

Deputy Commissioner, Policy
Inland Revenue Department
Wellington
28th March 2025

Subject: Submission in Response to Consultation on “Taxation and the Not-for-Profit Sector” Dated 24 February 2025

Dear Sir/Madam

I am submitting this response to the consultation regarding taxation in the not-for-profit sector, specifically to advocate for the continuation of income tax-exempt status for veterinary services operating under the not-for-profit model.

Veterinary clubs are vital to supporting animal welfare, public health, rural communities, and professional growth. Removing their tax-exempt status would significantly harm both the services they provide and the communities they serve.

Reasons for Maintaining the Tax-Exempt Status for Not-for-Profit Veterinary Services

Access to Veterinary Care in Remote Areas

Veterinary services that are exempt from income tax are able to deliver clinical care in remote regions where private veterinary practices may not find it financially feasible. This ensures that animal welfare standards are maintained in rural and isolated communities where veterinary care would otherwise be scarce, difficult to access, or too costly.

Reinvesting in Community Initiatives

The funds saved by not-for-profit veterinary clubs, which would otherwise go towards income tax, are reinvested into local projects that directly benefit the community. These include initiatives such as:

- Free or discounted pet vaccination programs in low-income areas
- Financial support for local events and community services
- Funding for rural schools, including tertiary institutions and subsequent educational programs

Educational Support for Farmers and Animal Caretakers

Veterinary clubs are crucial in providing technical training and workshops that enhance the skills of farmers in managing livestock. This boosts the ability of individuals to care for animals, leading to better animal health and welfare outcomes throughout New Zealand.

Sustainable, Community-Focused Veterinary Services

As not-for-profit organizations, veterinary clubs are focused on serving their members and local communities rather than generating profit for shareholders. This allows for unbiased veterinary advice, prioritizing animal welfare over financial interests, and supports the long-term sustainability of affordable veterinary services.

Encouraging Fair Pricing and Industry Stability

Tax-exempt veterinary services contribute to healthy competition in the market, helping to keep veterinary care affordable while also ensuring the financial stability of practices. This helps prevent large corporate entities from dominating the market, which could result in higher prices and lower quality care driven by profit motives rather than animal welfare.

Support for Veterinary Staff Development and Retention

With New Zealand facing a shortage of skilled veterinary professionals, not-for-profit veterinary clubs play a crucial role in supporting new graduates through mentorship and training, free from the pressures of generating high profits. This structure is essential for retaining skilled professionals and preventing burnout, which is a growing concern in the veterinary field.

Risks of Removing the Tax Exemption for Veterinary Services

Eliminating the tax-exempt status for not-for-profit veterinary clubs would likely lead to several negative outcomes, including:

Centralization of Services

Veterinary services could become more centralized, reducing access to care in remote or rural areas where private practices may struggle to stay financially viable.

Decreased Investment in Community Initiatives

Funds currently invested in community-oriented projects would instead be redirected to income tax payments, potentially leading to the cessation of valuable local services.

Financial Bias in Veterinary Recommendations

A shift towards profit-driven operations could result in recommendations being influenced by what is more financially beneficial for the practice, rather than what is best for the animal's welfare.

Corporate Control over Pricing and Service Availability

Large corporate veterinary chains could come to dominate the industry, leading to higher prices and reduced accessibility to essential veterinary services for the public.

Increased Staff Stress and Turnover

The increased financial pressures and need for profitability could exacerbate stress and burnout among veterinary professionals, worsening the existing shortage and lowering the quality of care available.

Conclusion

Maintaining the income tax-exempt status for not-for-profit veterinary clubs is crucial to preserving affordable and accessible veterinary care, particularly in rural and underserved areas. This model offers numerous community benefits, ensures fair pricing within the industry, supports the professional development of veterinary staff, and guarantees objective, high-quality care. Revoking this exemption would result in serious negative economic and social effects.

I urge the consultation process to recognize the significant contributions of not-for-profit veterinary services and to continue supporting their tax-exempt status, which is essential for the ongoing welfare of animals and the well-being of New Zealand communities.

Thank you for considering this submission.

Sincerely,
Steven Bamford

From: Jeremy Ross s 9(2)(a)
Sent: Monday, 31 March 2025 7:39 am
To: Policy Webmaster
Subject: Submission on proposed changes to income tax exemption for not-for-profits

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

To Whom it may Concern

My name is Jeremy Ross and I am the Chairperson of the Hope Presbyterian Church Finance Committee, based in South-West Christchurch.

We have congregations in Hornby, Rolleston, West Melton & Halkett. In addition we are involved in several outreach programmes which have a significant positive impact in our local communities, such as 24/7 Youthwork in schools and an Alternative Education programme.

To support the work that we do in the community, we also have several 'social enterprises' which help generate funds, such as an Op Shop (based in Rolleston). The purpose of the Op Shop is two-fold. Firstly, it generates funds to support the church and associated ministries, and secondly, it provides quality, affordable clothing and household items for families in the community.

I do **not** support the proposed changes to the income tax exemption for not-for-profit organisations.

Charities play a vital role in society and provide significant services (some that would otherwise need to be provided by the Government) that benefit those in our society that need it the most; the young, the disabled, the elderly, and those at risk.

Any proposed changes that have potential to direct funds away from these groups of people is, in my opinion, shortsighted and fails to acknowledge the positive benefits that charities provide.

While there may be some valid instances where current tax rules lead to unfair outcomes, I believe the current proposals go too far and have the potential to cause **greater** inequity and social harm.

The reality for most charities is that funding via traditional methods (such as grants and donations) may not be sufficient or sustainable in the long term. To address this, some charities have taken steps to ensure reliance on grants & donations is reduced, in some cases by embarking on 'social enterprises' (which could include activities deemed "business income").

Why should these forward thinking charities be punished for taking proactive steps to ensure they have the necessary funds to continue meeting their Charitable Purpose-and in doing so reduce the burden on central and local Government?

The 'motto' of Charities Services (as stated on their website [Charities Services | Home](#)) states 'Supporting Charities in New Zealand for Stronger Communities'. I believe the proposed changes to the income tax exemption for Charities would do the complete opposite.

Kind regards

Jeremy

New Zealand Association of Rationalists and Humanists
64 Symonds Street
Grafton
Auckland

Email: office@rationalists.nz
Telephone: s 9(2)(a)

Taxation and the not-for-profit sector
C/- Deputy Commissioner,
Policy Inland Revenue Department
PO Box 2198
Wellington 6140
Email: policy.webmaster@ird.govt.nz

18 March 2025

Tēnā koutou,

Subject: Taxation and the not-for profit sector

About the New Zealand Association of Rationalists

The New Zealand Association of Rationalists and Humanists (NZARH) is a registered charity and Incorporated Society that exists to serve the interests of the non-religious; those who do not believe in gods or the supernatural. We've been serving Aotearoa New Zealand's secular community since 1927. We have over 300 members and supporters, and we support and campaign on behalf of over 2.6 million people in Aotearoa New Zealand, who declare themselves to be non-religious. Our Association's purpose is to advocate for a secular, rational, science-based and humane society.

The interest of the NZARH in the taxation and the not-for profit sector consultation as a campaigning organisation

The NZARH has an interest in ending the unfair advantage of religious businesses receiving a tax benefit due to registering as a charity under the Charities Act 2005 with the purpose of advancing religion, regardless of whether the business provides charitable services to the community. We believe this amounts to a subsidy by the Government, which gives an advantage to organisations that promote religious and supernatural beliefs over those organisations that are secular or that actively oppose the promotion of religion and superstition. This discrimination runs contrary to NZ Human Rights legislation and is inconsistent with the NZ Bill of Rights. It compels taxpayers with no religion to be 'vicarious donors' to religious organisations they do not support and works as an indirect tithe on non-religious taxpayers.

We seek the repeal of the section of the Charities Act 2005 that includes the promotion of religion as a charitable purpose. We believe the Charities Act is being used as a means of avoiding taxation by religious organisations that do not conduct any programs of social benefit or education and instead focus on self-promotion. While some religious organisations may run genuine charitable operations that may merit a tax-exemption, there are many religious organisations that use their tax-exempt status to amass significant surpluses without spending those funds on programmes that provide social good to New Zealanders.

Some examples of the questionable use of the advancement of religion as a charitable purpose include:

- In 2011, the New Zealand High Court ruled that an interest-free mortgage scheme devised by the Christian Liberty Trust fell under the charitable purpose of advancement of religion¹.
- Mission Estate Winery (Marist Holdings (Greenmeadows) Limited), is a business that is a member of the Group of The Society of Mary New Zealand Companies. The winery no longer publishes Annual Returns on Charities Services. Instead, the business's profits are consolidated into the Group's Annual Returns, and there is a troubling lack of transparency in how the surpluses are used.

In 2012, we searched the then Charities Commission database and found that 4,000 registered religious charities held \$7.3B in equity, with \$1.4B liabilities. When we included entities that have religion as a secondary purpose, we estimated the figures climbed to over 6,500 registered religious charities, with \$11B in assets and \$2.1B in liabilities². It is very likely that these assets have only grown since this research was conducted.

In 2013, our member Dr Max Wallace and Professor Robert Nola expressed the view that the data above indicated that churches have become onshore tax havens which are subsidised by taxpayers so that the religious can pursue their interest in the supernatural³.

Our view is that it is too easy to exploit the charitable tax exemption for commercial businesses under the guise of promotion of religion. This view is supported by others. In 2015, the Church of the Flying Spaghetti Monster was approved to conduct legal marriages. Following this, in early 2018, the Church of the Flying Spaghetti Monster registered as a religious charitable trust in an attempt to draw attention to the tax-free status of religions in New Zealand⁴ and prompt a law change.

