these unmet needs, currently addressed by the negatively impacted charities, remaining unmet. This can, in some part, be partially qualified through the Government's social investment modelling.

New Zealand has long been identified and qualified as one of the world's most generous societies, according to the World Giving Index. It is part of our global reputation. The short-sighted nature of this paper proposing policy that would seek to correct circumstances for a very small number of cited charities is astonishing. This perceived issue, which is minor in a \$20bn per annum sector, would be much better addressed by a sufficiently resourced and equipped Charities Services office where formal complaints can be made and evaluated.

In this day and age, it is essential that charity, social enterprise (including generating charity-owned business revenue), the endowment of capital for sustaining long-term charitable outcomes, impact investment, and all other models of money and purpose collaborating for a better society, are proactively supported by the Government. This ill-considered policy, which is not in any way common internationally, is a backward step that will directly harm New Zealand society for generations to come.

We strongly urge officials and the Government to not progress this basis for policy any further, but instead bolster Charities Services as the lead agency to deal with these perceived issues and enter into meaningful dialogue with charity sector leaders in an appropriate timeframe.

Yours sincerely,

s 9(2)(a)

Clive Pedley

CEO & Director

Giving Architects New Zealand Limited



From: Manawātū Community Housing Trust
To: IRD
Subject: Taxation and the not-for-profit sector

MCHT Submission on Taxation and Not-for-profit Consultation Paper

The Manawātū Community Housing Trust (MCHT) is a Community Housing Provider (CHP) and provides medium-term housing for whanau with support needs. We achieve this through a mix of income-related rents (IRR) as a CHP and below market rents in non-IRR units. Our goal is to provide a safe place for our tenants to learn how to become self-sufficient in a supportive environment before moving into long-term housing. For Palmerston North, 50% of the population are renting but living in a third of the houses, with the private sector the dominant provider. Local charitable housing trusts such as ours are valuable and significant actors in housing the most vulnerable population who are unable to afford housing elsewhere and run the risk of being homeless.

The need to encourage and support social housing charities is important as Kāinga Ora has paused developments nationally and have been directed to maintain a stable number in the coming years. Similarly, the private market has not been contributing sufficiently for the increase as rent has continued to increase faster than wage growth, as the 2025 Corelogic survey revealed that rental affordability as measured by median income-rent ratio is the worst it has been in 20 years. For us, this is reflected in a continuing growing waiting list, a low tenant turnover for the past decade, and operating at full capacity. Despite this, our desire to expand our operations through building more units have been hampered, and while we are financially sound, we project that we will not be able to maintain the current level of operation or rents in the coming years. There is thus a greater reliance on charitable housing trusts, while also potentially undermining their ability to deliver services.

It is essential for our long-term financial viability that we operate on the financial system that ensures a margin is generated annually. This is to ensure that the quality of accommodation is maintained in the short term and long-term maintenance be

undertaken. The proposal that we might be taxed on any margin or profit would severely undermine the quality of housing currently provided.

We thus feel that more care and nuance must be taken in the taxation of charity income than has been proposed. We acknowledge and accept that it is necessary that for-profit organisations are taxed and charities with substantial business arms do contribute to taxes. However, the current proposals have the potential to limit funding diversity for smaller organisations and contribute to the loss of social services. To go ahead, there is a need to focus not on the source of funding, but the purposes to which it is used.

We support the submissions made by Te Pū Harakeke Palmerston North, Community Housing Aotearoa, and the Manawatū Tenants' Union.

Key Points

1. Despite the claim that there is an unfair competitive advantage for charities and the cost, this is not reflected with the current social benefits of charities and what the Central Government proposes. Without a full impact assessment, there is insufficient clarity on the most efficient use of the money – especially for a Central Government that has sought to reduce both its costs and income. The long-term social costs of redistributing wealth from charities to Central Government through reduced service provision must be included.
2. Charitable organisations already have reduced income which limits the ability for social housing charities to compete with the private market to increase housing supply. Taxation of their income could contribute to increased rent, making it more difficult for vulnerable households, or alternatively lead to additional costs on government to cover income related rent. Additional government income in these circumstances could thus be undermined through other supports needed to prevent and engage with homelessness. Homelessness, or potentially imprisonment, is more costly socially and to Central Government than providing a house and the social supports to remain in housing according to the vast research in housing first models globally.
3. For charitable organisations facing other funding losses, the ability to seek alternative funding sources would be limited. A charity may then find its alternative funding source at risk or substantially reduced as they seek a more diverse funding model – which is currently encouraged by funders generally. To combat this, organisations will need to rely more heavily on philanthropic or government funds or cease operating. These both introduce additional Central Government costs directly and socially. The important part is the charitable purpose and not the source.

Manawatū Community Housing Trust

382-384 Rangitikei Street PO Box 4216 Palmerston North

06 3554346 or **S 9(2)(a)**

4. The difference between related and unrelated income requires clarity, in addition to who determines the difference. There are already significant compliance costs in reviewed or audited accounts for charities through Charities Services, with these accounts publicly available. Our accounting fees have increased to approximately \$4,000 for auditing, which is required to retain our Community Housing Provider status. Additional compliance costs and requirements will further increase this figure with little benefit to the operation of the service. Thus, we support the exclusion of Tier 3 and 4 charities, but we also recommend that the amount of income derived is considered for larger organisations.
5. Charitable Trusts such as ours operate with very experienced governance boards consisting of dedicated community members that provide their professional services at no charge to the Trust. The proposal that humble margins might be taxed could potentially detract from attracting experienced members in the future.

In conclusion, imposing taxes on small charitable trusts in New Zealand would undermine their ability to deliver essential services and weaken community support structures. Instead of taxation, policies should focus on improving transparency, reducing compliance burdens, and ensuring that charitable funds are used effectively for public good. Retaining tax-exempt status for small charitable trusts aligns with New Zealand's commitment to fostering a strong, community-oriented, and socially responsible society.

To: policy.webmaster@ird.govt.nz
Subject: Submission – Taxation and the Not-for-Profit Sector

Kia Ora,

My name is Colonel Graeme Reddish, and I am a retired Salvation Army Officer. For many years I was the Financial Secretary of The Salvation Army in New Zealand, and I am writing to share my thoughts on the proposed tax changes affecting charities and not-for-profits.

1. I am primarily concerned that the removal of tax concessions to charities like The Salvation Army will mean that there will be less money available to support the work we do in the community, services that make a positive impact on individual, community and societal well-being.
The spin off effect of this will:
 - require the Government to fund or provide the additional services we will no longer be able to provide to the community or
 - more people going hungry, more people made homeless, more people struggling with addiction, more people under pressure financially, more sick people, more people struggling to re-enter society after leaving prison, and/or
 - downstream increased costs to the government in health, welfare, justice, etc.
2. Please keep in mind that Charities making profits return those profits into the services they provide whilst business profits are simply returned to shareholders with little or no impact on caring for those in need in our communities.
3. Charities already work with limited resources — they don't want to spend more of it on red tape at a time when demand is increasing.

Please keep charities tax-free where the money is clearly being used for good. They're not here to make profit for their own good, but simply to earn sufficient to fund their work and make a difference.

Ngā mihi,

Graeme John Reddish
Retired Salvation Army Officer
s 9(2)(a)

Questions for submitters Q1. What are the most compelling reasons to tax, or not to tax, charity business income? Do the factors described in 2.13 and 2.14 warrant taxing charity business income?

Answer:

Charities operate to serve the public good, not to generate private profit. Taxing their business income would limit their ability to fulfill their missions and provide essential services.

Supports Public Benefit – Charities use business income to fund education, healthcare, and social programs, reducing the burden on the government.

Encourages Financial Sustainability – Many nonprofits rely on business income to diversify revenue streams and maintain long-term operations.

Promotes Philanthropy and Innovation – Tax exemptions encourage charitable organizations to find creative ways to generate funds while staying mission-focused.

Administrative Burden – Taxing charities would create complex compliance requirements, diverting resources away from their core purpose.

No Private Gain – Unlike for-profit businesses, charities reinvest all income into their mission, ensuring funds are used for public good rather than private profit.

While concerns about unfair competition and tax avoidance exist, imposing taxes is not the best solution. Instead, stricter oversight, clear regulations, and transparency in how business income supports the charitable mission can address these concerns without harming nonprofits.

Taxing charity business income would weaken nonprofits' ability to serve communities. A better approach is to ensure strong governance and accountability while preserving tax exemptions to maximize social impact.

Question for submitters Q2. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what would be the most significant practical implications?

Answer:

1. Reduced Funds for Charitable Work

Taxing charity business income would directly reduce the funds available for charitable activities.

Many nonprofits rely on these funds to support their missions, such as providing education, healthcare, and social services.

2. Discourages Self-Sufficiency

Many charities operate businesses to generate sustainable funding rather than relying solely on donations or government support.

Taxing this income could discourage charities from developing independent revenue streams, making them more dependent on external funding.

3. Economic and Social Impact

Charities contribute significantly to society by providing services that the government or private sector may not fully address.

If taxed, charities may have to reduce services, affecting vulnerable communities.

4. Increased Administrative Burden

Tax compliance costs would divert resources from charitable work to legal and accounting expenses.

Many smaller charities may struggle with these additional costs, leading to inefficiencies or even closure.

Conclusion

Taxing nonprofit organizations contradicts their purpose of serving the public good. Instead of imposing financial burdens, policies should support and strengthen their ability to create a positive social impact.

Q3. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what criteria should be used to define an unrelated business?

Answer:

If the tax exemption for charity business income is removed, defining "unrelated business" would be complex and create unnecessary challenges.

Key Issues:

Difficult to Define – Distinguishing between related and unrelated activities is unclear, even with guidance. This could lead to disputes and inconsistencies.

Creates Compliance Burdens – Charities would face higher administrative costs to prove their business income aligns with charitable purposes.

Discourages Fundraising Efforts – Many nonprofit businesses support their charitable missions. If taxed, fewer funds would be available for public benefit.

International Examples Show Flexibility – Other countries allow exemptions for fundraising events, volunteer-run businesses, and charity shops. A strict approach in New Zealand could negatively impact nonprofit sustainability.

Conclusion:

Instead of taxing charity businesses, policies should focus on supporting nonprofits. If changes are considered, broad exemptions should protect revenue streams essential to charitable work.

Q4. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what would be an appropriate threshold to continue to provide an exemption for small-scale business activities?

Answer:

If tax exemptions for charity business income are removed, small charities would face unnecessary compliance costs, harming their ability to serve communities.

Key Issues:

Burden on Small Charities – Many small charities lack resources and expertise to handle complex tax reporting.

Increased Compliance Costs – Filing taxes on minor trading activities would divert funds away from charitable missions.

International Precedents Favor Exemptions – Countries like the UK provide tax exemptions for small-scale trading, recognizing its minimal impact.

Tier-Based Exemptions Make Sense – A reasonable threshold should protect smaller charities (Tier 3 and Tier 4), ensuring tax policies do not disproportionately harm those with limited resources.

Conclusion:

To minimize harm, if any tax changes occur, small charities should remain exempt. A fair threshold should ensure that tax policies do not undermine the charitable sector's ability to support communities.

Q5. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, do you agree that charity business income distributed for charitable purposes should remain tax exempt? If so, what is the most effective way to achieve this? If not, why not?

Answer: Taxing nonprofit business income, even if unrelated to direct charitable work, reduces funds available for essential services. Many charities accumulate funds for future needs, and taxing these surpluses would undermine their ability to plan long-term.

Key Issues:

Charities Need to Save for the Future – Many accumulate funds for future projects, emergencies, or capital investments.

Existing Distribution Models Work – Current rules allow tax exemptions when profits are distributed to a parent charity, ensuring funds serve charitable purposes.

Complex Compliance Burdens – Introducing tax rules for accumulated surpluses adds unnecessary administrative costs for charities.

Conclusion:

Charity business income distributed for charitable purposes should remain tax-exempt. Taxing accumulated funds would reduce financial sustainability and harm long-term charitable impact. The current system, which allows tax-free distributions to parent charities, should be maintained.

Q6. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what policy settings or issues not already mentioned in this paper do you think should be considered.

Answer:

Taxing nonprofit business income introduces unnecessary complexity and administrative burdens, ultimately reducing funds for charitable work. Key concerns include:

1. **Territorial Rule Challenges** – Splitting income between New Zealand and overseas charitable purposes is already complex. Further restrictions could increase compliance costs.
2. **Limited Partnership Issues** – Many charities use hybrid structures like limited partnerships. Changing tax rules could create unintended financial and legal complications.
3. **Deregistration Tax Risks** – Adjusting tax policies may have unintended consequences on deregistration rules, affecting charities that restructure or wind down.

Conclusion:

Rather than introducing new tax burdens, policies should support nonprofits in fulfilling their missions efficiently. Any review should consider minimizing compliance costs and preserving existing tax exemptions to maximize charitable impact.

Q7. Should New Zealand make a distinction between donor-controlled charities and other charitable organisations for tax purposes? If so, what criteria should define a donor-controlled charity? If not, why not?

Answer:

New Zealand should not impose separate tax rules for donor-controlled charities, as this would create unnecessary complexity and discourage philanthropy. Key points:

1. **Encouraging Charitable Giving** – Treating donor-controlled charities differently could reduce incentives for private philanthropy, limiting funding for important charitable causes.

2. **Existing Regulations Are Sufficient** – The Charities Act already requires financial disclosures, including related-party transactions and fund usage, ensuring transparency and accountability.
3. **Unintended Consequences** – Additional restrictions could deter legitimate charitable efforts, leading to fewer donations and negatively impacting communities.

Conclusion:

Rather than adding tax burdens, policy should focus on improving oversight while maintaining incentives for charitable giving.

Q8. Should investment restrictions be introduced for donor-controlled charities for tax purposes, to address the risk of tax abuse? If so, what restrictions would be appropriate? If not, why not?

Answer:

Investment restrictions on donor-controlled charities are unnecessary and could hinder legitimate charitable activities. Key points:

1. **Existing Rules Ensure Transparency** – The Charities Act already requires disclosure of related-party transactions and fund usage, reducing the risk of tax abuse.
2. **Unintended Negative Impact** – Restricting investments could limit a charity's ability to generate sustainable funding, ultimately reducing its charitable impact.
3. **International Comparisons Are Not Fully Relevant** – New Zealand's regulatory environment differs from other jurisdictions, and additional restrictions could discourage philanthropy without clear benefits.

Conclusion:

Rather than imposing restrictive rules, the focus should be on improving oversight and enforcement of existing regulations to prevent abuse while supporting charitable giving.

Q9. Should donor-controlled charities be required to make a minimum distribution each year? If so, what should the minimum distribution rate be and what exceptions, if any, should there be for the annual minimum distribution? If not, why not?

Answer:

Imposing a mandatory minimum distribution rule on donor-controlled charities is unnecessary and could harm long-term charitable efforts. Key points:

1. **Flexibility Supports Long-Term Impact** – Charities should have the freedom to allocate funds strategically, including saving for future projects or economic downturns.
2. **Existing Oversight Is Sufficient** – The Charities Act already requires reporting on fund usage, ensuring transparency and accountability.

3. **One-Size-Fits-All Approach Is Unfair** – Different charities have different needs; rigid distribution rules could disrupt effective charitable planning.
4. **International Comparisons Are Not Always Relevant** – New Zealand's system already promotes responsible charity management without unnecessary restrictions.

Conclusion:

Instead of imposing a fixed minimum distribution, enhanced reporting and oversight should be used to ensure funds are used for genuine charitable purposes while allowing charities to plan for long-term sustainability.

Q10. What policy changes, if any, should be considered to reduce the impact of the Commissioner's updated view on NFPs, particularly smaller NFPs? For example: • increasing and/or redesigning the current \$1,000 deduction to remove small scale NFPs from the tax system, • modifying the income tax return filing requirements for NFPs, and • modifying the resident withholding tax exemption rules for NFPs.

Answer:

To reduce the impact on smaller NFPs, the following policy changes should be considered:

1. **Increase the \$1,000 Deduction** – Raise the threshold to exclude more small NFPs from tax obligations, reducing their compliance burden.
2. **Simplify Tax Filing** – Streamline income tax return requirements for smaller NFPs to make it easier and less costly to comply.
3. **Adjust Withholding Tax Rules** – Modify resident withholding tax exemption rules to help NFPs focus more on their charitable missions rather than tax complexities.

These changes would support the vital work of small NFPs and reduce unnecessary administrative costs.

Q11. What are the implications of removing the current tax concessions for friendly societies and credit unions?

Answer:

Removing tax concessions for friendly societies and credit unions would:

1. **Increase Financial Burden** – These organizations would face higher tax costs, potentially reducing their ability to offer affordable services and benefits to members.
2. **Impact on Members** – Members could see higher fees or reduced benefits, as organizations might need to pass on the additional tax costs.
3. **Administrative Complexity** – These organizations would face increased compliance costs and administrative burdens, diverting resources from their core functions.

Removing these concessions could undermine the financial sustainability and public benefit that friendly societies and credit unions provide to their members.

Q12. What are the likely implications if the following exemptions are removed or significantly reduced: • local and regional promotional body income tax exemption, • herd improvement bodies income tax exemption, • veterinary service body income tax exemption, • bodies promoting scientific or industrial research income tax exemption, and • non-resident charity tax exemption?

Answer:

If the following tax exemptions are removed or reduced:

1. **Local and regional promotional bodies** – These organizations would face higher taxes, potentially reducing their ability to promote cities or attract tourism, which could negatively affect local economies.
2. **Herd improvement bodies** – Without the exemption, these organizations might have to cut back on services to improve dairy cattle standards, affecting the agricultural sector.
3. **Veterinary service bodies** – These entities might struggle with increased costs, potentially leading to higher fees for services or reduced access to veterinary care in certain areas.
4. **Bodies promoting scientific or industrial research** – Removal could hinder innovation and public research, as organizations might have fewer resources to dedicate to public-benefit research.
5. **Non-resident charity exemption** – This could lead to a lack of transparency for foreign charities operating in New Zealand, complicating monitoring and possibly creating risks for tax evasion.

Removing these exemptions could increase costs for organizations that benefit the public, potentially reducing their effectiveness and overall contribution to society.

Q13. If the compliance costs are reduced following the current review of FBT settings, what are the likely implications of removing or reducing the exemption for charities?

Answer:

If the FBT exemption for charities is removed or reduced after reducing compliance costs, it could:

1. **Increase costs for charities** – They would have to pay more in taxes, which could reduce the funds available for their charitable work.
2. **Impact employee compensation** – Charities might struggle to offer competitive salaries, potentially affecting their ability to attract and retain staff.
3. **Cause inconsistencies** – The exemption currently provides a simpler framework for charities and removing it could complicate operations and create confusion.
4. **Hurt smaller charities** – Smaller organizations might face higher financial pressures without the exemption, making it harder for them to carry out their charitable missions effectively.

In short, removing or reducing the FBT exemption could undermine the ability of charities to operate efficiently and serve their communities.

Q14. What are your views on extending the FENZ simplification as an option for all NFPs? Do you have any other suggestions on how to reduce tax compliance costs for volunteers?

Answer:

Extending the FENZ simplification for all NFPs could:

1. **Reduce tax compliance burdens** – Volunteers in all NFPs would face fewer administrative tasks, making it easier for them to focus on their work without worrying about taxes.
2. **Encourage volunteering** – Simplifying tax rules could encourage more people to volunteer, as it reduces the complexity and potential costs associated with volunteer work.
3. **Increase efficiency** – It would streamline processes for NFPs, reducing their overhead costs and allowing more resources to be directed towards their charitable activities.

Other suggestions to reduce tax compliance costs for volunteers:

- **Increase tax exemptions** for small honoraria payments.
- **Provide clearer guidelines** for NFPs and volunteers on tax obligations related to volunteer work.
- **Offer simplified reporting** for NFPs with small-scale volunteer operations.

In short, simplifying tax rules for volunteers would help NFPs save time and money, and encourage more people to contribute to important causes.

Q15. What are your views on the DTC regulatory stewardship review findings and policy initiatives proposed? Do you have any other suggestions on how to improve the current donation tax concession rules?

Answer:

The findings from the DTC regulatory stewardship review highlight that the current donation tax credit (DTC) system isn't as effective as it could be due to low awareness and uptake. The proposed policy changes, such as delinking DTCs from income tax for real-time payments, pre-filling claims with Inland Revenue data, and introducing a grace period for re-registered charities, seem like useful steps to improve the system.

Suggestions to improve donation tax concessions:

- **Increase awareness** of the DTC regime through better marketing and communication to the public.
- **Simplify the claiming process** further, possibly by automating claims for donors who make regular donations.

- **Enhance incentives** for higher donation amounts or encourage larger-scale donations with greater tax benefits.
- **Improve tracking and transparency**, so donors feel more confident in the tax benefits and are more likely to claim them.

In short, making the process simpler, more transparent, and efficient would likely increase donor participation and support for non-profit organizations.

From: John Parmenter s 9(2)(a)
Sent: Sunday, 30 March 2025 9:53 pm
To: Policy Webmaster
Subject: Taxation and the not-for-profit sector

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Submission in respect of Chapter 2 – Charity business income tax exemptions

Question 1

The most compelling reasons to not tax charity business income include:

- Any loss of income to charities has a huge impact on their ability to provide the same quantity and quality of services for their communities.
- Unless the Government can replace, via direct funding, what it has taken away then communities will suffer through a drop in services and standard of living which is improved by the work done by charities across numerous areas.
- There will be significant added costs to first tax the income and then administer the return of the same income back to the charities to enable them to carry on doing what they are already doing.
- That administrative cost will be significant and will effectively remove funds that are currently available directly to charities – they will be worse off overall. As the old saying goes, “if is not broken, don’t fix it”.

Question 2

The most significant practical implications if the tax exemption is removed for charity business income

- Charities enter into business in order to try and earn a higher rate of return than if they were to solely invest passively.
- Overall net income to the charities will be reduced by the tax with no guarantee that sufficient funding would be available from Government to match what was lost.
- There is a huge risk that charities with the capacity to run profitable businesses will not get back in return the same amount of funding as lost to tax.
- This is because it will be impossible for any Government policy setting to fairly establish how much and to whom those new tax receipts are distributed. It will likely lead to other charities receiving a bigger share of the tax take or charities that did not have business profits at all then receiving some of the tax as a new source of funding they did not have before.
- A reduction in the ability to ‘save for a rainy day’. Charities either cannot (their constitution may prohibit) or are reluctant to borrow. There is a tendency to pay for capital expenditure from cash reserves. So any loss of cash profits can profoundly impact a charity’s ability to replace crucial plant & equipment needed to provide their services.
- Businesses run by charities will tend to have strong community support because the community knows the profits from that business are put back into their own community. The impact of imposing tax on that charitable business could lead to the charity closing that business because their net income is reduced to a

level that means passive income is just as attractive. This will not necessarily result in a substitute business being established to fill the gap. If it is, the input back into the community will not have the same wide benefit to the community because the business owners will look to accumulating their own personal wealth. Or a national chain store will remove the profit from the community entirely without putting anything back.

- If charities can accumulate funds (including non-taxed business profits) that allow compounding investment returns to grow over time, such that they can support their activities with less Government funding and/or not having to go back again and again to their communities for money then that will:
 - make that community more self-reliant and resilient
 - will reduce demand on central government for funding of that charities work
 - will allow other charities within the community to fund raise without being in as much competition for the donation dollar

Question 3

What criteria should be used to define an unrelated business

2.24 refers to some countries making certain unrelated commercial activities tax exempt where they are substantially run by unpaid volunteers.

In this case, how do you know that the business is substantially run by volunteers? Are you going to audit those businesses to check or just rely on them declaring that is the case?

What records will need to be kept of volunteer hours to compare against the hours worked by paid employees in the same business?

Hours worked by volunteers are significant and are under-reported in general. A whole new administrative component may need to be added to the business just to account for all of this. And it is hard enough getting volunteers as it is!

Or is 'substantially' calculated by reference to the value of what would have been paid to a person for work that is done by a volunteer, e.g. the value attributed to a volunteer Board of Directors or management team will have a very high hourly rate compared to maybe a paid administrator.

And define substantially. Is that > 50% or some higher number of hours?

Question 4

What would be an appropriate threshold to continue to provide an exemption for small-scale business?

Caution must be exercised in respect of using the financial reporting tiers to set the de minimis threshold.

Those thresholds changed in the 2024 year whereby the Tier 2 reporting requirement changed from \$2 million and was increased up to \$5 million.

Some charities would have been reporting under Tier 2 because they had been > \$2 million in expenses for two years in a row.