¹ Wallace, M., (2011), *Interest free mortgages... if you advance religion*. Open Society. New Zealand Association of Rationalists and Humanists (Inc.). Auckland. New Zealand.

<https://search.informit.org/doi/abs/10.3316/informit.T2024082300006700951299313>

² Open Society. (2012). New Zealand Association of Rationalists and Humanists (Inc.). Auckland. New Zealand

³ Wallace, M. & Nola. R. (2013). *Asset rich churches should pay fair tax*. New Zealand Herald. Last accessed 28 March 2025.

<https://www.nzherald.co.nz/nz/max-wallace-robert-nola-asset-rich-churches-should-pay-fair-tax/NXT76Y3SKHWTKSEWYUFOBZENSI/>

⁴ Manch, T., (2017). Stuff. New Zealand. Last accessed 28 March 2025.

<https://www.stuff.co.nz/national/99910254/church-of-the-flying-spaghetti-monster-breaks-another-milestone-in-nz-zealand>

A parody of a religion being able to be tax-exempt challenges the credibility of the current law allowing for the promotion of religion to be recognised as a charitable purpose, especially when fewer than 50% of the population in New Zealand are religious⁵.

While the provision of religious privileges like tax exemption was acceptable in this country because the majority of New Zealanders were Christian, the NZARH has consistently argued against this viewpoint, asking instead for a fair playing field for everyone. After the 2013 census, when Christianity dropped to below 50% of the population, it was argued that most of us held a religious belief of some kind, even if those beliefs differed. Now we're at the point where the majority of New Zealanders are non-religious (51% in the 2023 census). We don't think that the non-religious majority deserve privilege any more than the religious majority ever did, but for those who have used this line of reasoning in the past, it's obvious that it's no longer applicable as a justification.

We hope that these same religious groups who, in the past, have argued that their majority status should afford them special treatment, don't now try to argue that their current minority status is also deserving of special treatment.

The NZARH would like to see all churches taxed the same as any other organisation or business, unless they can prove, like any non-religious charity, that they are genuinely providing a material benefit to the community. We are broadly in support of any updates to charity law that would bring about this change. As a charity ourselves, some of these changes may end up affecting our financial position, but we will happily accept this if the changes mean we end up with a more equitable system in Aotearoa New Zealand of offering tax breaks only to those organisations that are truly helping the communities around them.

We find ourselves in broad agreement with the recent words of Dr Michael Gousmett:

I do not think that for one minute the Government intends to tax the likes of foodbanks, second hand shops run by Vinnies, St John, the City Mission, Red Cross and the SPCA. That would be mean spirited to say the least.

But why should s 18(c)(i) not pay tax on the s 18(c)(i) it earns in rents from its many properties in Christchurch? Why shouldn't Mission Estate, New Zealand's first winery, pay tax on its wine sales? And of course New Zealand Health Foods Limited, and its "Sanitarium" and many other brands, with its considerable revenues?

Our responses to the consultation questions, as an organisation wanting to end the unfair advantage of religious businesses, are below:

Question 1: What are the most compelling reasons to tax, or not to tax, charity business income?

1. We want to close the loophole that religious businesses exploit to gain an unfair tax advantage, particularly where the business is unrelated to any charitable activities.

⁵ Campbell., G. (2024). *Census data NZ: More than half of the population has no religion*. Stuff. New Zealand. Last accessed 28 March 2025. <https://www.nzherald.co.nz/nz/census-data-nz-more-than-half-of-the-population-has-no-religion/YT2KJBSTQNBTPVDHJYHNALIZA/>

2. There is a clear benefit to these businesses paying their fair share of tax, in that the Government will have more resources to distribute to genuinely charitable organisations that provide a public good to all New Zealanders.

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?

3. Religious organisations that derive any income from commercial activities should be considered as unrelated to their charitable purpose. For all charities, the only income that should be tax exempt is income from bequests, donations, and grants. However, there should be special consideration of charities that operate social enterprises like second-hand stores where the operation provides a tangible social good.

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?

4. Our focus is on religious organisations that run businesses. We believe that any business, regardless of its size or scale, that is run by a religious organisation registered under the charitable purpose of the advancement of religion should not be tax-exempt. All small businesses pay tax, and small charities earning an income from business activities unrelated to their charitable purpose should do the same.
5. We know that large religious organisations accumulate wealth. We do not believe it acceptable for these organisations to build up large amounts of wealth without paying tax, while benefiting from the contributions of other New Zealanders. As an example, many religious businesses benefited from the Government's Covid-19 wage subsidy scheme.

The interest of the NZARH in the taxation and the not-for profit sector consultation as a Registered Charity and Incorporated Society

As well as our interest in ending the unfair advantage of religious organisations operating businesses, the NZARH has multiple interests in this consultation as both a Registered Charity and an Incorporated Society:

1. As an organisation that has charity business income that is unrelated to charitable purposes. Our organisation has, at times, received income from the rental of two floors of the building we own in central Auckland.
2. As a small, not-for-profit member association
3. As an employer exempt from Fringe Benefit Tax (FTB)
4. As an organisation that has an income from subscriptions, grants, bequests, and individual donations

Our responses to the consultation questions below relate to our interests as a Registered Charity and Incorporated Society.

Question 1: What are the most compelling reasons to tax, or not to tax, charity business income?

6. Our concern is to strike a balance between what is fair and what is practical. While some charity-owned businesses may exit the market if the tax exemption is removed and their operations become unsustainable as a result, we would expect that most would be able to meet their new tax obligations.

7. We would like clear information for social enterprises to ensure they are still able to operate and meet any tax obligations.

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?

8. Our organisation uses income we receive from renting out part of our building to pay for housing a library on the third floor. Our organisation would not consider ourselves to be property managers or to be operating a business. There is ambiguity about whether the rental income we receive is unrelated to our charitable purpose.

9. We recommend clear guidelines about commercial rental income, as well as income received from providing a venue or hosting events where the events are directly linked to the organisation's charitable purpose.

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?

10. We do not have a view on an appropriate threshold to continue to provide an exemption for small-scale business activities of charities. We refer back to our previous statement that small businesses not operated by charities must pay tax. We see value in all organisations making a contribution to New Zealand fairly and proportionately.

Ngā mihi,

s 9(2)(a)



Sara Passmore
President
NZARH

30.3.25

197 Te Whiti Rd,
RD5
Masterton.

To whom it may concern,

I am a director/shareholder of a private veterinary practice of which our main branches are located in the Rangitikei. Our practice supplies a full range of services to all species and are strong in all three areas, companion animal, equine and farm animal. All of the shareholders are full time practicing veterinarians.

A neighbouring practice continues to work under the umbrella of the Vet Club system that was introduced after war times to encourage veterinarians to practice in rural areas. These club practices by and large have all become defunct entities around New Zealand but those that remain are exceptionally strong. They behave outwardly as a normal vet practice and to the layman they will see no difference. However, they still have the luxury of being tax exempt.

The time has well and truly come that they should be placed on a level playing field with those of us in private practice as the original need has well and truly gone. They should be contributing their taxes to the Government pool as we all do, to contribute to the running of the country.

Regards,

s 9(2)(a)



Amanda Illston BVSc, MANZCVS





Submission: Taxation and the not-for-profit sector

Federated Farmers of New Zealand

March 2025



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FARM**
.ORG.NZ

SUBMISSION: TAXATION AND THE NOT-FOR-PROFIT SECTOR

TO: THE INLAND REVENUE DEPARTMENT

DATE: 31 MARCH 2025

ADDRESS FOR SERVICE

Name	Position	Phone Number	Email Address
Oliver Ibbetson	Government Relations Manager	s 9(2)(a)	

OTHER CONTACTS

Name	Position	Phone Number	Email Address
Richard McIntyre	Board member	s 9(2)(a)	
Paul Melville	GM Policy and Advocacy	s 9(2)(a)	

Federated Farmers of NZ (Inc)
Lambton Centre
Level 11, 38 Waring Taylor Street
Wellington
PO Box 715
WELLINGTON 6140

ABOUT FEDERATED FARMERS

Federated Farmers of New Zealand is a membership organisation, which is mandated by its members to advocate on their behalf and ensure representation of their views. Federated Farmers does not collect a compulsory levy under the Commodity Levies Act and is funded from voluntary membership.

Federated Farmers represents rural and farming businesses throughout New Zealand. We have a long and proud history of representing the needs and interests of New Zealand's farmers.

Federated Farmers aims to empower farmers to excel in farming. Our key strategic outcomes include provision for an economic and social environment within which:

- Our members may operate their business in a fair and flexible commercial environment;
- Our members' families and their staff have access to services essential to the needs of a vibrant rural community; and
- Our members adopt responsible management and sustainable food production practices.

SUBMISSION TAXATION AND THE NOT-FOR-PROFIT SECTOR

1. INTRODUCTION

- 1.1 Federated Farmers welcomes the opportunity to submit on Inland Revenue's discussion document *Taxation and the Not-for-Profit Sector*.
- 1.2 We strongly oppose the proposal to tax not-for-profit (NFP) membership levies. This measure would impose an unnecessary financial burden on NFPs, particularly those supporting rural communities, where these organisations provide essential social, economic, and emergency support.
- 1.3 Federated Farmers supports fair tax treatment and transparency within the NFP sector. However, taxing NFPs based on their advocacy roles would be an unjustified restriction on legitimate representation and would weaken the ability of rural organisations to serve their members effectively.
- 1.4 Additionally, we note Rural Women NZ are on record supporting this submission.
- 1.5 We welcome further engagement with officials to ensure tax settings support the long-term sustainability of NFPs without compromising their ability to advocate on behalf of their members.

2. SUMMARY OF RECOMMENDATIONS

- 2.1 Federated Farmers recommends that IRD:
 - a. Recognise the essential role of NFPs in rural communities and ensure they can continue operating without additional financial burdens.
 - b. Maintain a clear distinction between advocacy-based NFPs and commercial organisations, ensuring that membership organisations engaged in legitimate advocacy remain tax-exempt.
 - c. support legislative reform to clarify the definition of charitable purpose in statute. This should include clear language distinguishing organisations that deliver direct, measurable, and accessible public services from those primarily engaged in advocacy, campaigning, or political influence.

3. GENERAL COMMENTS

- 3.1 Rural communities rely on NFPs for advocacy, services, and economic support. Many of these organisations are volunteer-driven and rely on membership levies to fund essential activities.
- 3.2 Federated Farmers acknowledges the clarification in the FAQs that distinguishes between membership advocacy groups and membership benefit groups. This distinction is important, as it recognises that organisations engaged in advocacy and representation should not be taxed in the same manner as organisations providing direct financial or commercial benefits to members.
- 3.3 Taxing membership levies would reduce the ability of these organisations to deliver services, forcing many to divert resources from advocacy and community support to tax compliance and administration.
- 3.4 The Government should ensure a fair and consistent approach to taxation that does not disadvantage NFPs that serve the rural sector.

4. NOT-FOR-PROFITS ARE THE LIFEBLOOD OF RURAL COMMUNITIES

- 4.1 Not-for-profits (NFPs) are essential to rural New Zealand, providing infrastructure, advocacy, and emergency support where government services often fall short.
- 4.2 These organisations sustain local economies by organising community events, supporting businesses, and funding essential services such as medical equipment and rural welfare initiatives.
- 4.3 Many rural NFPs, offer critical mental health and well-being services to farmers. Without these organisations, isolated communities would lack key support networks.
- 4.4 The committee should acknowledge the vital work of NFPs and ensure that any tax changes do not weaken their ability to serve rural New Zealand.
- 4.5 Federated Farmers recommends the IRD Recognise the essential role of NFPs in rural communities and ensure they can continue operating without additional financial burdens.

5. ADVOCACY AND TAX TREATMENT OF NFPS

- 5.1 A principled tax framework should recognise that advocacy, when conducted by not-for-profit organisations (NFPs), plays a legitimate role in supporting democratic participation and informed public policy. Advocacy in this context is not a commercial service, but a public good—particularly where it amplifies voices from underrepresented communities, such as rural New Zealand.
- 5.2 The purpose of advocacy by NFPs like Federated Farmers is to represent a broad membership base and provide input into policies affecting entire communities, industries, or regions. This differs fundamentally from lobbying for narrow, individual, or commercial gain. Tax settings should reflect this distinction.
- 5.3 Penalising NFPs for engaging in advocacy would have significant consequences. It would reduce the quality of public debate, weaken civic participation, and diminish the ability of communities to self-organise around issues that affect them. The rural sector would be disproportionately impacted due to the limited availability of alternative representation.
- 5.4 Federated Farmers supports the distinction outlined in the discussion document between advocacy-based membership organisations and those offering commercial benefits. It is appropriate that commercial benefit groups be subject to tax, but inappropriate to apply the same treatment to NFPs whose primary function is representation and engagement in democratic processes.
- 5.5 Federated Farmers recommends that the IRD maintain a clear distinction between advocacy-based NFPs and commercial organisations, ensuring that membership organisations engaged in legitimate advocacy remain tax-exempt.

6. ESTABLISHING A CONSISTENT APPROACH TO ADVOCACY ORGANISATIONS

- 6.1 The current tax treatment of advocacy organisations suffers from inconsistency and a lack of clarity. The extension of charitable status to groups primarily engaged in political advocacy has blurred the distinction between public-benefit service provision and cause-based lobbying.
- 6.2 In *Greenpeace of New Zealand Inc v Charities Registration Board [2020]*, the Supreme Court held that advocacy for a charitable purpose could itself be charitable, even where that advocacy was political in nature. This marked a significant shift in the legal interpretation of charitable purpose, allowing organisations with explicitly political goals to qualify as charities if their cause was deemed to serve the public benefit.
- 6.3 By contrast, in *Family First New Zealand v Attorney-General [2022]*, the same Court upheld the deregistration of an organisation also engaged in political advocacy, ruling that its views did not meet the threshold of public benefit under the Charities Act. These decisions demonstrate the subjectivity now embedded in the law, where similar forms of advocacy can be treated depending on how a particular cause is perceived.
- 6.4 This inconsistency arises from an overreliance on judicial discretion to define what constitutes a public benefit. In effect, the courts have become arbiters of which viewpoints are charitable, and which are not. This introduces a risk that decisions reflect the ideological leanings of judges rather than a neutral, principled application of the law.
- 6.5 Federated Farmers considers that the question of public benefit should be determined by Parliament through clear legislative criteria—not left to case-by-case judicial interpretation. Without this, the charitable framework remains vulnerable to arbitrary rulings and perceived political bias.
- 6.6 A more consistent and principled approach would be to draw a clear legislative distinction between organisations that deliver direct, measurable, and enduring public services, and those whose primary function is influencing policy, public opinion, or political outcomes. Charitable status should be reserved for organisations that:
- Provide services that are tangible in nature,
 - Meet immediate or sustained public needs, and
 - Are accessible and beneficial to the general public, irrespective of ideology or political alignment.
- 6.7 Organisations primarily engaged in advocacy, campaigning, or lobbying—regardless of their cause—should be recognised as not-for-profits but excluded from the charitable regime. This clarity would prevent selective interpretations of “public benefit” and reduce the scope for litigation designed to stretch or challenge the boundaries of the law.
- 6.8 Federated Farmers recommends that Inland Revenue support legislative reform to clarify the definition of charitable purpose in statute. This should include clear language distinguishing organisations that deliver direct, measurable, and accessible public services from those primarily engaged in advocacy, campaigning, or political influence. Responsibility for defining these limits should rest with Parliament, not the courts. Embedding this distinction in legislation would ensure consistent treatment of advocacy organisations as not-for-profits, safeguard the integrity of the charitable regime, and uphold public confidence in a politically neutral and principled tax system.

Tracey Beck

s 9(2)(a)

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To Whom It May Concern:

Re: Taxation for the not-for profit sector

It is my belief that IRD need to look at the purpose of a charitable business to work out whether they should be paying tax. A lot of business in New Zealand do not pay tax, as they are classified as a charity. However these businesses are a normal business for e.g. Vet Clubs, Sanitarium and should be paying tax, the same as all other businesses.

It gives these businesses an unfair business advantage to not be paying tax like all other businesses and also how do you validate that the money is being used for charitable purposes.

Regards

Tracey Beck



31 March 2025

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

Thank you for the opportunity to provide feedback on the consultation for Taxation and the not-for-profit sector.

MOTAT supports the Museums Aotearoa submission, and would like to offer additional comments relating specifically to this museum charity. Not all questions have comments, only the ones relevant to this organisation.

Chapter 2: Charities business income tax exemption

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?

Charitable entities that have an advantage over non-charitable trading entities as they do not face compliance costs associated with a tax obligations, lowering their cost of doing business relative to a like business which is not owned by a charity.

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?

Practical implications would be business structure, as the organisation structure may be operating in a way which makes it difficult to separate out the unrelated business costs.

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 size of the unrelated business, the type of business activity being very different from the charity, and that the funds are accumulated from year to year still within the business.

For organisations such as MOTAT, our retail store and function revenue are not separate businesses but accounted for within our 1 organisation. Funds are not accumulated but used to support our other activities. We would argue that both the retail and function areas are related to our business. The retail store sells items which directly relate to our exhibits and theme. The function areas are marketed on the fact they are part of the museum, the space hired is in the middle of an exhibition space, surrounded with collection items such as planes, which are able to be looked at during these events. Interactions with museum exhibits (plane tours, tram rides) can also be offered as part of the function hire, further supporting the museum muddying the line between related/unrelated.

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?

MUSEUM OF TRANSPORT AND TECHNOLOGY

Great North Road and Motions Road | Western Springs | PO Box 44-114 | Point Chevalier | Auckland 1240
Telephone +64 9 815 5600 | MOTAT.NZ



We would recommend Tier 1 and 2 as defined by accounting standards for the unrelated business activity rather than Tier 1 and 2 for the group. We would also recommend an exemption for museums and galleries to avoid doubt. Museums and galleries that are charities, tend to have any unrelated businesses such as function hire, retail and café's, as a supplement to their funding to run the organisation.

Recently, MOTAT experienced a few months without a café operator, which meant we were unable to provide food or drink options for our visitors. As a result, we received a flood of complaints and negative reviews, as many customers viewed the café as an essential part of the museum experience and felt it should be a mandatory service. We had visitation numbers reduced and the time that visitors remained on site were reduced. We have come to believe, as a result of this experience, that a café is a related business to the museum.

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 agree that this should remain exempt. However, we acknowledge that it would be difficult to track these funds in some cases without having the organisation to restructure their financials in order to show this. For smaller charities this would increase compliance costs.

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?

We believe the exemptions should continue, especially with bodies promoting scientific or industrial research. Not all research is commercialised, and to remove the exemption may create issues with those organisations continuing. MOTAT works with multiple organisations in this space and receives some support from them in our education programmes. If this exemption, and then those businesses were to cease, it means support for STEM education would be withdrawn.