A lot of them will now have the option of 'going back down' to Tier 3.

But many may choose to not do so because they are familiar with Tier 2 reporting requirements and there will actually be a cost in time, accounting and audit fees to change down to Tier 3 which is unlikely to be cost effective so they will choose to stay at Tier 2.

So should this concept be used it should not be based simply on what tier of reporting a charity actually uses but rather on the tier they are entitled to use, i.e. if a charity uses Tier 2 reporting but only has \$4 million of expenses then it would be treated as exempt.

Question 5

Should charity business income distributed for charitable purposes remain tax exempt?

If the tax exemption was to be removed for charity business income that is unrelated to charitable purposes, then the simple answer to the above question is YES.

But why bother taxing it in the first place if you are suggesting that if it is used for charitable purposes then it is exempt? That combination = the situation that we have currently, so what point is served by introducing a whole lot of compliance, complexity and cost to get the same result?

2.33 refers to some countries putting a time limit on any tax exemption. This could lead to perverse decisions simply to ensure the income is not taxed. That could be counter-productive to the charity, e.g. the charity needs to accumulate business profits to be able to afford to purchase premises, thereby eliminating the annual cost of renting the current business premises. However the time limit may force them to spend the money (when they don't need to) and they cannot then accumulate sufficient funds to buy a property. If they don't spend and then get taxed on the undistributed income then all that does is delay the time by which they can finally buy the premises. No point is served by that approach. It would just put pressure on making the operating cash flow balance for more years until then saving in rent could be achieved.

Question 6

Other policy settings or issues should be considered

New Zealand is currently not affluent enough to be able to afford to pay high enough taxes that could be used by Government to fund the same level of work that NZ charities carry out.

Charities are an integral part of NZ society and communities. They play a large part in bringing communities together. Charities and the money raised by communities for those charities are very dear to the heart of New Zealanders. They are very involved in and very protective of their charities. Any challenge to the status quo and the removal of funds from the community to go to central Government will not be looked upon favourably by the electorate.

Para 1.4 refers to the tax burden being shifted to other taxpayers. No context is provided as to what that tax burden may equate to. Using the word burden infers that the total of tax not collected from businesses run by charities that are not related to their charitable purpose, is such that the ordinary taxpayer is significantly out of pocket. It is more likely that should such income be taxed, the burden on the general taxpayer will be even greater due to:

- bureaucratic inefficiency
- new costs to administer the system at both Government and charity levels which neither have at present
- inequity in service delivery to each community through government picking 'winners and losers' as to who they will fund, using the new taxes raised, compared to what each community has actually contributed in tax from their charity

If a figure was put to the NZ taxpayer/electorate, they may be quite happy to be bearing the burden you refer to. Without quantifying and then asking the tax payer you may be wasting a lot of time and effort for something that every New Zealander is actually quite happy to continue paying for via their taxes!

Regards,

John Parmenter

*Director
Northland Corporate Accounting Limited*

s 9(2)(a)

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From: Erica Tebbutt s 9(2)(a)
Sent: Sunday, 30 March 2025 10:05 pm
To: Policy Webmaster
Subject: Submission on Enhancing Support for Underprivileged Communities through Charitable Initiatives and Reforming Political Remuneration

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Kia Ora

The following is my submission on the publication Taxation and the not-for-profit sector Issued: 24 February 2025

Introduction

In times when governmental support is insufficient or unavailable, charities play a crucial role in addressing the needs of underprivileged communities. To strengthen this support, it's essential to maintain and enhance charitable tax exemptions. Additionally, reforming political remuneration by eliminating travel perks for retired politicians and adjusting their salaries can contribute to a more equitable allocation of public resources.

The Importance of Charitable Tax Exemptions

Registered charities in New Zealand benefit from income tax exemptions, enabling them to allocate more resources directly to their charitable activities. To qualify, charities must register with Charities Services and ensure their purposes are entirely charitable, with no income benefiting members, trustees, or associates. [Inland Revenue - Te Tari Taake](#)

These tax exemptions empower charities to operate businesses that fund their missions, provided the income supports charitable purposes within New Zealand. This framework allows charities to diversify funding sources, reducing reliance on donations and enhancing financial sustainability. [Parry Field Lawyers+1Home - MinterEllisonRuddWatts+1](#)

Proposed Tax Changes and Their Implications

Recent discussions propose taxing income from unrelated business activities conducted by charities, potentially affecting their financial capacity. While aiming to address perceived competitive advantages, such changes could hinder charities' ability to fund essential services. [Home - MinterEllisonRuddWatts](#)

Reforming Political Remuneration

Concerns about travel perks and salary increases for politicians highlight the need for reform. Former Prime Ministers, for example, receive annuities and travel provisions, with annual reviews and adjustments. [Home+1Wikipedia+1](#)

Instances of significant travel expenses by MPs underscore the necessity for greater accountability. For instance, a retiring MP incurred approximately \$21,000 in domestic travel expenses, with about \$15,000 billed in a single quarter. [Wikipedia+2Democracy Project+2RNZ+2](#)

Recommendations

1. **Maintain and Strengthen Charitable Tax Exemptions:** Preserve current tax benefits for charities to ensure they can continue supporting underprivileged communities effectively.
2. **Enhance Oversight of Political Expenses:** Implement stricter monitoring and transparency measures for MPs' expenses to ensure responsible use of taxpayer funds.
3. **Adjust Political Remuneration:** Reevaluate and potentially reduce travel perks and salaries for retired politicians to reflect public expectations and promote fiscal responsibility.

Conclusion

Supporting charities through favorable tax policies and reforming political remuneration are vital steps toward a more equitable society. By ensuring charities have the resources to assist underprivileged communities and promoting accountability in political spending, we can foster a fairer allocation of public funds and strengthen social support systems.

Nga mihi

Erica Tebbutt

From: Mark Ventura s 9(2)(a)
Sent: Sunday, 30 March 2025 10:05 pm
To: Policy Webmaster
Subject: Taxation and the not-for-profit sector

External Email CAUTION: Please take **CARE** when opening any links or attachments.

Good Evening Team,

I hope you are well.

I am an active member of the Church of the Risen Lord Jesus Christ. I am emailing to simply express my view on the matter. I do not believe Church's should be taxed by the NZ government, especially during this time of economic uncertainty. The government has already drastically decreased expenditure in a number of departments and entities in the hopes of cutting costs. Although this has decreased inflation, this has caused a large number of unemployment and New Zealanders emigrating due to the hopeless outlook of the country's future. Our church, alongside many others in the country have donated and helped our local communities in an effort to fill in the hole left by the government's decrease in public spending (such as in charities/ food banks). We believe if the government proceeds with these taxations on non-profit entities, this will further decrease the capacity for church's like our own to help New Zealand communities.

Other reasons why we believe taxation of church's and charities is unreasonable can be seen below:

-
- OUR TITHES AND OFFERING FROM OUR INCOME HAS BEEN TAXED FROM WHAT HAS BEEN DEDUCTED FROM OUR WEEKLY WAGES/ SALARIES.
- AS A CHARITABLE ORGANISATION, WE ARE HELPING THE GOVERNMENT TO PRODUCE: LAW ABIDING CITIZENS BY FURTHERING THE FAITH THAT TEACHES RIGHTEOUSNESS, SUPPORTING LAW AND ORDER OF EVERY COMMUNITIES.
- THE CHILDREN ARE BEING TRAINED TO DO THE SAME TO BE A GOOD EXAMPLE OF GOOD BEHAVIOUR AT SCHOOL, AT HOME, COMMUNITIES.
- CHARITABLE ORGANISATIONS (CHURCHES) DISCOURAGES USE OF DRUGS, ALCOHOL, GAMBLING,
- CHURCH TEACHES MEMBERS NOT TO BE A BURDEN TO THE GOVERNMENT BY RELYING ON BENEFITS.
- THE CHURCH TEACHES TO BE PRODUCTIVE LIKE WHAT THE BIBLE TEACHES ON: 1 THESSALONIANS 4:11 And that ye study to be quiet, and to do your own business, and to work with your own hands, as we commanded you; That ye may walk honestly toward them that are without, and that ye may have lack of nothing.

I hope this has shed some light on the matter and I pray your department reconsiders their decision on this proposal.

Thank you for taking the time to read my email. Have a good night.

Kind regards,
Mark Ventura

From: Maureen Harrington s 9(2)(a)
Sent: Sunday, 30 March 2025 10:22 pm
To: Policy Webmaster
Subject: Submission on Taxation and the Not for profit sectors.

External Email CAUTION: Please take **CARE** when opening any links or attachments.

Kia Ora

I wish to place my comments on the above named consultation document for consideration.

I am Maureen Harrington and I volunteer and I am on the Leadership Team, at the Salvation Army at Glenfield in Auckland.

I volunteer on Fridays as the receptionist at the Community Ministries Centre and see the needs that come through the door. The increase in people needing our help with food, budgeting, and counselling has increased 100 fold in people accessing our services.

Government agencies, such as WINZ, OT, Corrections are sending people to us to be helped., despite the fact, that previous grants provided through them, are no longer available to us.

We are totally dependent upon, funds raised through our Family Stores and generous donors to give assistance to these people. We have already had to restructure our staff because of grants that are no longer available to cover our paid staff's wages., just recently.

Should the government start taxing our Family Stores income, or fundraising, we will find it very difficult to maintain our presence, of serving our communities on the North Shore, including homeless people. I can see us having to again reduce what we can provide for these needy people, from the five days a week we currently provide.

Please consider the implications of tax imposed on the Salvation Army and what it will mean for people who rely on us to help them. We are here to help people in their times of desperate need, with compassion and support as they come through our doors during the week. It's no easy task, I can assure you.

Thank you for allowing me to comment.

Yours sincerely

Maureen A Harrington

Volunteer, and Leadership Team, Glenfield Salvation Army

s 9(2)(a)

Submission by The Scout Association of New Zealand on the Inland Revenue Department's Issues Paper: **Taxation and the Not-for-Profit Sector**

Introduction

The Scout Association of New Zealand (Scouts Aotearoa) is a national charitable organisation dedicated to empowering young people through adventure and challenge to be ready for life. For over 100 years, Scouts Aotearoa has provided opportunities for young people to enjoy new adventures, experience the outdoors, make new connections, and gain confidence. We give young people the opportunity to reach their full potential.

Our programme focuses on three core areas; personal development, adventure and community engagement. Using these three main areas we aim to foster development in the physical, emotional, spiritual and mental aspects of young people. Scouts Aotearoa provides a safe, nurturing environment where young people are encouraged to be their best selves.

Scouts Aotearoa is substantially run by thousands of unpaid volunteers with 99.8% of the adults required to operate being volunteers, who bring a diverse range of skills, talent, and expertise to the Movement. Scouts Aotearoa also relies on a mix of revenue sources to enable us to offer this service, including membership fees, grants, donations, investment income, and rental income from properties. As a registered charity, all income is directed towards our core mission of youth development.

We appreciate the opportunity to submit our views on the proposed changes to tax policies affecting the not-for-profit sector.

Executive Summary

The current tax-exempt status of business income used for charitable purposes should be maintained.

Taxing charity business income, even if classified as 'unrelated,' would reduce our ability to deliver services and programmes for youth.

Compliance costs associated with separating taxable and non-taxable income would place a significant burden on volunteer-led organisations.

Any new tax policies should recognise the importance of allowing charities to retain surpluses to ensure long-term sustainability.



Responses to Consultation Questions

CHAPTER 2 -Charity Business Income Tax Exemption

Q1. What are the most compelling reasons to tax, or not to tax, charity business income?

Scouts Aotearoa operates various revenue-generating activities, such as renting facilities to community groups. However, all proceeds are reinvested into our charitable mission.

Taxing this income would reduce our ability to maintain properties, support volunteers, and expand youth development programmes.

Unlike for-profit businesses, charities do not distribute profits to shareholders, we reinvest in the community.

Q2. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what would be the most significant practical implications?

Increased administrative burden - Defining income, and allocating expenses between taxable and non-taxable activities would require additional financial and legal expertise, increasing costs and diverting resources away from youth programmes.

Reduced financial stability - Many charities, including Scouts Aotearoa, rely on rental income and membership fees to ensure continuity of operations, particularly during times of reduced donations or grant funding.

Limited capacity for long-term planning - The inability to accumulate surplus funds without tax implications would hinder future investments in infrastructure, training, and emergency reserves.

Q3. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what criteria should be used to define an unrelated business?

Any income-generating activity should be considered related if the revenue is reinvested into the charity's core mission.

Activities that directly or indirectly support a charity's objectives, such as renting out facilities used for youth activities, should not be classified as 'unrelated.'

A purpose-based test should be applied, ensuring that if the activity aligns with the charity's purpose, it remains exempt.

A use of funds test should be used, meaning that if 100% of the surplus is reinvested into charitable purposes, the activity should not be taxed.

Activities that are primarily volunteer-run should be assumed to be related, as they align with the charitable purpose.

A clear, simple definition is essential to prevent excessive compliance burdens.

Q5. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, do you agree that charity business income distributed for charitable purposes should remain tax exempt?

Yes, it is essential that income directed towards charitable activities remains exempt to ensure that organisations can continue serving their communities.

A mechanism allowing charities to carry forward surplus funds over multiple years for planned expenditures should be included.

Additional Considerations

De minimis thresholds - If any taxation changes are introduced, small and medium-sized charities should be exempt to avoid unnecessary compliance costs.

Volunteer burden - Increasing tax compliance requirements would disproportionately impact volunteer-led organisations like Scouts Aotearoa, diverting time and effort away from programme delivery.

Unintended consequences - Taxing charities' business income could lead to increased fees for participants, making programmes less accessible to lower-income families.

Alternative Options for Consideration

A "Class" System for Charity Business Income Taxation

Class 1: Fully Exempt Charities – Organisations where at least 80% of income comes from membership fees, donations, or grants (such as Scouts Aotearoa) should remain fully tax-exempt on all business income, as they primarily rely on charitable contributions.

Class 2: Partially Taxable Charities – Charities where 50-80% of income comes from commercial activities could have a lower tax rate or only apply taxation to a portion of 'unrelated' business income.

Class 3: Commercially Driven Charities – Organisations with less than 50% of income coming from charitable sources could be subject to taxation on 'unrelated' business income but with allowances for reinvestment into charitable purposes.

Multi-Year Recognition for Tax-Exempt Status

We recommend implementing a multi-year recognition system for organisations that consistently meet the 80% reinvestment threshold. This would reduce the administrative burden and compliance costs associated with annual reporting. Alternatively, we recommend a multi-year accreditation framework for organisations which reinvest above the 80% threshold, income into their charitable purposes. This would allow them to

operate without the need to revalidate their tax-exempt status each year, streamlining compliance while maintaining accountability.

Conclusion and Recommendations

Scouts Aotearoa strongly urges the government to maintain the current tax-exempt status for all income that is reinvested into charitable purposes. The proposed changes would create administrative complexity, financial strain, and unintended negative consequences for the charitable sector.

We recommend:

Retaining tax exemptions for charity business income where funds are reinvested in charitable activities.

Keeping compliance requirements simple and proportionate.

Allowing charities to accumulate reserves without tax implications to ensure financial sustainability.

We appreciate the opportunity to contribute to this consultation and welcome further engagement with IRD to ensure that the tax framework continues to support the vital work of charities and volunteers across Aotearoa.

Submitted by:

Chris Wilson

Chief Executive

Scouts Aotearoa

From: s 9(2)(a) s 9(2)(a)
Sent: Sunday, 30 March 2025 10:46 pm
To: Policy Webmaster
Subject: Taxation and the Not for Profit Sector

External Email CAUTION: Please take **CARE** when opening any links or attachments.

I am so relieved this tax issue is being investigated and that public consultation has been sought.

I strongly believe that Charities should not have income tax advantages in relation to business income, where those business profits are not benefiting the wider public but rather are benefiting the members of the Charity themselves.

Despite the statements in the 'Officials Issues Paper' dated February 2025, I believe that tax advantages are making many Charitable businesses stronger within their respective industries. So strong that no-one in business I know is willing to talk about it publicly, for fear of being identified and the consequential damage that could be done to their own business.

I am dismayed by the misleading public 'spin' on some Charity's websites about the public good they do. Public good which appears to be a whitewash to substantiate favourable charitable tax status. I would like a body to be sufficiently resourced to investigate the legitimacy of those claims.

It was disappointing to learn in the Paper that revenue from business activities by charities are being allowed to accumulate. Or that the IRD has identified instances where trust income has been allocated but not physically paid to tax-exempt charities. Or that income generated by charities' NZ businesses has been diverted overseas.

Ultimately this entire situation that has evolved is unfair, is out of step with international best tax practice, and requires remedying. I would like the IRD to use their best minds to work out fair rules after this public consultation to implement change. Change in this sector is so long overdue. How many interviews do we need? How many Herald articles need to be written? How many years does the general public need to wait for tax fairness?

This issue is local knowledge in Tauranga. It is discussed and acknowledged in the circles I mix in. So many business people have a story to tell. So many are fed up. I am not upset by the unusually high levels of personal wealth that I see in my and surrounding suburbs that will have been generated by charitable businesses. People work hard and I don't begrudge their achievements. But what I don't agree with is significant financial gains unfairly achieved through 'working the tax system'.

No-one wants to see genuine charities or clubs who do good for the public, taxed more. Those charities are a mainstay of our society and their status should be safeguarded. But donor charities

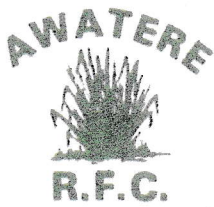
and those who say they do public good, but really are doing the bare minimum to achieve a favourable tax status or benefit themselves, are not deserving of charitable tax status.

If this consultation feedback isn't able to be anonymous it will likely put many business people off responding. Such is the market power that has developed - in a very short space of time - by charitable businesses.

In Summary - yes I agree with reviewing the integrity issues with donor-controlled charities.

Kind regards

Concerned Citizen
(an individual, not in business)



Awatere Rugby Football Club Inc.

6 Logan Place
Blenheim 7201

29 March 2025

David Carrigan
Deputy Commissioner, Policy
Inland Revenue
C/- policy.webmaster@ird.govt.nz

Feedback on the taxation and the not-for-profit sector officials' issues paper

Dear Mr Carrigan,

Thank you for providing the opportunity to provide feedback on the proposals for changes to the taxation of not-for-profit and charitable entities.

The Awatere Rugby Football Club Inc. in Seddon, Marlborough has been a cornerstone of our local community for 119 years, delivering not only rugby but also social and community development. Our mission extends beyond the rugby field. We enrich lives, promote well-being, and drive positive societal change.

While the "Q and As" published by IRD mention that it is not expected that bodies promoting amateur games and sport will be affected by the proposals we would still like to take the opportunity to make a submission that this income tax exemption should remain as is.

The Economic and Social Value of Grassroots Rugby Clubs

Rugby is not just a sport in New Zealand – it is part of our national identity and contributes significantly to the economy and society. As one of the more than 470 grassroots rugby clubs in New Zealand, we play a crucial role in fostering community engagement, social connection, and personal development.

The Awatere Club, like many others across the country, provides a space where individuals of all ages and backgrounds can come together, engage in physical activity, contribute to their local community and form lifelong friendships and support networks.

Beyond playing rugby, we do fundraising activities to reduce the costs of running the Club so all children who wish to play the sport they love can join the Club without it being a big cost to parents. Being a country club many of our players travel big distances to play rugby which gives them the contact away from their work environment and school activities. Each year to try to have an evening which is open to people in the community areas our Club covers, it may be a dinner with a guest speaker, quiz night, children's disco or social event with music. These activities bring communities together and generate economic activity for local businesses throughout the year, not just on game day.

Rugby clubs are also at the forefront of addressing important societal issues in our communities, there is always someone there outside of that problem area to listen to them.

The Importance of Retaining the Income Tax Exemption for Amateur Sport

The current income tax exemption for bodies promoting amateur games and sport ensures that we can remain financially viable. Removing this exemption or imposing income tax on our membership fees would:

- significantly reduce the funding available for clubs to provide community programs, purchase equipment, maintain facilities, and support player development.
- create an administrative burden for us as a volunteer-run organisation, diverting time and resources away from our core activities; and
- lead to increased costs for participants, which could disproportionately impact those from lower-income backgrounds and reduce youth participation in rugby especially in the current cost of living crisis.

Preserving the current income tax exemptions is essential for sustaining the economic and social benefits they provide. The Awatere Rugby Club remains committed to enriching our community, and we urge the Government to consider the profound implications that changes to tax exemptions would have on grassroots organisations like ours.

Grassroots rugby is a cornerstone of New Zealand's social and economic fabric, and its contribution must be recognised and protected in any tax policy changes.

Most, if not all Club rugby committees are made up of volunteers which these days seem to be getting harder and harder to find. To add the responsibility of filing tax information will put more people off being involved in a Treasurer position with a Club. The work load already has many volunteer hours without adding taxation to

it. My work roll away from rugby is in Senior Accountant Management and my volunteer roll is a rugby club treasurer so I know well what some club treasurer would face and the stress when they do not have the accountancy knowledge. If the need to employ someone to do this would be a financial burden to many Clubs and take funds away from "having a kid in sport instead of Court".

Yours sincerely

s 9(2)(a)

Bernadette Gilmore
Treasurer
Awatere Rugby Football Club Inc.
Phone s 9(2)(a)

27th March 2025

To: Deputy Commissioner, Policy Inland Revenue Department
Taxation and the not – for – profit sector

Submitter: Tim Scotland
s 9(2)(a)

e-mail
Phone:

Submission on the Taxation and the not – for – profit sector consultation paper.

I shall answer Question 12 first with regards the veterinary service body income tax exemption.

Veterinary Clubs were first established in the 1940's I believe and the legislation is based on the Veterinary Services Act 1946 and the Veterinary Services Amendment Act 1948. This legislation is now outdated. The veterinary and agricultural industries have changed dramatically since the 1940's. The agricultural industry is now well supported by both private veterinary practices and veterinary clubs throughout New Zealand and the standard of veterinary care provided to New Zealand animals farmed and companion is of a high standard.

Veterinary clubs have changed over the years but the currently existing clubs have a historical unfair business advantage which is discussed below in my response to Question 1. The Veterinary Clubs were initially established to provide competent veterinary services to rural farming areas of New Zealand and specifically for farmed agricultural animals. Veterinary Clubs had geographic areas within which they provided veterinary services to and there was minimal overlap of services provided outside their geographic area. The veterinary services were provided to the companion animals of the farmers in these geographic areas and the residents of the rural towns these clubs were based from. In 2025 the current veterinary clubs have developed with time and some are now large multi centred practices that have clinics over a wide geographic area including major urban cities. Veterinary Clubs were not established in the 1940's to provide veterinary services in this way.

The benefits of the veterinary service body income tax exemption has enabled veterinary clubs to have a business advantage and to retain large tax-free profits.

Question 1

Any entity that is creating business income should be subject to the taxation laws of New Zealand. Non tax paying business entities have an unfair tax advantage over tax paying business entities that can be used to gain advantage. The comment made in 2.11 that tax paying business entities can carry forward tax losses to offset future profits which is comparable to the ability of tax exempt business entities to use predatory pricing makes no financial or business sense. A business needs to be profitable to be sustainable.


Comment 2.14 illustrates how tax exempt entities can build up historical cash reserves that can be used to their advantage in capital expenditure such as buildings and equipment. They can also use these reserves to fund sponsorship or charitable gifts that are outside the intent of why the entity has a tax exempt status.

Any entity that is creating business income should be subject to the taxation laws of New Zealand. This includes religious groups, Iwi, veterinary clubs and registered charities amongst others where the business component of these entities should be taxed under the same rules and regulations as are other comparable businesses so that they are contributing to the overall tax income of New Zealand. These funds can be used in the same manner that the tax income from non tax exempt business entities currently is now for the betterment of New Zealand.

Thank you for considering my submission and you are welcome to contact me using the contact details listed above.

Yours sincerely

s 9(2)(a)

A large grey rectangular box redacting the signature of Tim Scotland.

Tim Scotland

From: Sarah Fordyce s 9(2)(a)
Sent: Sunday, 30 March 2025 11:42 pm
To: Policy Webmaster
Subject: Taxation and the not-for-profit sector

External Email CAUTION: Please take **CARE** when opening any links or attachments.

My name is Sarah Fordyce, and I have attended the Salvation Army in Browns Bay/East Coast Bays (which is now called Albany Bays Corps) since 1969, volunteering there since 1974, and working as administration staff and coordinator of Community Ministries for 10 years towards the end of our time there. Since July 2024 I attend the Hastings Salvation Army, following our retirement here.