FBT exemption

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?

There is often not much money within charity organisations, and one of the attractions for an employee is the public good. Offering some benefits, which assists the employee to be able to do their job, means that a less-than-market salary may be enough to retain that knowledge and experience.

Tax simplification

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?

We support the extension of this as it would be of benefit to the charities and volunteers.

MUSEUM OF TRANSPORT AND TECHNOLOGY

Great North Road and Motions Road | Western Springs | PO Box 44-114 | Point Chevalier | Auckland 1240

Telephone +64 9 815 5600 | MOTAT.NZ



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?

Yes, MOTAT supports the following recommendations:

- delink DTCs from income tax to allow for more real-time payments, for example when DTCs are refunded before year-end and closer to the time a donation is made,
- allow Inland Revenue to collect data from donee organisations to pre-fill DTC claims and streamline the DTC claiming process, and
- introduce a three-month grace period so donee status is retained if a deregistered charity is re-registered within three months.

MOTAT has benefited from the recent change in rules regarding donations. In the current economic climate, cash donations are increasingly hard to come by. However, we have been donated free product from some organisations, which has assisted our operations greatly, and allowed the donor organisation to also get a benefit from that.

If you have any questions regarding the above or need any further information, please let me know.

Yours faithfully

s 9(2)(a)



Lesley Masters
Head of Finance



Email to policy.webmaster@ird.govt.nz

Taxation and the not-for-profit sector

28 March 2025

Active's Submission on IRD's Issues Paper: Taxation and the Not-for-Profit Sector

Active is a registered charitable trust (CC49335) on the Charities Services Register.

Active's vision is Auckland – the world's most active city | Tāmaki Makaurau – te tāone ngangahau rawa o te ao. We provide leadership to the Auckland region that encourages, enables and inspires Aucklanders to lead more active lives through play, sport and active recreation. As a strategic partner in Auckland for both Sport New Zealand Ihi Aotearoa and Auckland Council, this means investing in organisations and projects that will get more people active, with focuses on tamariki, rangatahi, and identified communities being Māori, Disability, Women and Girls, Pacific, Indian and Asian and Rainbow communities.

We appreciate the opportunity to provide feedback on the Inland Revenue Department's issues paper regarding taxation and the not-for-profit sector.

Active, being a small and lean organisation, already operates on a very tight budget with limited reserves so any reduction in the funds available will reduce our activities and service delivery to tamariki, rangatahi, and identified communities.

Active relies on a mix of revenue sources, including central and local government funding, class four and community trust funding, philanthropic donations, commercial partnerships and business services. We have been successful in delivering important programmes and initiatives that are seeing impactful outcomes for the Auckland community. This includes funding Water Skills for Life programmes to over 15,000 tamariki per annum; driving the Healthy Active Learning programme in over 200 primary schools across Tāmaki Makaurau; introducing Active As to six secondary schools in South and West Auckland; and supporting Māori Sports Organisations. Active has also distributed over \$5 million per annum of Tū Manawa Active Aotearoa funding to organisations throughout Tāmaki Makaurau to help address the barriers for young people to be active. More information about these initiatives and our mahi is available at www.aktive.org.nz

Ground Floor, AUT Millennium, 17 Antares Place, Rosedale, Auckland 0632

aktive.org.nz



ActiveAuckland



aktive_akl



Active-Auckland



Additionally, Aktive has developed Game Plan AKL™, an essential philanthropic initiative to support overcoming the cost-of-living crisis impacting thousands of Auckland households. This initiative sees Year 9 students, meeting set criteria, eligible to receive a five-year grant to support their participation in their chosen physical activity. 100% of the philanthropic donations we receive, flow through to the selected young people.

In the past week, we have launched Love Their Game™ initiative which reinforces positive sideline behaviour messages that participating sport organisations can tailor for their sport and roll out across their respective competitions and tournaments. Already we have nine Regional Sport Organisations on board, collectively reaching more than 100,000 participants.

Alongside these initiatives, we also provide funding distributions and advocacy support to our System Build Partners - Harbour Sport, Sport Waitākere, Sport Auckland and CLM Community Sport.

The proposed taxation changes would have several unintended consequences for Aktive, including:

- Reduced ability to reinvest in charitable services because taxation would divert funds away from the community programmes and project initiatives mentioned above.
- Increased administrative complexity due to the need to artificially allocate shared overheads (e.g., staff time, office costs) between taxable and non-taxable activities. Aktive operates and receives its income under a single legal entity and operational structure which makes it difficult to separate its related and unrelated income. The definition of what is unrelated business income is critical to the impact that any law change removing the tax exemption has. This must be sufficiently well defined to avoid uncertainty but recognise that activities may generate both related and unrelated business income that is not easily separated. There would be increased administrative costs and burden to allocate revenue and expenditure in line with any definition. To give an example, it would be difficult for Aktive to separate the income derived from our shared services division, which provides accounting and other back-office support to not-for-profit organisations. This operational income is fully used by Aktive to cover the operational and administrative employee costs for shared accounting services to the sector.
- Penalising prudent financial management, we have built modest accumulated reserves over the years to ensure financial sustainability and would still face tax liabilities even if income is eventually used for charitable purposes.



- Additional staff remuneration costs due to potential changes to Fringe Benefit Tax (FBT). We have a total of nine of our 25 employees who rely on non-salary benefits, such as the private use of motor vehicles, to help match remuneration levels in other sectors. If these benefits are taxed, we would either need to pay the FBT or increase salaries to remain competitive, further straining budgets and limiting service delivery.

For these reasons, we strongly oppose the proposals in this consultation that would remove tax exemptions for business income earned by charities and increase FBT liabilities for not-for-profit organisations.

The current tax exemptions for not-for-profits are essential for the sustainability of our charity. These exemptions reduce our administrative burden and allow us to focus on our core vision and outcomes for tamariki, rangatahi, and identified communities.

We do however, advocate for the IRD to simplify tax obligations for donors and volunteers to encourage more contributions and support for charitable causes, like our Game Plan AKL initiative.

Finally, we recommend that any changes to these exemptions be carefully considered to avoid unintended consequences that could negatively impact our sector and the service delivery that not-for-profit organisations provide.



28 March 2025

Taxation and the not-for-profit sector

C/- Deputy Commissioner, Policy

Inland Revenue Department

PO Box 2198

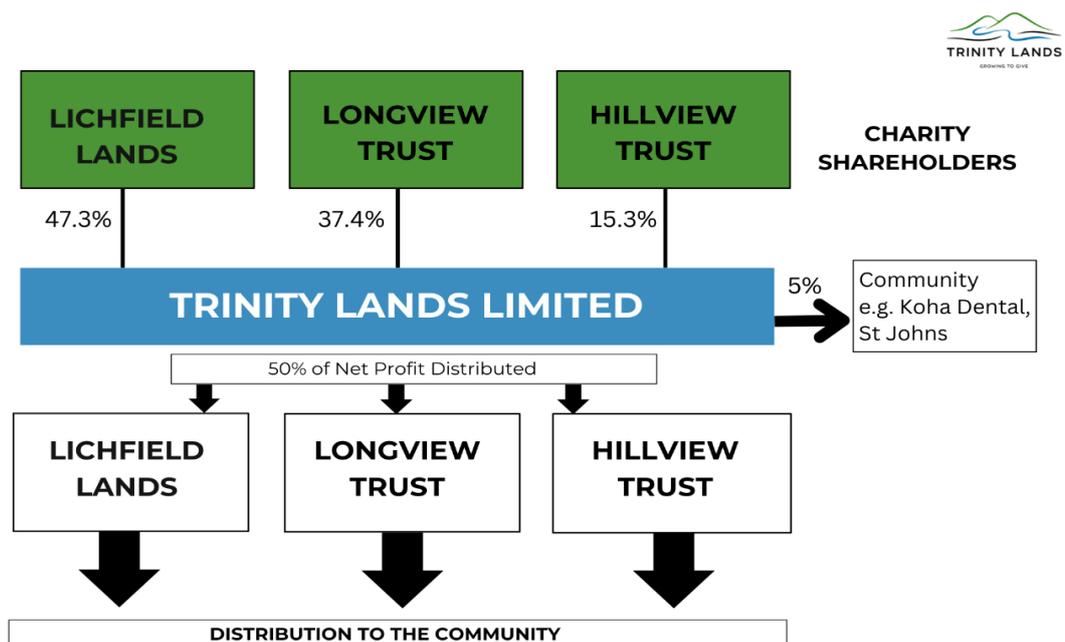
Wellington 6140

Via email: policy.webmaster@ird.govt.nz

Submission regarding Officials' Issues paper on charities and NFPs (March 2025) - Trinity Lands Limited

To the Deputy Commissioner, Policy

1. Thank you for the opportunity to make a submission on the issue of **"Taxation and the not-for-profit sector."**
2. Trinity Lands is a charitable organisation with a purpose of empowering others to experience God's goodness. Our organisation has existed since 2011. In that time, we have had a significant impact on our community, particularly in the Waikato and Bay of Plenty regions. We take pride in helping a range of charitable organisations throughout our local community and have a strong governance focus to ensure our charitable purpose is at the forefront of our operations.
3. We have a policy of annually distributing 55% of net distributable profit to ensure the communities we operate in are supported and able to grow. The remaining 45% of net distributable profit is reinvested to grow our capacity to give more in the future, reflecting our intergenerational vision for this charity.
4. The diagram below illustrates our ownership and the process of annual distribution



5. There are many examples of organisations we support but we would like to highlight two examples of the activity we support in this submission.

a. St Johns

Five ambulances have been funded via St Johns. These are in Tokoroa (2016), Te Puke (2020), Putāruru (2021), Kawerau (2024), Whakatāne (2025). In funding these services, we have focused on communities which are away from major population centers and exhibit relative economic deprivation.



b. Trinity Koha Dental Clinic

We are the main funding partner for the Trinity Koha Dental Clinic. This clinic provides free dental services to the poorest and most vulnerable people in our communities. Following dental treatment, many people's overall health improves. Others seek to re-enter employment, which previously wasn't an option.