I am concerned over the proposal to tax business income from activities such as Family Stores or social enterprises, as this will mean a reduction in our ability to fund our work in the community. This would have a detrimental effect, as it would lead to a closing of some of our programmes and services which support and educate vulnerable members of society. The work we do does, in fact, help reduce the tax burden to society, as it reduces the number of people relying on government assistance. Over the years I have volunteered for, and been employed by the Salvation Army, I have observed first-hand the positive changes in people's lives, which result from the life-skills programmes and essential services we provide, and the untaxed income has helped enormously to bring this about.

I am also concerned over the proposal to tax accumulated income. As good stewardship, funds may indeed be set aside, not for the sake of making profit for profit's sake, but as a means to ensure money is available for necessary building programmes, maintenance of property, and to enable us to fund the work we do in the community.

Changes to tax-free benefits for staff and officers, such as vehicles, would also be counter-productive as operating costs would increase, so reducing our ability to continue our work, supporting the most vulnerable in society.

I am, however, in favour of making tax donations easier to be claimed, as this may encourage more people to donate and so support our vital work in the community.

I am happy to be contacted to discuss these concerns further and can be contacted via the information given below.

Yours sincerely

Sarah Fordyce
s 9(2)(a)

s 9(2)(a)

From: s 9(2)(a)
Sent: Sunday, 30 March 2025 11:16 pm
To: Policy Webmaster
Subject: Paper submission

External Email CAUTION: Please take CARE when opening any links or attachments.

Hi IRD,

I am requesting that my personal details will not be disclosed publicly or on any documents accessible to the public and other government agencies for privacy purposes.

MAJOR POINTS OF MY SUBMISSION:

OUR TITHES AND OFFERING FROM OUR INCOME HAS BEEN TAXED FROM WHAT HAS BEEN DEDUCTED FROM OUR WEEKLY WAGES.

AS A CHARITABLE ORGANISATION, WE ARE HELPING THE GOVERNMENT TO PRODUCE: LAW ABIDING CITIZENS BY FURTHERING THE FAITH THAT TEACHES RIGHTEOUSNESS, SUPPORTING LAW AND ORDER OF EVERY COMMUNITIES. THE CHILDREN ARE BEING TRAINED TO DO THE SAME TO BE A GOOD EXAMPLE OF GOOD BEHAVIOUR AT SCHOOL, AT HOME, COMMUNITIES.

CHARITABLE ORGANISATIONS (CHURCHES) DISCOURAGES USE OF DRUGS, ALCOHOL, GAMBLING, CHURCH TEACHES MEMBERS NOT TO BE A BURDEN TO THE GOVERNMENT BY RELYING ON BENEFITS.

THE CHURCH TEACHES TO BE PRODUCTIVE LIKE WHAT THE BIBLE TEACHES ON: 1 THESSALONIANS 4:11 And that ye study to be quiet, and to do your own business, and to work with your own hands, as we commanded you; That ye may walk honestly toward them that are without, and that ye may have lack of nothing.

RECOMMENDATION:

IRD TO CATEGORISE THE CHARITABLE ORGANISATIONS THAT ARE NOT CONTRIBUTING TO ANY IMPROVEMENT OF THE PEOPLE IN THE SOCIETY, REMOVE THEM OR TAX THEM.

IF THOSE CHARITABLE ORGANISATIONS ARE NOT HELPING THE COMMUNITY, TOWN OR THE NATION TO PRODUCE GOOD ABIDING CITIZEN THEN, CHANGE THEIR CATEGORY.

RE-EVALUATE THE POLICY AND REVIEW THE CATEGORIES OF THE REGISTERED CHARITABLE ORGANISATION.

TAX THOSE WHO ARE EARNING HUGE AMOUNT LIKE A BUSINESS AND USING THE CHARITABLE ORGANISATION FOR THEIR OWN PURPOSE AND NOT RETURNING ANYTHING TO THE COMMUNITY, CITY OR NATION.

Kind regards,

s 9(2)(a)

From: Rudy Gesterkamp s 9(2)(a)
Sent: Sunday, 30 March 2025 11:51 pm
To: Policy Webmaster
Subject: Submission - Taxation and the not-for-profit sector consultation

External Email CAUTION: Please take **CARE** when opening any links or attachments.

Good evening

Apologies, but through circumstance i have not been able to look at this consultation until there is only one day to go until closing. As a result, I will need to take a short cut.

Question 1 on page 8 of 24

I have included below an extract of an email to 4 members of Parliament on the topic of your Chapter 2 - Charity Business Income Tax

to Christopher.Luxon, David, winston.peters, Nicola.Willis



Hello all - your help please

I'm 60 years old, and just yesterday for the first time in my life, was advised by a discussion on Newstalk ZB about 'tax take' that

- Sanitarium doesn't pay corporate tax because it is owned by a Church
- Shotover Jet doesn't pay corporate tax because it is owned by Iwi

What the heck? Can this possibly be right?

IF it is, it is APPALLING DISCRIMINATION, and RACISM, and I ask you to put a stop to it URGENTLY.

Reasons it should be stopped:

1. The Government needs all the tax take it can get, and this leakage is not acceptable. The combined Maori economy is going to become huge going forward and will probably become the biggest player of all in the whole country, as they now have the clout to gobble up individual pakeha's businesses (farms, forests, fishing boats, hotels, you name it) and we can not afford to have the biggest business in NZ pay no tax.
2. It is galling that I have had to pay compensation to Maori for something that myself and my ancestors (who immigrated to NZ in 1951) had nothing to do with, and that I have to pay compensation to Maori for stolen land, when Maori do not have to pay compensation to fellow Maori for the land that they stole from each other. But then they use that money to buy or set up businesses in competition to me (the royal me,

not me personally), where they are given a 28% advantage/favouritism over everyone else (non Maori) by virtue of their bloodline – that's RACISM.

3. This country is very inefficient in many areas, and one of them is because it creates admin around needlessly complex legislation. Keep It Simple Stupid for efficiency is lost on most government departments, and they specialise in introducing exceptions. Just make it that any entity that runs a business with the intention of making a profit, should pay corporate tax in relation to that business, regardless of ownership.

4. Why should a Church not pay tax on business profits? Because they do good work?. So do wealthy philanthropists, and hundreds of thousands of volunteers, but you don't give them a tax break on their businesses. That's DISCRIMINATION. This use of the term "not for profits" is grossly misrepresented. The organisations involved are all about making profits from their businesses, as a way to fund what they want to do as an organisation. Let them deploy their tax paid business profits however they see fit, just like the sole-trader or corporate shareholder living next door, but there is no need to make them 28% more competitive. Just because they want to use the money to run a church service or operate a Marae, does not make it more worthy than the Plumber who wants to use the profit of his plumbing company to shelter, clothe, feed and educate his kids. In fact, if the plumber is not religious or Maori, he might even consider them less worthy pursuits. This should not be confused with charitable status and accepting that donations to them should not be classed as business income, I'm talking about when they are selling to the public or businesses "for profit" when running shops, manufacturing, farms, hotels and tourism operations etc. They would not be doing it at all if they did not think they would make a profit out of it. And if they make a loss out of it, more fool them for hindering their organisation's cause.

5. An organisation can have a 'constitution and distribution rules' for the public good, and that can make some of their activities/incomes not taxable, but when they choose to run a business for profit, that business should pay tax like all others if it makes a profit.

For disclosure, I am a member of a church, and a member of 3 not for profit incorporated clubs, all 3 of whom run a business (the Bar and Restaurant at the Golf Club, The Bar at the Surf Club, and the Ski Tows and Cafeteria at the Ski club).

I hope that you share my views, and will do something about it in your first term. The 4 of you are in a position to address this.

Yours Sincerely

Rudy Gesterkamp

Regards

Rudy Gesterkamp

New Plymouth

Taxation and the not-for-profit sector

A submission by the Mokihinui-Lyell Backcountry Trust (registered Charitable Trust) in response to the Officials' Issues Paper (IRD, 24th February 2025)

Date: March 2025

Summary position

We are strongly opposed to the removal of an income tax exemption for registered charities in New Zealand that are delivering public benefit, that are not unfairly profiting (against tax-paying businesses), and that are meeting all the reporting and disclosure obligations required by law.

Our Trust does have concerns about abuse of income tax exemption privileges by presumably a small minority of registered Charities who are not operating in the spirit of public benefit or on a level financial playing field. Our Trust encourages action to address these injustices and inequalities, whether by tax reform or more targeted compliance/oversight. Efforts to address these outlying entities in the national not-for-profit sector should not impinge on the efforts or viability of the vast majority of hard-working and well-intentioned charities. In fact, we encourage more thinking and action on how to further support well-meaning and well-performing charities.

Background and rational for position

We are a registered Charitable Trust that has been in existence for 17 years. We are purpose-driven organisation that exists to deliver social and environmental benefits. We believe we achieve this in a far more efficient manner than an equivalent government bureaucracy would, and we have leveraged massive volunteer input over the course of our existence (more than 50,000 hours) because our purpose is grounded in community and borne from passion. To propose imposing income tax on charities feels seriously uninformed and vexing and seems to lack an appreciation of the critical role charities play in New Zealand's well-being and function.

Charities provide goods and services where for one reason or another, government has not, cannot, or has failed to do so. Whilst charities perform a heroic role in New Zealand's societal fabric, the vast majority (88%) are small (Tier 3 and 4 charities) and financially fragile/unsustainable. Those that are able to have often diversified their income streams to support their charitable purposes. To remove tax exemptions from registered Charities is short-sighted and fails to acknowledge the massive societal benefits delivered by Charities. It would seemingly penalise and stifle innovative thinking and efforts by charities to address their financial sustainability and self-sufficiency by creating enduring income streams. In essence, and for seemingly negligible benefit, it would threaten to topple a critical system that helps hold New Zealand together and that enhances the social, human, and natural capital of the country.

Notwithstanding the above, if there is a concern that a minority (of the 29,000 registered charities in New Zealand) are unfairly profiting/competing and/or not operating in the public good (i.e. driving division, hate etc), then we do support action to address this issue. The discussion paper does not make it clear what the problem is that is trying to be solved however, so we consider our duty is to advocate for the vast majority of registered charities and make it clear that any action to address outliers must not compromise the efforts and existence of the well-meaning majority. Better resourcing Charities Services to monitor and scrutinise the minority of entities you may be concerned about rather than threaten the function and survival of all the other registered Charitable Trusts that collectively power New Zealand may be an alternative option. Clarifying and better describing what the issue is that is trying to be fixed and providing clear and specific examples of what related and unrelated income is would go some way towards hopefully alleviating the concerns of well-meaning charities operating for public benefit.

That charities don't pay tax on income is not an aberration, it's a recognition of the massive societal benefits we all gain since such money must ultimately be used to advance charitable purposes. The system has safeguards to ensure that happens. It's hard to become a registered charity, and there are annual transparent disclosures of financial statements and breaches that can be investigated and remedied.

By eroding charities' tax position, even in a small way, their income will reduce – which means less funds available to do all that good work they do in society. Charities know their local communities and their needs, they have untold volunteer hours which go unnoticed, and they have the relationships and history to know how to get things done.

Charities are also more efficient than the infrastructure of government, so taxing them would likely prove to be a massive 'own goal' if the government has to step in and provide these services at a higher cost.

Charities often make do with little, and they should be applauded for seeking income streams for sustainability so they can advance their charitable purposes (and often such initiatives themselves advance purposes too).

Most fundamentally, the innovation we need from charities is discouraged if we look for ways to tax them in order to make up funding deficits that result from other recent policy such as tax cuts for the wealthy.

Lastly, we believe any change surrounding charities should be how to support and amplify their outcomes and existence more, not threaten them. Do we want New Zealand's NFP sector to continue to be innovative, increasingly financially self-sufficient, and better able to deliver positive impact, or do we wish to further constrain and undermine them, compromising New Zealand's future?

Perspective on specific consultation questions asked?

Where we feel qualified or able to respond to the often detailed and specific consultation questions posed, we have done so below.

Q1: What are the most compelling reasons to tax, or not to tax, charity business income? Do the factors described in 2.13 and 2.14 warrant taxing charity business income?

There are compelling reasons NOT to tax the business income of well-meaning charities operating for public good and not gaining unfair advantage. There is a case to address and rescind these privileges for registered charities that are not fulfilling this purpose or meeting these thresholds.

There is no appreciation or acknowledgement of the massive benefits charities provide for New Zealand, what the actual issue/problem is that is trying to be solved, any clear understanding of how charities operate and the already tenuous financial existence of many (an existence that is tolerated because charities are purpose-driven, existing because of the love and passion for a cause), and any meaningful discussion and quantification of the risks to charities and fate of the NFP sector in New Zealand if this was to happen, including through increasing complexity and compliance costs.

Q2: If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what would be the most significant practical implications?

As above, including the threat/likelihood of significant unintended consequences by way of charity failure (either via untenable financial existence or a drop off in charity impact/effectiveness) and a loss of contribution to the social, environmental, and economic well-being of New Zealand.

Q3: If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what criteria should be used to define an unrelated business?

No comment. Not supported for well-intended charities operating for public benefit and without unfair advantage. Furthermore, for such a far-reaching proposal, this consultation is unhelpful and de-stabilising in that it is unclear (beyond inference and words) precisely what the distinction is between unrelated and related income. In the case of our own Trust, we have taken on at great effort and risk additional business activities to try and financially sustain our primary charitable objective. Would these active undertakings be seen as related or unrelated activities/income? The fact that this consultation provides no clarity or certainty about this is highly concerning and regrettable.

Q4: If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what would be an appropriate threshold to continue to provide an exemption for small-scale business activities?

No comment. Not supported.

Q5: If the tax exemption is removed for charity business income that is unrelated to charitable purposes, do you agree that charity business income distributed for charitable purposes should remain tax exempt? If so, what is the most effective way to achieve this? If not, why not?

Of course. However, our observation is that charities diversify their income stream to improve financial viability/sustainability and increase impact, so just how income would be determined as being related or unrelated to the charitable purpose is unclear? Charities often take on other separate business activities to raise funds to serve the underlying charitable purpose. It feels like an unworkable and fraught proposal to try and throw a blanket approach over such instances or grossly inefficient and disproportionate (relative to the opportunity) to try and sort that out appropriately on a case-by-case basis. Furthermore, and just like superannuation, supporting and encouraging New Zealanders/Charities to save for the future to enable larger investments and renewals is important instead of penalising them for retaining funds (assuming they are fortunate enough to be able to).

Q6: If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what policy settings or issues not already mentioned in this paper do you think should be considered?

No comment. Not supported. We think this misses the point and fails to recognise the broader benefits and efficiency which with Charities deliver their objectives and is looking to take something further from an already highly contributing and hard-working sector with no acknowledgement of what we would stand to lose or give up.

Q7: Should New Zealand make a distinction between donor-controlled charities and other charitable organisations for tax purposes? If so, what criteria should define a donor-controlled charity? If not, why not?

If the underlying concern is that donor-controlled charities are exploiting loopholes for personal gain, then address that issue via enforcement and resourcing rather than a blanket change that threatens the viability and existence of innocent and hard-working charities.

Q8: Should investment restrictions be introduced for donor-controlled charities for tax purposes, to address the risk of tax abuse? If so, what restrictions would be appropriate? If not, why not?

If tax abuse exists, then resource and deal to the issue meaningfully without conflating other issues and using a blunt implement to beat up on the tens of thousands of registered Charities that are pouring their hearts into bettering New Zealand every day.

Q9: Should donor-controlled charities be required to make a minimum distribution each year? If so, what should the minimum distribution rate be and what exceptions, if any, should there be for the annual minimum distribution? If not, why not?

As above.

Q10: What policy changes, if any, should be considered to reduce the impact of the Commissioner's updated view on NFPs, particularly smaller NFPs? For example:

- increasing and/or redesigning the current \$1,000 deduction to remove small scale NFPs from the tax system,
- modifying the income tax return filing requirements for NFPs, and
- modifying the resident withholding tax exemption rules for NFPs.

No comment.

Q11: What are the implications of removing the current tax concessions for friendly societies and credit unions?

No comment. Defer to others more qualified to comment on such a specific tax matter.

Q12: What are the likely implications if the following exemptions are removed or significantly reduced:

- local and regional promotional body income tax exemption,
- herd improvement bodies income tax exemption,
- veterinary service body income tax exemption,
- bodies promoting scientific or industrial research income tax exemption, and
- non-resident charity tax exemption?

No comment. Defer to others more qualified to comment on such specific tax matters.

Q13: If the compliance costs are reduced following the current review of FBT settings, what are the likely implications of removing or reducing the exemption for charities?

No comment. Defer to others more qualified to comment on such a specific tax matter.

Q14: What are your views on extending the FENZ simplification as an option for all NFPs? Do you have any other suggestions on how to reduce tax compliance costs for volunteers?

No comment. Defer to others more qualified to comment on such a specific tax matter.

Q15: What are your views on the DTC regulatory stewardship review findings and policy initiatives proposed? Do you have any other suggestions on how to improve the current donation tax concession rules?

No comment. Defer to others more qualified to comment on such a specific tax matter.

South Westland Rugby Football Club

31 March 2025

David Carrigan
Deputy Commissioner, Policy
Inland Revenue
C/- policy.webmaster@ird.govt.nz

Feedback on the taxation and the not-for-profit sector officials' issues paper

Dear Mr Carrigan,

Thank you for providing the opportunity to provide feedback on the proposals for changes to the taxation of not-for-profit and charitable entities.

South Westland Rugby Football Club has been a cornerstone of our local community for 105 years, delivering not only rugby but also social and community development. Our mission extends beyond the rugby field. We enrich lives, promote well-being, and drive positive societal change.

While the "Q and As" published by IRD mention that it is not expected that bodies promoting amateur games and sport will be affected by the proposals we would still like to take the opportunity to make a submission that this income tax exemption should remain as is.

The Economic and Social Value of Grassroots Rugby Clubs

Rugby is not just a sport in New Zealand – it is part of our national identity and contributes significantly to the economy and society. As one of the more than 470 grassroots rugby clubs in New Zealand, we play a crucial role in fostering community engagement, social connection, and personal development.

Our club, like many others across the country, provides a space where individuals of all ages and backgrounds can come together, engage in physical activity, contribute to their local community and form lifelong friendships and support networks.

Beyond playing rugby, we fundraise through community events like hunting competitions, raffles and social events and give back to our sponsors by providing help when they too hold community events. We also strive to work to support our community through hosting events, supporting other community initiatives and groups to ensure the longevity of our community remains intact. These activities bring communities together and generate economic activity for local businesses throughout the year, not just on game day.

Rugby clubs are also at the forefront of addressing important societal issues in our communities. We have helped facilitate mental health awareness campaigns with

other local entities, as well as health campaigns and fundraisers. Our community is small and wide spread, stretching from Haast to Ross so whenever someone is doing something or holding an event, we all pitch in.

The Importance of Retaining the Income Tax Exemption for Amateur Sport

The current income tax exemption for bodies promoting amateur games and sport ensures that we can remain financially viable. Removing this exemption or imposing income tax on our membership fees would:

- significantly reduce the funding available for clubs to provide community programs, purchase equipment, maintain facilities, and support player development.
- create an administrative burden for us as a volunteer-run organisation, diverting time and resources away from our core activities; and
- lead to increased costs for participants, which could disproportionately impact those from lower-income backgrounds and reduce youth participation in rugby especially in the current cost of living crisis.

Preserving the current income tax exemptions is essential for sustaining the economic and social benefits they provide. South Westland Rugby Football Club remains committed to enriching our community, and we urge the Government to consider the profound implications that changes to tax exemptions would have on grassroots organisations like ours.

Grassroots rugby is a cornerstone of New Zealand's social and economic fabric, and its contribution must be recognised and protected in any tax policy changes.

Yours sincerely,

Michael Lash
President
South Westland Rugby Football Club

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TAXATION AND THE NOT-FOR-PROFIT SECTOR
RESPONSE TO OFFICIALS' ISSUES PAPER PUBLISHED
24 FEBRUARY 2025 FROM THE
LISTER PRESBYTERIAN HEALTH TRUST

Summary

This submission from the Lister Presbyterian Health Trust draws on the Trust's experience of making grants to organisations and individuals to advance physical, mental and spiritual health (see paras 1-16).

It responds to the questions in chapter 2 of the Issues Paper and to Q. 14 and Q 15 in chapter 4.

It believes the cost to the Government and the taxpayer is more than compensated for by the benefits charities bring to society.

The Trust opposes changing the business income exemption for two reasons: (1) it perpetuates an 'Oliver Twist' attitude to funding charities that makes them dependent on grants and donation handouts and stifles financial innovation, and (2) it will have adverse effects for the many charities that are likely to remain dependent on grants and donations by creating a situation of increased competition for funding (Q1. Paras 22-26).

It is likely that affected charities would respond to a change to taxing unrelated business income by restructuring their activities or investing in passive (non-business) investments (Q2. Paras 27-29).

We observe that distinguishing between related and unrelated business activities will likely be difficult in practice, will increase compliance costs for both charities and the Government, and could become a minefield for litigation\ (Q3. Paras 30-32).

Even with setting a de minimis exemption, it will be difficult to prevent an adverse flow-on effect on smaller charities from taxing unrelated business income, but, that said, we favour exempting at least Tier 3 and Tier 4 charities (Q4. Paras 33-35).

We agree that, if the tax exemption is removed for unrelated charity business income, then income that is subsequently distributed for charitable purposes should remain tax exempt and appropriate relief, e.g., by way of donation or dividend rebate, be given (Q5. Paras 36-37).

Two issues not covered in the Issues Paper are the value of pro bono or semi pro bono services to charities and the impact of charities transparency obligations in preventing a level playing field for charities and businesses (Q6. Paras 38-41).

We support simplifying the tax regime by extending the FENZ simplification to NFPs to reduce compliance costs for volunteers and implementing the policy initiatives in the DTC regulatory stewardship review (QQ. 14 & 15. Paras 42-45).

Introduction

1. This submission is from the Lister Presbyterian Health Trust ("the Trust"). It is made on the Trust's behalf by the chairperson.
2. The Trust is created by deed dated 28 November 2018 and is registered as a charity under the Charities Act 2005 (CC 56452).
3. The Trust is governed by a trust board of between five and nine trustees incorporated under the Charitable Trusts Act 1957 under no. 2722573.
4. The Trust is the successor to the North Shore Presbyterian Hospital Trust ("the Hospital Trust") established by deed dated 14 June 1963 and later registered as a charity under the Charities Act 2005 (CC 23035).
5. The Hospital Trust was founded by members of the local Presbyterian Church to purchase and operate the then Lister Hospital in Anzac Street, Takapuna to ensure the presence of

a hospital on the North Shore in the era before the Southern Cross and the North Shore Hospital complexes were built.

6. The Hospital Trust ran the Lister Hospital as a not-for-profit entity for the benefit of North Shore residents for over 20 years.
7. In 1985 the Hospital Trust sold the hospital to Southern Cross for \$1,000,000 when faced with insurmountable concerns relating to parking and access, noise levels from the nearby Shore City complex, and the need to expand to be economical.
8. In the period 1985-2019, the Hospital Trust invested the sale proceeds and, after inflation proofing the trust fund, used the income to promote and advance the physical or mental health or spiritual welfare of members of the North Shore and Rodney communities through making grants.
9. In the period 2006-2019, a period of 14 years, the total value of charitable grants made to individuals and organisations by the Hospital Trust totalled \$1,065,846. In the period 2015-2019, 106 grants were made to organisations and 46 grants made to individuals.
10. The Hospital Trust ceased its grant-making activity on 30 June 2019 (being later wound up and voluntarily deregistered). Its trust fund was transferred to the Lister Presbyterian Health Trust, which had been formed with a similar purpose to that of the Hospital Trust.
11. The charitable purpose of the Trust is defined broadly in its Trust Deed, but its key focus is “to support, maintain, assist, foster and promote the advancement of the physical or mental health or spiritual welfare of people residing in the North Shore and Rodney areas of Auckland.” The Trust does this, like the Hospital Trust before it, by making health-related grants to organisations and individuals that will enable the Trust to achieve this purpose.
12. In the five years from 1 July 2019 to 30 June 2024, the Trust has made 140 grants totalling \$358,000 to organisations and individuals.
13. The Trust receives more grant applications for assistance each year than it can satisfy from its grant budget. For the most recent Trust meeting on 26 March 2025, the Trust received 22 applications for discretionary grants, but it was able only to satisfy 10 of the applications, in addition to satisfying two standing grants.
14. The Trust prefers, where possible, to support smaller, local charities working collaboratively to improve health outcomes in their community and for whom even a small grant can make a difference, but we have also been approached increasingly by larger charities. Some of these larger charities are even now struggling to pull together the financial resources (from grants and donations) to allow them to fully achieve their charitable purpose.
15. To give some examples, the Trust has recently supported through its grants the following activities across the spectrum of physical, mental and spiritual care:
 - spiritual care for terminal patients,
 - subsidised grief counselling,
 - support for those dealing with the trauma of family suicide,
 - music therapy,
 - support for people with disabilities,
 - home-based and community support for parents with young families,
 - support for those with asthma or muscular dystrophy,
 - support services for women,
 - prevention of, and recovery from, domestic abuse,
 - activities reducing loneliness in our seniors,
 - activities for those with dementia,
 - support for families living with a terminal illness,
 - assistance with health care where this intersects with either the relief of poverty or the advancement of religion.