“Trinity Lands, as platinum partner for YWAM Ships Aotearoa, has funded the delivery of urgent oral health services to over 4,000 individuals across our region since June 2021 through the Trinity Koha Dental Clinics. In 2022, through the connections of Trinity Lands CEO, the TKDC team hosted clinics along the East Coast, including Te Kaha and Ruatoria. The TKDC team encountered substantial needs, with local reports indicating that this was the first adult dental service in those areas for many years. In late 2022, over 220 patients were treated, which only partially addressed the demand. Consequently, the TKDC returned in late 2023 and provided services to another 300+ patients in Te Kaha, Ruatoria, and Gisborne...

...The impact of these clinics on the local community was profound, with patient feedback ranging from gratitude to a profound sense of relief from pain. These clinics on the East Coast fostered a strong relationship with the local healthcare providers. As a result of these clinics, the local healthcare providers requested that New Zealand Health contract Trinity Koha Dental to continue delivering their services to vulnerable communities in the East Coast region. Since these contracts were formalised, nearly 400 individuals in that region have been served.”

Marty Emmet, Managing Director, YWAM Ships Aotearoa

Summary Position

1. Charities are a pillar of our nation. Not only do they provide essential services within our communities, they also enable volunteerism and community participation. This activity represents an invisible thread that binds communities together and fosters the growth of civil society.
2. The services provided by charities benefit members of our community when they are most vulnerable and the need for these services is only growing. It is important that charities are empowered to pursue activities that generate stable and sustainable income to provide continuity of service and to enable charities to expand their community impact as the public need continues to grow.
3. In determining whether an organisation should have charitable status you have to look beyond the activity, to the purpose of the activity. If the profits of the activity are used for a charitable purpose and not for private benefit, then we submit this activity should be eligible for charitable status. Therefore, we support the ongoing application of the destination of income approach to eligibility.
4. Charitable tax status is a privilege that should be reserved for those who are actively pursuing a charitable purpose. Setting a minimum expectation of annual distribution towards their charitable purpose would provide evidence of this pursuit and it would mitigate the argument regarding comparative business advantage.
5. **For these reasons we do not support the taxation of charities and submit that setting a minimum annual distribution requirement will be a more effective policy response to address concerns the government has on this issue.**

Answers to specific questions in issues paper

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?

1. The reasons **for not taxing our charitable sector** rests on the principles we have articulated in our Summary Position.
2. Charities provide significant community services; they provide an avenue to enable community participation and they foster the growth of civil society.
3. Taxing this activity would diminish their impact and reposition money into the State, which would negatively impact communities. This is because charities are the most effective mechanism to support community wellbeing as they are more responsive to community needs and more efficient at delivering services¹.
4. Factors described in 2.13 do not warrant taxing charity business income for the following reasons;
 - a. Business charities face the same commercial compliance costs as other businesses. Those that are companies like Trinity Lands are subject to company law and the need to file annual returns and are required to apply complex accounting standards and are subject to internal and external auditing requirements. Environmental and health & safety compliance obligations are no different between charitable and for-profit entities. Also, both segments face the same general business and economic risks.
 - b. Charities are subject to additional scrutiny and compliance to satisfy their charitable obligations, including the Statement of Service Performance. Charities also require greater level of commercial transparency than is required of the private sector. This additional compliance and transparency is what gives charities like Trinity Lands the social license to operate, giving the public comfort that we are actively furthering our charitable purpose and complying with the rules set for charities.
 - c. Charities often experience difficulties accessing capital due to their charitable status and we have not experienced lower costs of capital being available for charitable organisations.
5. Factors described in 2.14 relates to non-taxable earnings being used to build a charitable business's balance sheet at a faster rate than a private sector business. On this issue, we make the following submissions;
 - a. We consider that retaining a measure of accumulated retained earnings/equity is prudent business policy. This is because it:
 - i. Produces future income for enhanced distribution for charitable purposes,

¹ See [Why an atheist academic changed her mind on churches' tax status | Waikato Times](#)

- ii. Provides a buffer during volatility and provides stability for future years,
 - iii. Helps to replace assets when their useful life ends, and
 - iv. Is best practice for long term financial sustainability.

- b. In the event that a charity's annual distributions are less than the corporate tax rate, this allows a charity to grow its balance sheet faster than a private enterprise. However, when a charity's annual distributions are greater than the corporate tax rate there is no advantage for the charitable business to expand more rapidly.

- c. Our submission is that a balance of prudent financial management, a desire to increase impact through time, and equity for the private sector can be achieved through the introduction of an annual minimum distribution requirement.

- d. This distribution percentage should be at a minimum equal to the company tax rate (28%). However, we submit it could be set higher than the trust tax rate (39%). By setting a high minimum distribution requirement annually, at a rate above the corporate or trust tax rates, we can increase the impact of charities in our community today and negate any comparative advantage a charitable business has with the private sector.

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?

1. We submit that there is an inherent inconsistency in this question. Our view is that charity business income is by definition related to the charitable purpose when the income achieved is used to support a charitable purpose.

2. If implemented as a tax on charities, this will mean a reduction in services to the most vulnerable parts of our society and the Crown will not be able to fill the gap with the huge range of services that charities currently provide. Charities are close to the issues at hand in their communities and can react quickly and with greater agility than Government organisations to provide targeted help where they see it is needed.

3. It would result in Charities facing higher administrative and compliance costs than normal business, diverting resources from their charitable purpose.

4. The ability to maintain reserves will be compromised, making it more difficult to plan for the future and respond to unexpected challenges.

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?

1. For the reasons detailed in our Summary Position on opening, we submit that all charity income should remain tax exempt.
2. In the event that rules were to change for charitable entities so that relief was not provided to businesses operated by charities, then the tax treatment of these businesses would be inconsistent with the tax treatment of a taxable business who make charitable donations and receive an income tax deduction. It would be unusual to treat essential charitable organisations more harshly than private enterprise.

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?

1. If it is concluded that charities are to be taxed, then the government will have a significant social issue to respond to due to reduced services for our communities' most vulnerable. This would come at a time when the services we support have already faced central government funding reductions.
2. Depending on how the change was structured there is the potential that the outcome is that a charitable business is a more burdensome corporate structure than a normal taxable business. Time should be taken to consider the full implications of this. Our submission is that it has the potential to be very destabilizing for the charitable sector and it could have material negative effects on New Zealand's social services in the long term.

Thank you for your consideration and we would welcome the opportunity to discuss this matter in person.

David Turner

CEO

info@trinitylands.co.nz

s 9(2)(a)

From: Courtney Sawyer s 9(2)(a)
Sent: Monday, 31 March 2025 8:58 am
To: Policy Webmaster
Subject: Taxation and the not-for-profit sector

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

To whom it may concern

I wish to express my strong opposition to the proposal of imposing tax on the not-for-profit (NFP) sector. Having 12 years experience working for a NFP I believe this would have extremely detrimental effects on the essential services provided to the vulnerable we support.

The imposition of tax will tax away from already limited resources which is likely to result in reduced service and support availability and would see the potential for many vital programmes to cease.

Donors will also find this discouraging and we are reliant upon donations to see us continue in supporting our most vulnerable families.

I would urge the government to reconsider this proposal, and I appreciate the opportunity to provide this submission.

Ngā mihi

Courtney Sawyer | Transitional Housing Finance Administrator

The Salvation Army | Wellington - Whakatāne based

E: s 9(2)(a)

W: <http://www.salvationarmy.org.nz/>

The Salvation Army | New Zealand, Fiji & Tonga

caring for people | transforming lives | reforming society

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31 March 2025

Submission: IRD Issues paper on Taxation and the not-for-profit sector

Presbyterian Support South Canterbury (PSSC)

PSSC is the largest social sector agency in the region of South Canterbury and has been operating since 1918. We are an Incorporated Charitable Trust.

Our mission is to support people through quality care so that our community is strong, vibrant, safe and healthy.

We offer a comprehensive range of support services to older people, people with disabilities, children, young people, parents, families, whanau, and communities.

PSSC has over 550 paid staff, more than 110 volunteers, and also employ subcontractors (e.g. facility maintenance).

PSSC delivers an extensive range of social support services across South Canterbury through Family Works, Enliven (Aged Care) and Refugee Support Services. As seen in our Charity returns, we have recently combined our company and incorporated entities into one. This will save money in separate audit costs and free up more money to achieve our charitable purposes.

Our income has, over the last ten years principally come from contracts for services, some donations and bequests and amounts invested. More recently we have embarked on a social enterprise, selling low cost frozen meals to those in the community who need a low cost nutritious option.

Over the last year we have realised our investments in order to purchase a retirement village and associated care facility in our region. Revenue from the retirement village is being channelled directly into maintaining our ability to keep supporting our community through our charitable purposes.

It should be noted that our support services to family and whanau in our community have never been fully funded by their contracts and the board has consistently spent investment earnings on meeting that funding shortfall. More recently the government has ceased funding e.g. counselling services. The board now fully funds the only free counselling service in the region. In the past, about 50% of this cost was met through a government contract.