16. We draw on this background in making our response to the Issues Paper. We have focused on answering the questions in chapter 2 of the paper and the last two questions in chapter 4.

Response to Chapter 2 – Charity business income tax exemption (QQ. 1-6)

The “cost” of tax concessions

17. The issues paper highlights the “cost” of tax concessions, including the business income exemption.

Every tax concession has a “cost”, that is, it reduces government revenue and therefore shifts the tax burden to other taxpayers. (para 1.4)

18. To restore balance, the following also needs to be said.

Every tax concession extended to charities has a “benefit” for the government and the community, that is, by making it easier for charities to function it reduces the necessity for the government to spend money to provide those charitable services itself thereby reducing government expenditure and lightening the tax burden for other taxpayers.

19. The risk if this is lost sight of is that it could end up costing the government more in expenditure to replace key services provided by charities. That cost would ultimately be borne by other taxpayers in the form of loss of vital services for community well-being or higher taxes. This cost could be an invisible cost – until it isn’t, and it is too late!
20. The paper needs a balanced cost benefit analysis: What will it cost the government to address the issues that are currently addressed by charities if charities can no longer do so because tax changes have adversely affected their financial viability?
21. There is a complete absence in the Issues Paper of costings/estimates of how bad issues are, and/or of the compliance cost impacts of proposed changes. Given this is framed as a stopping abuse/revenue issue we believe cost benefit analysis is essential.

Q1. What are the most compelling reasons to tax, or not to tax, charity business income?

22. The first compelling reason for not taxing charity business income, related or unrelated to charitable purposes, is that taxing this income will perpetuate the Oliver Twist perspective on charities, i.e., making them dependent on donations and grant handouts rather than independent and flourishing.

When Oliver Twist said, “Please, sir, I want some more”, it accurately characterised the mindset that many still carry today when thinking about charities. It’s a mindset of reliance on donations from others, with hands outstretched in the hope of some crumbs falling from the plate of the wealthy.

But this is not the mindset we need for an innovative, flourishing charitable sector. We should be encouraging charities to seek sustainable income streams which move them from dependence to independence.

Yet that Oliver Twist mindset underpins the current consultation from Inland Revenue about whether charities should pay tax on unrelated business income.

*“Government will change charity tax rules at its peril,” opinion piece by Steven Moe in *The Post*, 21 March 2025*

23. In the Trust's grant making, we seldom encounter a charity flourishing financially on grants and donations alone. The generosity of New Zealanders notwithstanding, there is simply insufficient money to spread around to meet the need of every charity doing good works for the benefit of New Zealanders.
24. The second compelling reason for not taxing charity business income is that to do so will distort the charitable ecosystem and disadvantage smaller Tier 3 and Tier 4 charities. If the taxation rules on business income are changed for Tier 1 and Tier 2 charities these charities, with their larger resources, will end up competing against smaller charities for the same pool of grant and donation money, to the likely detriment of the smaller charities.
25. A tax change, such as the one being canvassed, cannot overcome the likely disadvantage to smaller charities merely by exempting them from the tax implications of the change. The likely outcome is that smaller charities will find it more difficult to operate, with loss of tax revenue to the government as the number of people employed by these charities reduces. In the end the loss falls on the taxpayer and the community as the services provided by smaller charities disappear.
26. No, the factors described in 2.13 and 2.14 of the Issues Paper do not warrant taxing charity business income. The compliance obligations charities face under the Charities Act 2005, in contrast to the minimal disclosures required of for-profit businesses, suggest that there is no such thing as a level playing field.

Q2. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what would be the most significant practical implications?

27. It is likely that an affected charity would endeavour to reduce its income tax obligation by restructuring its activities to ensure that, so far as possible, the receipt of business income is directly related to the charity's charitable purpose.
28. It is likely there would also be a shift in preference for many charities to invest in passive (non-business) investments if income from these investments remains untaxed. If income from passive investments becomes taxable, there would be an adverse flow-on impact for the whole charitable ecosystem as the amount of money available by way of grants is reduced by the tax payable on the income generated from investments to enable grants to be made.
29. It is difficult to confine the practical implications to that part of the charitable sector most affected by any tax change.

Q3. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what criteria should be used to define an unrelated business?

30. We have no specific suggestions. We observe that distinguishing between related and unrelated business activities will likely be difficult in practice and will increase compliance costs for both charities and the Government.
31. Most charities are established with a broad charitable purpose even if, in practice, their energies are directed to a narrower focus. We would expect charities increasingly to define any business activity in terms of one or more aspects of their broad charitable purpose.
32. We envisage that this could become a minefield for litigation, which once again will reduce the amount of money available for charitable works.

Q4. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what would be an appropriate threshold to continue to provide an exemption for small-scale business activities?

33. We repeat the point we made in paras 24 and 25 above that, even with setting a *de minimis* exemption, it will be difficult to prevent an adverse flow-on effect on smaller charities from taxing unrelated business income.
34. That said, we would favour exempting at least Tier 3 and Tier 4 charities.

35. We are uneasy that stopping at Tier 3 might not consider sufficiently the situation of a group charity that consolidates the activities of many smaller charities where the funds are utilised locally and not passed on to the parent charity. We believe this should be on the agenda when designing any policy change.

Q5. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, do you agree that charity business income distributed for charitable purposes should remain tax-exempt? If so, what is the most effective way to achieve this? If not, why not?

36. Yes. We agree that, if the tax exemption is removed for unrelated charity business income, then income that is subsequently distributed for charitable purposes should remain tax exempt.
37. Such a relief system would need to be simple and clear. For example, a donation or dividend deduction. We note that such a system would however increase compliance costs therefore reducing the overall amount able to be applied to charitable purposes.

Q6. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what policy settings or issues not already mentioned in this paper do you think should be considered?

38. The Trust and its predecessor the Hospital Trust have depended heavily on the voluntary contributions of their trustees, some serving for many years.
39. Not raised in the Issues Paper is the valuation of pro bono or semi pro bono services as input expenses. Labour cost is a significant input expense for any business. Currently many in the charitable sector receive some pro bono or semi pro bono labour. Accordingly, it would be important for charities to be able to claim the true cost of their business in any income tax return. This raises the conundrum for the tax department as to what the appropriate fair labour costs should be.
40. In return for its charitable status, the Trust must comply with the reporting requirements under the Charities Act 2005. This is a compliance cost.
41. Charities are currently disadvantaged because there is not a level playing field as regards transparency of reporting with for-profit businesses, i.e., charities must currently meet a higher level of public transparency. Failure to address this issue results in charities being at an unfair competitive disadvantage with for-profit businesses, as noted above.

Response to Chapter 4 – Integrity and simplification (QQ. 10-15)

Q14. What are your views on extending the FENZ simplification as an option for all NFPs? Do you have any other suggestions on how to reduce tax compliance costs for volunteers?

42. Classifying honoraria as schedular payments for tax purposes is not well understood in the NFP sector. Extending the FENZ simplification is a sensible tax simplification and will reduce compliance costs for volunteers.
43. In relation to extending this as an option for all NFPs, it might be pertinent to ask also: Has this worked appropriately for FENZ? And have there been any unintended consequences?

Q15. What are your views on the DTC regulatory stewardship review findings and policy initiatives proposed? Do you have any other suggestions on how to improve the current donation tax concession rules?

44. We are broadly supportive of the review findings and policy initiatives proposed because of the DTC regulatory stewardship review.
45. The policy related recommendations proposed seem to be sensible, practical initiatives to help increase the uptake of donation tax concessions.

Conclusion

46. Thank you for this opportunity to make a submission in response to the IRD consultation on taxation and the not-for-profit sector.

Dated: Monday, 31 March 2025

Signed:

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**Ronald Mills, Chairperson,
Lister Presbyterian Health Trust**

Susan Moyle, Accountant for Tier 3 and 4 charities

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Summary View

In considering taxation of non-profits there appears to be little consideration of the broad benefits to New Zealand society and local communities from the work done by this sector. The prevailing opinions cite the 'cost' of not taxing charities, but there is little mention of the public good performed by NFP entities. Instead, what would the cost be to New Zealand if these entities were taxed and/or defunded to the point that they closed their operations?

There also appears to be little consideration of the employment and investment engaged in by the sector, which feeds through to both central and Local Government in the way of taxes (personal income tax, GST, and local body rates especially).

Retained funds (accumulated funds) of tax-exempt organisations are, in the majority of cases, held in order to build the long-term ability to make societal investment in assets and programmes to support the aims of their organisations.

Many tax-exempt organisations would struggle to fulfil their longer term aims if their annual surplus ("profit") was taxed as for a for-profit business, which could lead to a reduction in societal investment over time. Some smaller NFP entities often have deficits ("losses"), which would need to be available as offsets in future tax periods.

Central Government in New Zealand/Aotearoa has a long-standing tradition of relying on tax exempt organisations to carry out the work of supporting those who are less fortunate (for whatever reason) in our communities. This includes those who require support with their physical and mental health, as well as educational institutions.

My central question would be, if organisations meeting these needs are subject to income tax, then will hospitals, ambulance services, schools, etc. also be subject to the same level of taxation? Will loss reduction and donation rebates also be available to these types of entities? If many of these services are also Government funded, then is this just moving the money around and increasing compliance costs?

From a selfish viewpoint, as an accountant specialising in Tier 3 charities, the increased compliance would ensure my employment opportunities. However, very few people become involved in this sector for selfish reasons. I can anticipate many smaller NFP entities finding this to be the straw that broke the camel's back, especially in an atmosphere of decreased recognition of their contribution to society by both Central and Local Government.

A more sound option to increase taxation revenue might be to narrow the definition of charitable purpose.

- a) Does a church that denigrates the views of some members of our society fit the definition of a charity?
- b) Does a branch of a large multi-national fit the definition of charity?
- c) Should non-resident entities be given the same exemptions as a New Zealand registered charity?

Consultation Paper Chapter 2 Questions

Q1. What are the most compelling reasons to tax, or not to tax, charity business income? Do the factors described in 2.13 and 2.14 warrant taxing charity business income?

Reasons to not tax charity business income include:

- a) discouragement of innovation (you need a surplus to try something new, but if this is taxed then the scope to try a new programme is limited);
- b) compliance costs will be greatly increased (this could be prohibitive for many entities, and especially those who have volunteer accounts staff who often have limited knowledge of the regulations involved);
- c) the responsibility to get things right ultimately rests on the Governance Board members, which is likely to discourage individuals from taking on these volunteer roles;
- d) Liability insurance costs will likely increase where there is the need to insure for the costs that would be involved in an IRD audit, for example;
- e) question of whether charities will need to 'double' report – will charity reporting requirements differ for taxation and Charity Services filing purposes? How will this be reconciled, and will auditors have the capacity to deal with the increased workload if reporting periods have to be consolidated and lined up with the income tax year?
- f) Will the compliance cost to IRD for gathering the small amount of income tax be greater than the tax revenue gathered?
- g) The charitable sector employs a significant number of individuals, and contributes approximately \$6billion to the New Zealand economy. Taxation of charity surpluses could lead charities to retrench and/or move from permanent employment contracts to piecemeal contractor-based work in order to reduce leave commitments in future periods. This would diminish the security of sector employment and discourage skilled workers from charity sector employment.
- h) How will profit be defined? Many charities hold funding as a liability until it is allocated against output or expenses. What will a charity tax return measure as 'profit'?
- i) Last, but certainly not least, any taxation of charities' surplus will severely limit their ability to become self-sufficient and sustainable. In a time of decreased investment in community services by both Central and Local Government this is a very real concern.