Without an investment portfolio PSSC will need to make profits from its retirement village earnings and frozen meals in order to continue services in high demand.

PSSC has answered the questions in your issues document, alongside some other Presbyterian Support regions. These comments are intended to inform the IRD that our charitable organization operates with a focus on financial prudence, ensuring the sustainability of our activities while remaining committed to fulfilling our charitable purpose in the long term

We ask that IRD consider very carefully any changes that might cause us additional compliance costs, because that would divert funds away from our support of the community.

We also ask that there be careful consideration of the difficulty is assessing what is financially prudent for each charity to retain in reserves from any business or donor income. Instead, it may be entirely easier to ask that the charity demonstrates ongoing delivery on it's charitable purpose.

Please also consider very carefully that the private and state sector are currently competing for the same highly skilled people as our charity seeks to employ. Any removal of the FBT exemption disadvantages charities who were assisted to compete for those skilled people.

We ask IRD, how big is this issue? In our organisation of more than 550 employees, this would only affect two employees who have 'company cars'. In other words, the compliance impost must surely outweigh the tax-take gain?

Ngā mihi nui

s 9(2)(a)

Carolyn Cooper
CEO
On behalf of Presbyterian Support South Canterbury

Answers to questions in IRD Issues paper

Question 1.

PS South Canterbury is a large provider of social sector services in our region. Our operating expenditure YE 30 June 2024 was \$30m. Operating revenue was approx. \$28.5m. For us to face additional compliance costs would put at risk us responsibly and sustainably operating our entity whilst continuing to deliver on our charitable purpose.

The most compelling reason to tax charity business income is the absence of evidence that the charity is using that income to deliver on it's charitable purpose.

Question 2.

IRD Objectives are of 'simplifying tax rules, reducing compliance costs, and addressing integrity issues'. Therefore, a case needs to be made that any changes which result in income currently used for delivery on charitable purposes, being directed into tax payments meets any of those objectives. This is because the achievement of charitable purposes relies on that money.

Question 3.

The answer to this should simply be; 'If the income from the business is dedicated to sustaining the charitable purpose in either the short or longer term, then it is not 'unrelated'.

Question 4.

If business income that sustains the business we operate, is adjudged 'unrelated' to charitable purposes and this not tax-exempt, then we will have to cease delivering on our charitable purpose, to the extent it was funded by that business income. We seriously doubt that the state sector will be able to pick up the responsibility for supporting New Zealanders in the absence of our support. An example of why that is unlikely would be the ratio of volunteers to paid employees that we currently enjoy, 1:6. How many volunteers does IRD have?

Question 5.

Social enterprises are "purpose-driven organisations that trade to deliver social and/or environmental impact". This definition is found on the Akina.org.nz website and describes well our frozen meal business 'Too Easy Meals'. This easily fits the unimaginative 'related to charitable purpose' definition. However, businesses that are not characterised as social enterprises can still be channelled to deliver funding for social and/or environmental impact. They should therefore all be tax-exempt if doing so.

Question 6.

The issue that should be considered is 'who' will pick up and deliver the services and support that will be lost due to the quantum of tax paid? As in Question 4, it is highly unlikely

the government departments will operate as efficiently and at the same cost, to meet the needs arising from reduction in services and support.

Question 13.

Quite simply removing the FBT exemption will further widen the gap between what charities can pay to employ senior sector leaders, compared to the state sector.

s 9(2)(a)

From: s 9(2)(a)
Sent: Monday, 31 March 2025 9:07 am
To: Policy Webmaster
Subject: Taxation and the not-for-profit sector

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

Good morning

After being involved with a not- for- profit church based organization, I would like to point out how much good they do in our small towns as well as our cities.
Rides to medical appointments, assistance with food, child care, financial support with expenses such as firewood, car repairs and electricity.
Taxing these organizations could prove to be short sighted, although more accountable to churches sitting on large investment portfolios may be warranted.

Thank you
Corrina Sheed

From: Sue Brewster s 9(2)(a)
Sent: Monday, 31 March 2025 9:12 am
To: Policy Webmaster
Subject: Submission on Taxation and the Not for Profit Sector Consultation Paper

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

Kia ora

I am submitting concerns and comments about some of the questions and considerations raised in the recent 'Taxation and the Not-for-Profit Sector' Consultation Officials' Issues Paper.

There is many concerns I could reply on in relation to the questions the paper raises but I am hopeful that other charities will respond on those, and I am specifically submitting about:

Q.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?

I have worked in the Not-for-Profit sector in leadership roles for the last 20 years and I have big concerns that if charitable 'business' income is taxed, this takes our sector further back in the begging bowl mentality. For years, we have been trying to change the living hand-to-mouth, relying on donations and fundraising (in an economy where people are struggling to put food on the table, let alone donate to charities) and grants from Trusts and Foundations as income but the growth of social enterprise and new and innovative ways to fund our charitable purposes has increased our ability to have self-sustaining revenue streams.. If you are going to do something sensible for the Not-for-Profit, I would suggest first and foremost a name change for the sector to 'For Purpose' as while we don't want to make surpluses, it makes sense for our sustainable future to have reserves built up for a rainy day.

My second concern is in the suggesting that accumulated income could be looked at as a taxable and this is opening the door for this to become a reality. Auckland Medical Research Foundation was founded back in 1955 by a group of astute business people who felt that the government funding was not enough or being distributed appropriately to the biggest region producing medical and scientific research and outcomes at that time. Since 1955, private donations, bequests, which are often tagged for specific research, and very prudent financial management has meant accumulated funds have been possible and the income from the investments now funds a significant proportion of the research grants our Foundation awards every year. If the accumulated funds for for-purpose organisations is taxed, you are just reducing the amount that can be granted to the reason we exist – to fund medical researchers! The reason AMRF was started was because the government simply weren't investing enough into medical research and income from our accumulated funds continue to bridge that gap, a gap that is widening with the government making announcements about cutting their funding in this area. We have awarded over \$100,000,000 towards medical advancements since we were founded - please do not reduce our ability to double that over the next 25 years.

Q.12 What are the likely implications if the following exemptions are removed or significantly reduced for bodies promoting scientific or industrial research income tax exemption?

This is a very disturbing broad-bush definition of research with a scientific basis, which in theory, would include all charities or bodies that fund or are involved in medical research. Basic research is often referred to as bench science or bench research and is defined as involving scientific principles – this type of research is exactly the type of research we fund but if tax emptions are removed for this wide-ranging definition of a sector, then the funding for blue skies research through to fundamental patient trials will be dramatically reduced, in an area where government funding is already reducing. Our funding has enabled many scientific breakthroughs over the years including funding the pioneer of organ transplantation in NZ, funding the scientist who helped to establish the blood-banks in New Zealand, the study into the cause of SIDS (cot death) and world-leading research into the treatment of tinnitus, to

name just a few. If the purpose of the removal of tax exemption for this 'sector' is due to the commercialisation of some of the outcomes from medical research, then this would relate to a fraction of all medical research undertaken that has had life-changing impacts for so many!

To conclude this submission on the Taxation paper, I would like to emphasise the contribution the for-purpose sector makes to New Zealand's GDP overall. If there are tax exemption changes for this hugely valuable sector, there will be a proportion that will simply not survive and the subsequent fall-out will be the government having to find more funding for the costs and labour force of a sector that is often providing services for our most vulnerable communities, communities who are already facing growing disparity in livelihoods and inequitable health outcomes. I would urge this to be a major consideration in the continued support of this sector and if there are concerns about 'rogue' organisations taking advantage of the system then I would suggest this is an incredibly small % of the sector and perhaps the focus should be on finding better ways to identify the outliers, not penalise the majority.

Ngā mihi nui | Best regards Sue

[Sue Brewster](#)

Auckland Medical Research Foundation
Executive Director

M [s 9\(2\)\(a\)](#)

W www.medicalresearch.org.nz

CC 22674

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PO Box 10, BULLS 4863, New Zealand
29th March 2025

Dear sir/madam,

We are writing a submission to the deputy commissioner supporting the removal of non-taxable status of not-for-profits, specifically with a focus on veterinary clubs in New Zealand.

We, Southern Rangitikei Vet Services, are a privately owned veterinary practice, owned equally by 5 vets who all work full time as practicing veterinarians within the business. We are a rural practice, servicing all species, with a large focus on production animals and equine veterinary services, employing 37 staff including 16 vets.

Veterinary clubs were set up to 60 years ago to ensure veterinary services could reach all New Zealand farmers while being economical, in times when providing such a service to these areas was financially marginal. We believe the club system was setup for an initial purpose which is now very outdated. Private veterinary businesses in New Zealand are successful businesses paying their share of taxes contributing to, and fostering the economic growth and development of New Zealand. Veterinary clubs should be not be exempt from this.

Veterinary clubs were to be confined to a specific geographical area and there are numerous areas where vet clubs are aggressively competing with neighbouring private practices. The current legislation allows for a club that does not pay taxes while providing the same services as a tax paying entity in the same geographic area to have an unfair commercial advantage. The question must be asked why one practice should be helping the government pay to run the country, provide public services and maintain infrastructure when the club down the road doing the same service does not?

The cash reserves that veterinary clubs have built up over the last 60 years provides a commercial advantage to invest in capital expenditure such as buildings and equipment, and sponsorship in areas that are outside the intent of the development of veterinary clubs in the 1960's.

It is our opinion that removing the non-taxable status of veterinary clubs in New Zealand would place all groups providing veterinary services on an even and fair-trading field. We believe it is an outdated exemption that is overdue being repealed.

We are happy to be contacted regarding our submission.

Regards,

s 9(2)(a)

Kristina Dykes

Signed on behalf of fellow company directors:
Tim Scotland, Mandy Illston, Julie Bell and Jordan Vlassoff

SOUTHERN RANGITIKEI VETERINARY SERVICES LTD



PSA Submission to Inland Revenue

Public consultation on taxation and the not-for-profit sector

March 2025

About the PSA

1. The New Zealand Public Service Association Te Pūkenga Here Tikanga Mahi (the PSA) is the largest trade union in New Zealand with over 96,000 members. We are a democratic organisation representing people working in the public service, the wider public services (including Te Whatu Ora and other crown agents, and other crown entities), state owned enterprises, local government, tertiary education institutions and non-governmental organisations working in the health, social services and community sectors.
2. The PSA has been advocating for good work and strong, innovative and effective public and community services since our establishment in 1913. People working in public and community services join the PSA to negotiate their terms of employment collectively, to have a voice within their workplace and to have an independent public voice on the quality of public and community services and how they're delivered.
3. The PSA is an affiliate of the New Zealand Council of Trade Unions Te Kauae Kaimahi (CTU), Public Services International (PSI) and Uni Global.

PSA response to the proposals

4. We have a direct interest in this consultation. We are a registered trade union, an incorporated society and as not-for-profit organisation recognised as a mutual for taxation purposes.
5. We support the CTU's submission on the proposals and in particular its recommendation "that no additional action through section 4 of this Officials Paper until significant consultation and research is delivered with the NFP sector. A clear case for change needs to be established, and a clear cost/benefit proposal needs to be laid out." We also support its request that IR provide the full list of organisations that would be impacted by these proposed changes.

Questions 1 and 2: Reasons for taxing charities and impacts of the proposals

6. In principle we support taxing business activity unrelated to the charitable purpose of a registered charity. However, we are concerned that defining what activity should fall within this scope will be quite difficult in practice. The risk is that activity that genuinely supports the charitable purpose of an organisation may be captured. There is a continuum of activity that at one end would be clearly within scope, and at the other end would be clearly outside of scope. In our view the proposal should be further developed to ensure there are not undesirable and unintended consequences for charities.
7. Inland Revenue will be aware that charities and not for profits - the community sector - have had strong response to these proposals. This is unsurprising as the consultation document does not acknowledge the complex, nuanced and interdependent relationship between the community sector and government. Rather the proposal appears to regard this as a more neutral opportunity to simplify tax policy and administration and gather more revenue.
8. Not for profits and charities make a significant contribution to New Zealand's culture and communities. They're an integral part of encouraging participation in communities and the wider world and help to reinforce democratic norms. They build skills in governance and bring people together, supporting the social cohesion and stability necessary for thriving economies and decent quality of life. They deliver an increasing proportion of public services in the community.
9. The proposals could put these significant and very tangible benefits at risk and create immediate costs for government and communities, however there is no evidence in the consultation document that that these benefits and costs have been considered or quantified. This means Government, and the public, have insufficient evidence on which to form views or make decisions about the proposals. As stated above, we recommend the proposals do not proceed as they stand.

Matters to consider in cost benefit analysis of these proposals

10. Charities and not for profits are increasingly relied on to fill gaps in government provision, in particular for marginalised and disadvantaged groups. This has been a policy choice of successive governments, and the proportion of public and community service delivery contracted to charities and other not for profit organisations has also significantly increased over the last two decades.
11. At the same time governments have chosen to underfund not-for-profit providers for the services they deliver. The Productivity Commission, in its report *More Effective Social Services* found *“Government appears to underfund some contracts with non-government providers for the delivery of fully specified social services. Long-term underfunding has undesirable consequences. Payments should be set at a level that allows an efficient provider to make a sustainable return on resources deployed. Payment at this level would encourage investment and adequate staff training by existing providers and entry by new providers.”*¹
12. Successive governments have expected charities and not-for-profits to subsidise government in the achievement of shared social aims by using their own financial and social capital, but they have fallen short of acknowledging the partnership basis needed for such a relationship by performance managing funding contracts as if they are fully funded.
13. As the Productivity Commission noted, this has undermined community providers’ ability to pay the workers providing these public and community services at a level that is equitable and reflects their skills. They are insufficiently funded to provide workers with sufficient paid hours to do their work, to pay them at a liveable wage, or provide them with adequate training. This is an own goal for the Government. It is in government’s interest that this workforce is well trained and stable. There is a cost to government when this is not the case.

¹ P.12, New Zealand Productivity Commission, 2015, [More Effective Social Services](#)

Q11. The implications of removing the current tax concessions for friendly societies and credit unions

14. While we understand from the Q&A document posted last Friday on IR's website that this current consultation does *not* include consideration of IR's proposed change to its operating statement on mutuals, a proposal that is set out in the consultation document, we would like to firmly state our opposition to that change.
15. Removing current tax concessions for these not-for-profits will cause significant disruption to many thousands of community organisations all around Aotearoa. As with the charities proposals discussed above, the rationale provided for this change ignores the contribution of these organisations to communities and economy.
16. Taxing member subscriptions and other income of mutuals would severely impact their operation. By their nature, not-for-profits do not generate surplus that is not for the benefit of their members. This policy change would significantly impair not-for-profits' ability to take prudent financial steps to ensure they are able to operate in adverse conditions or respond to unexpected impacts on their operation. When this change is put forward for consultation we will oppose it.

Q13. Removing or reducing the FBT exemption for charities

17. We do not support this proposal. Again, the negative impact of this proposal on the operation of not-for-profits would outweigh any benefit from revenue gathered or point of tax principle. The consultation document states that the current exemption "distorts the labour market" but provides no evidence to justify this statement. We believe that while this may be correct in pure theory, it is not correct in reality. It is our experience that not-for-profits consistently pay lower wages and this change would more than offset any benefit gained from, for example, relying on the inclusion of use of a car in employment benefits to make up for that disadvantage in the labour market.

Q14. Changing tax arrangements for volunteers

18. We agree that the proposal to treat honoraria as if salary or wages would simplify tax compliance costs for volunteers.

For further information, please contact:

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**Community
Governance**

Supporting community
governance in Aotearoa

Submission Letter on Charity Tax Exemption

Submission Letter on Charity Tax Settings by Community Governance Aotearoa

Submitted: 31 March 2025,

By Chief Executive Officer, Rose Hiha-Agnew

To Inland Revenue,

On behalf of Community Governance Aotearoa, we submit our 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.

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

We 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 we 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.

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. We would like to see more evidence provided by government, concerning what is deemed related or non-related taxable income, we 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.



Community Governance

Supporting community governance in Aotearoa

Recommendations

Community Governance Aotearoa summary of our recommendations:

Community Governance Aotearoa would like to see IRD work directly with those who hold governance roles in the community sector, we are the key to ensuring compliance, policy settings and information is directly shared with our charitable organisations.

We would like to see demonstrated case studies and financial information that we 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?

We 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.

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.

On behalf of Community Governance Aotearoa, we 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.

Ngā mihi,
s 9(2)(a)

Rose Hiha-Agnew

Chief Executive – Tumu Whakarae
Community Governance Aotearoa

**SUBMISSION IN RESPONSE TO
TAXATION & THE NOT-FOR-PROFIT SECTOR**

ISSUED: 24 February 2025

Submission written by Amanda Wood on behalf of Parenting Place Charitable Trust [PPCT]

20 March 2025

Background

PPCT is a registered charity that has been operating in the charitable sector for 30 years.

PPCT's mission is supporting parents' to build strong family relationships.

PPCT's income comes from a range of income sources including donations, programme income, product sales, trust and foundation funding, corporate donations, rental income and interest income. A range of income sources is imperative to being financially sustainable and spreading the risk from a reduction from one income source.

Major Points

In response to the Officials' Issues Paper, we would like to raise the following major points:

Charities must have a range of income sources to be financially sustainable

- Donations, trust and foundation income are negatively impacted by the state of the economy – a range of income sources is a must, for survival
- Charities can find it hard to access commercial borrowings as they have limited guaranteed income or security
- As charities adapt to this changing world, they too must adapt and some projects require a significant amount of funding, over multiple years. For a charity to achieve its mission it must be relevant to its audience and cannot do things the way it always has. Not allowing funds to accumulate or making it harder for charities to achieve financial sustainability is not in the interests of the charity or society as a whole.
- If income streams reduce, more charities will close as the barriers to operating increase, and the competition for less funding sources, increases
- Charities are normally more cost-effective service providers than direct Government service provision.

Donor-Controlled Charities have assisted PPCT over the years

- Donor controlled charities supported PPCT when the Government reduced and then cancelled our contract for services

- Donor controlled charities provided short term funding to assist with cashflow, when banks would not provide finance

Tax concessions for unrelated charity businesses reduce government revenue and shift the tax burden to other taxpayers

- What analysis has been done to support this assertion – there must be a cost- benefit analysis if significant changes are to be made to the tax system?
- A simple statement like charitable income less charitable expenses is leaving a ‘untaxed profit of \$2b’ (as referred to in the NZ Herald on 11.3.25) is not accurate. For the majority of charities, charitable income will largely involve income like donations and grants, which is not business income and charitable expenses do not include pro-bono services or volunteer time.
- Is the taxation system the best mechanism to counter tax concessions - could Charities Services be given higher powers to regulate instead - a more economical way to assess the business operations of what seems like a small number of charities that seem to be the catalyst for this paper.