Reasons to tax charity business income:

- a) There could be a small increase in the tax take in the short-term. However, in the medium-term, charities will spend today and have nothing for tomorrow. In the long-term, many current charities will likely shut down and the community assets they have built over time will be diminished or lost.
- b) Most Tier 1 and 2 charities are operated in a manner similar to a for-profit entity, hence their reporting requirements being more closely linked to for-profit accounting standards. It could be argued that these entities are more capable of operating under a standardised taxation regime, as they have greater accounting resources and skills available to them than Tier 3 and 4 charities.

Q2. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what would be the most significant practical implications?

- a) Who will define “unrelated”? The case of op shops and the ‘large’ amounts of revenue they generate is one that seems to be used a lot to advocate for taxing of charities. However, for a charity that runs an op shop to support its programmes, where the aims include support of the local community, then offering low cost items to local residents fits the aims.
- b) If the business income of a charity is to be taxed, then the business arm would likely just donate funds to the charity in order to not pay any tax on its income. So, there will still be large compliance costs for both IRD and the Charity, but with no increase in tax revenue.
- c) Has any analysis been done on the potential tax revenue, compared to the compliance and tax gathering costs? What is the likely net gain to Central Government?
- d) Why tax charities, who provide public goods and services to our society, when other avenues for taxation are not being considered, such as CGT on properties other than the taxpayer’s main residence?
- e) What will the tax gathered fund – will it feed back to the community in ways that are equally beneficial to our society as would be the potential future programmes run by these charities?

Q3. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what criteria should be used to define an unrelated business?

- a) Basing the definition of unrelated business income on one or more of the definitions used in overseas jurisdictions ignores the unique nature and evolution of New Zealand charities, and the unique cultural context of New Zealand society.
- b) There would need to be very clear ringfencing of charity-related business in order to minimise any errors in tax application.
- c) Any such change would require an increased compliance regime, which could be prohibitive for smaller (Tier3 and Tier4) charities.

Q4. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what would be an appropriate threshold to continue to provide an exemption for small-scale business activities?

- a) Considering together the compliance requirements, requirement to have staff who are familiar with taxation rules and return preparation, and the significant nature to smaller charities of the revenue derived from business activities, it would be retain the exemption for Tier3 and Tier4 entities.
- b) It will be important to have sufficient staffing within Charities Services for monitoring of any change of structure (or Tier) if charities are divided into those who continue to have an exemption and those who need to file and pay income tax.
- c) It will be important not to penalise charities who have been putting aside accumulated funds over many years for a long-term aim, such as a capital purchase, as it is unusual for charities to be able to 1. Secure a loan to speed up the progress of their long-term aim; and 2. If they are successful in securing a loan, to then have sufficient business revenue to cover the loan repayments - grants for loan repayment are not available.

Q5. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, do you agree that charity business income distributed for charitable purposes should remain tax exempt? If so, what is the most effective way to achieve this? If not, why not?

- a) Whatever system is put in place to monitor the use of income unrelated to charitable purposes, there will again be increased compliance costs.
- b) Will the accumulation of surplus to fund a long-term charitable aim be classified as charitable use under such a regime? If not, how are new, innovative programmes and projects to be funded? If not, how would current programmes be continued in periods of funding downturn, as is currently the case? Will these taxes be ringfenced to support the carrying out of similar work by Central Government when those charities no longer have the funds to do this work?

Q6. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what policy settings or issues not already mentioned in this paper do you think should be considered?

- a) There would be a significant increase in compliance costs for charities, reducing the funds available for charitable purposes
- b) There would also be an increase in Central Government compliance costs, especially for IRD, with a need to share information between Charity Services and IRD.
- c) Will pro bono/volunteer inputs be able to be included as expenses, and if so, how will they be valued? On paper, labour costs in charities are much lower than in similar for-profit entities due to volunteer inputs. However, this \$ value is not captured in any current reporting, meaning that the true cost of doing business for charities is not taken into account.
- d) The level of transparency required by charities in their reporting is much higher than for equivalent privately-controlled for-profit entities (for example, sole traders, partnerships, LTCs, closely-held companies). In order to level the playing field, this disparity would need to be addressed.

Consultation Paper Chapter 3 Questions

Q7. Should New Zealand make a distinction between donor-controlled charities and other charitable organisations for tax purposes? If so, what criteria should define a donor-controlled charity? If not, why not?

- a) Tax avoidance issues are raised in this paper – the more simple solution to this issue would be giving IRD more power to examine these types of organisations under current, and expanded if needed, tax avoidance rules.
- b) This loophole could be reduced by increased ability of DIA and IRD to investigate and prosecute for tax avoidance, rather than tainting all donor-controlled entities in order to deal with a small percentage of ‘bad players’. DIA requires greater staffing to enforce the current rules and regulations, as can be seen in the continued charity registration of charities who are repeatedly non-compliant with the filing rules.

Q8. Should investment restrictions be introduced for donor-controlled charities for tax purposes, to address the risk of tax abuse? If so, what restrictions would be appropriate? If not, why not?

- a) Any difference in the tax treatment of donor controlled and non-donor controlled charities would add extra complexity to the monitoring of charities and increase the compliance load on charities through requiring declarations by charities as to their categorisation.
- b) What gain would there be in different treatment?
- c) What would the threshold be to determine donor control? If a Board member with decision-making rights made a donation to the charity, would it automatically be deemed a donor controlled charity? If there is a threshold based on the significance of the donation, then would this need to be reassessed in each reporting period, and the charity potentially shifting between donor controlled and non-donor controlled each period? How would retrospective reassessment work – would an entity potentially be in breach in retrospect, or would the rules be cumulative, as with charity Reporting Tier movements?
- d) Would related parties be ‘caught in the net’ in terms of definition of donor control? For example, would a donation from the spouse of a Board member mean that the charity is defined as donor controlled?

Q9. Should donor-controlled charities be required to make a minimum distribution each year? If so, what should the minimum distribution rate be and what exceptions, if any, should there be for the annual minimum distribution? If not, why not?

- a) Looking at and potentially basing a minimum distribution rule off the requirements in other countries could be useful to catch the ‘bad players’. However, it will be important to have in place the ability to make exceptions to this. Many larger funders in New Zealand are donor controlled (for example, in the form of family-controlled trusts) and generate their funds via returns on stock market and other investments. As was seen with the fall in market returns during both the GFC period and the Covid lockdowns, markets can be volatile and fall rapidly, and funders may need to reinvest some of their returns in order to ensure their sustainability. If there is a set % donation requirement this has the potential of reducing the funds available over time. Unless Central Government invests the equivalent in the

community sector to offset these type of reductions from market shifts, then there could be a 'sinking lid' on the funds invested into the community over time.

- b) A responsive regime will be required to provide exemptions to the minimum distribution rules (with adequate staffing to assess applications in a timely manner). Any exemptions given will also need to be monitored over time to ensure that the retained funds are actually applied to the long-term aims/goals cited in the application, again requiring greater staffing for DIA, at a time of reduced staffing in all Central Government departments.

Consultation Paper Chapter 4 Questions

Q10. What policy changes, if any, should be considered to reduce the impact of the Commissioner's updated view on NFPs, particularly smaller NFPs? For example:

- **increasing and/or redesigning the current \$1,000 deduction to remove small scale NFPs from the tax system,**
 - **modifying the income tax return filing requirements for NFPs, and**
 - **modifying the resident withholding tax exemption rules for NFPs.**
- a) It is important to note here that most small charities that would be affected by any change to this rule will be unaware of this consultation.
 - b) The consultation period has been very short and has asked for responses from people who are not tax experts on many questions that are quite technical. It feels rushed and, as it has already been indicated that a new tax bill will be presented to Parliament in August 2025, it could be argued that this consultation is being carried out for appearance sake. However, I would be very happy to be proven wrong on this point.
 - c) The current \$1,000 deduction appears too low in the current cost climate, and should be substantially increased to have any relevance to small charities today, especially if taxation of charities is adopted.

Q11. What are the implications of removing the current tax concessions for friendly societies and credit unions?

- a) If the tax concession is removed for credit unions and friendly societies they will be unlikely to continue in their current form. The history of credit unions is that they filled the gap for many people who were unable to obtain credit via traditional banks, and enabled such people into housing and less reliance on the state in retirement. This is an asset to society.
- b) Will avenues for these institutions to become registered banks, etc. be provided with support to do so? If not, many will not survive if they are subject to taxation rules. They hold funds for their members, not for profit!

Q12. What are the likely implications if the following exemptions are removed or significantly reduced:

- **local and regional promotional body income tax exemption,**
 - **herd improvement bodies income tax exemption,**
 - **veterinary service body income tax exemption,**
 - **bodies promoting scientific or industrial research income tax exemption, and**
 - **non-resident charity tax exemption?**
- a) None of the above listed bodies appear to have aims that are based on giving back to our society in general. The first three in the list above are directed at improving economic

outcomes for very specific profit-making sectors of our society, such as tourism operators, farmers, etc.

- b) For the fourth in the list above, such bodies could be absorbed into scientific and engineering departments at tertiary institutions, and funded through donations or grants from the same or similar sources as their current income streams.
- c) The last (non-resident charities) do not, in general, benefit New Zealand society, and should instead come under the tax regimes of their registered territory. If operating and accumulating funds in New Zealand then they should be taxed on the basis that they are a for-profit, taxable entity. If they want to benefit from the New Zealand charity tax exemptions then they should be required to come under the same regime as New Zealand registered charities.

Q13. If the compliance costs are reduced following the current review of FBT settings, what are the likely implications of removing or reducing the exemption for charities?

- a) It makes sense to rationalise FBT applications and remove the exemptions. I have personally had many people involved in charity management ask me about FBT and been confused by this exemption, indicating that the rationale for it is not understood.
- b) Most charities do not offer any benefits to employees that would come under the for-profit entity FBT regime (such as the use of a dedicated vehicle). However, most charities continue to offer lower rates of remuneration than in the for-profit sector. The rationale that the lower rate of remuneration in the charitable sector is influenced by allowing an FBT exemption to charities is not, therefore, based on reality.
- c) Charities often offer employees non-FBT benefits, such as flexible working hours and conditions (for example, working from home), which may be more valuable to employees than, for example, the use of a work vehicle.
- d) Any charities that need to provide resources such as vehicles to staff could still avoid coming under the FBT regime by not allowing employees to use these vehicles for private purposes, etc.
- e) If FBT was applied to charities, there would need to be a concerted education regime and very clear rules and templates for charities to avoid errors. The fact is that most accounting staff in charities (whether paid or volunteer) have limited knowledge of FBT rules.

Q14. What are your views on extending the FENZ simplification as an option for all NFPs? Do you have any other suggestions on how to reduce tax compliance costs for volunteers?

- a) Many smaller charities are unaware of the rules regarding honoraria. There is the need for education on the rules regarding honoraria, as these will not be isolated cases, and auditors cannot be expected to pick up on all of the errors in the treatment of honoraria by charities.
- b) I think, in general, it would be helpful if the FENZ exemption were extended, as Board members are often paid on a schedular basis with 33% PAYE withheld. In my 30+ years working in the NFP sector with Tier 3 and 4 entities, I do not know of any Board members paid in this way who realised that they needed to register with, or pay ACC on, these earnings.

Q15. What are your views on the DTC regulatory stewardship review findings and policy initiatives proposed? Do you have any other suggestions on how to improve the current donation tax concession rules?

- a) On the whole the recommendations in the paper appear sound. However, I have some concerns.
- b) What will the burden on charities be to file donation revenue details with IRD? Will charities be required to collect details from all donors, such as their full legal name and IRD number? What will occur if the donor does not want to share this information? Many entities receive online donations with little to no contact details for the donor – there could be data security implications.
- c) Will the threshold for claiming donations be increased from \$5? This is now very low in terms of the donation receipt compliance requirements.
- d) How often will the charity be required to pass on donation details to IRD? Will there be, for example, a regime such as for GST, where smaller entities only need to file on a six or two monthly basis, rather than every month?
- e) Will charities need to file if they have not received any donations?
- f) Will this requirement only include donations from individuals or also from businesses and other charities?
- g) On another note, if income tax for charities put in place, then will charities also be eligible for the donor tax credit regime? This has not, as far as I am aware, been considered in this consultation.