Unrelated charitable purpose income

- We are concerned that this is yet to be defined and would be challenging to measure. Changes to taxing unrelated charitable income may drive some charities to change structures and work around.
- More of the IRD resources may be tied up as rulings or exceptions are applied for.

Unrelated charitable purpose income - where a threshold could apply providing an exemption for small-scale business activities

- Charities Services already has clearly defined reporting thresholds that registered charities operate within. We don’t believe there is a need for the IRD to create a different threshold. A simpler approach with exemptions being provided like to Tier 3 and 4 charities or Tier 2, 3 and 4 charities, would be sufficient.

Donation Tax Concessions (DTC)

- Allowing IRD to collect data from donee organisations to pre-fill DTC claims and streamline the DTC claiming process, will be time consuming for the charity and for the IRD. There are various circumstances that would make this challenging, for example with monthly donors. We believe that the onus should stay with the donor to claim. The option of a DTC is already available for those who choose to take it.

Simplifying Tax Rules and Reducing Compliance Costs

- How do you simplify tax rules and reduce compliance costs, for those charities already tax exempt? Our concern is that these proposed changes add complication, uncertainty, and

increased compliance costs. Most charities already require annual audits, so now they need to pay for tax accountants as well?

- 4% of New Zealanders are employed by charities. Increasing compliance costs, adding barriers to operating and reducing income sources, could result in more charities closing, having not only a negative impact on society (potentially costing the Government more in the long run) but also increasing unemployment (reducing tax base and increasing financial support from Government benefits).

Recommendations

1. Give more power to Charities Services to regulate charities under the already existing Charities Act, allowing Charities of most concern to be investigated.

As an additional cost to the Government, it would be straightforward and has to be less costly than amending the whole tax system and adversely affecting the majority of charities. The Government would be seen to be acting on public concerns about particular charities, while not being negatively viewed by wide sweeping changes to all charities, and the good work they do.

This approach also removes the need to define unrelated charitable purpose income.

2. If increasing the powers of Charities Services is not an option, then offer exemptions to registered charities who are Tier 2-4, so at least the resources utilized are for those charities likely to make the most difference to the tax revenue collected. A blanket approach may lead to unintended consequences.
3. No changes are required to the current DTC. Donees already have the right to claim, and the onus can stay with them. And, Charities need the little funds they have, to spend on their work, not more compliance.
4. Have a targeted intervention of those entities suspected of abusing the concessions rather than a blanket approach for ~ 30,000 charities. What is proposed is likely to lead to considerable compliance costs for charities and most likely IRD and Charities Services. And does the Government want to have to then fund issues charities are currently addressing?

“Every tax concession has a “benefit”, that is, it reduces government expenditure by empowering charities to have more impact at lower cost than the government providing an equivalent service and therefore reduces the tax burden to other taxpayers.”

- *Steven Moe and Craig Fisher*

INLAND REVENUE'S CONSULTATION: TAXATION AND THE NOT-FOR-PROFIT SECTOR

**Submission by: The Public Fundraising Regulatory Association
Friday 28th March 2025**

INTRODUCTION

The Public Fundraising Regulatory Association (PFRA) welcomes the opportunity to provide a submission in response to Inland Revenue's issues paper on "Taxation and the Not-for-Profit Sector".

The PFRA is an incorporated society (2068098) and represents a collective of charities and professional fundraising suppliers operating across New Zealand. We are a self-regulatory body committed to maintaining high standards, transparency, and accountability in public fundraising, particularly but not limited to face-to-face fundraising.

Our submission responds generally to the issues raised, offering observations reflective of the sector and our members' experience. We seize this opportunity to emphasise the value that the charitable sector brings to society, to challenge the framing of tax concessions as a 'cost' rather than a public benefit, and to highlight potential unintended operational and compliance consequences of some of the proposals.

THE VALUE OF THE CHARITABLE SECTOR AND PFRA'S ROLE

Charitable organisations play a vital role in delivering social services, health outcomes, community well-being, and environmental initiatives that would otherwise require government funding and infrastructure. Tax concessions, including income tax exemptions and donation tax credits, support charities by allowing them to reinvest all resources directly toward their charitable purposes, with no private pecuniary benefit.

PFRA enhances this value by maintaining a rigorous self-regulatory framework that ensures fundraising activities are conducted ethically and sustainably. Our framework reduces the need for direct government regulation, mitigates integrity risks, and supports public trust and confidence in charitable giving. Our system operates effectively without direct cost to the government and ensures the fundraising sector remains transparent, sustainable, efficient, and community-focused. More information about our framework can be found in **Schedule A**.

REFRAMING THE NARRATIVE: CONCESSIONS AS A PUBLIC BENEFIT

We challenge the conceptual underpinning expressed in paragraph 1.4 of the Officials' Issues Paper:

"Every tax concession has a 'cost', that is, it reduces government revenue and therefore shifts the tax burden to other taxpayers."

This framing fails to recognise the substantial public benefit return on investment that charitable tax concessions generate. We suggest the more accurate framing is:

"Every tax concession delivers a 'benefit', reducing government expenditure by enabling charities to deliver essential public services more efficiently, flexibly, and sustainably, and therefore reduces the tax burden to other taxpayers."

The services delivered by PFRA members are cost-effective, community-driven, and often fill gaps that would otherwise require direct government intervention at a higher cost.

OPERATIONAL AND COMPLIANCE CHALLENGES: DONATION TAX CREDITS AND FUNDRAISING ACTIVITIES

In response to IRD's Consultation Paper 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 support the objective of increasing awareness and uptake of donation tax credits and agree that simplifying the claiming process is in the public interest.

While the proposal to delink tax credits from the income tax return may be beneficial for donors, we caution that any future implementation requiring charities to report or receipt donations in real time would carry significant administrative and financial implications.

Specifically, any move toward mandatory real-time reporting, more frequent donation receipting, or compulsory system integration would create unintended compliance costs, particularly for small to medium-sized charities and fundraising supplier agencies.

We have outlined below what these impacts could look like for charities from practical implications and donor behaviour and experience perspective.

1. Practical Implications:

Many of our members manage regular giving programmes, with tens of thousands of regular giving donors debited monthly. Under current settings, charities issue a single consolidated donation receipt annually, typically at the end of the financial year. This approach is intentionally designed to be cost-effective and efficient - allowing charities to batch-process donor data, minimise system demands, and manage supporter communications at scale.

The introduction of real-time or fragmented receipting will be a substantial increase in operation costs, including:

- **Data processing and system integration costs:** Real-time receipting would require significant investment in IT infrastructure upgrades, database modifications, API integrations, data storage and donor privacy protections.
- **Staff resourcing costs:** The volume of individual donation receipting required under a real-time model would substantially increase staffing demands. Additional FTEs would be needed to manage data entry, receipting generation, quality control, and donor support. These expanded administrative

requirements would significantly raise overhead costs and divert valuable resources away from the charity's core mission and service delivery.

- **Mailing and digital distribution costs:** Whether delivered via hardcopy or digital channels, issuing receipts more frequently significantly increases printing, postage, and digital communication expenses. Charities are already absorbing annual increases of 25–30% in NZ Post mailing costs, which compounds the financial impact of more frequent receipting. Beyond cost, this change may also lead to donor fatigue or frustration from receiving excessive or unnecessary correspondence - potentially affecting donor satisfaction, trust, and long-term engagement.
- **Audit and compliance costs:** Increased transaction volumes and more frequent reporting cycles would likely require enhanced financial oversight and external auditing, adding yet another layer of compliance cost.

To illustrate the potential scale of impact:

For a charity with a regular giving programme, issuing one consolidated annual receipt per donor might currently result in 10,000 receipts per year. Under a more frequent receipting model - monthly or even weekly - the number of receipts could increase tenfold or more, depending on the size of the donor base, the frequency of donations, and donor preferences around debit dates. This could result in a shift from thousands to tens or even hundreds of thousands of individual receipts, with significant implications for staffing, systems, and communications infrastructure.

For larger charities, this escalation in receipting activity could translate to substantial increases in operational costs - redirecting donor-given funds away from frontline services and charitable purposes and ultimately diminishing the reach and impact of their programmes.

2. Strategic Importance of Annual Receipting:

It is also crucial to highlight the strategic role the current annual donation receipt cycle plays in charitable fundraising. Many donors habitually plan their giving around March and April, aligning with the end of the financial year. Charities have long structured their tax-time appeals around this period, inviting donors to increase their impact. Donors are prompted to claim their tax rebate - and many choose to gift that rebate back to support the causes they care about. For some organisations, this opportunity generates tens of thousands of dollars in additional income, representing vital funding that directly supports their mission, services, and social impact.

This process not only provides operational sustainability for charities but also offers donors a meaningful annual moment to engage - both practically and emotionally with the causes they support. Disrupting this rhythm through fragmented or real-time receipting could have unintended consequences on donor motivation and giving behaviour. Many donors are accustomed to receiving a lump sum tax rebate, which they consciously allocate toward charitable giving. Without this incentive, or if that rebate is broken into smaller, incremental monthly amounts, donors may be less inclined or financially able to donate it meaningfully.

For example:

“If I give \$30 a month to a charity, that adds up to \$360 over the year. With the current system, I receive a \$120 rebate in one lump sum. That’s meaningful – I’m more likely to donate it back to the charity or support another cause I care about. But if that rebate were split into \$10 a month, it would likely just disappear into my everyday spending without the same sense of impact or intention.”

In this way, altering the receipting model risks undermining one of the most effective, timely, and donor-aligned moments in the fundraising calendar - potentially reducing overall donor contributions, engagement, and charities' capacity to deliver essential services to their communities.

3. Donor Behaviour and Experience:

We emphasise that donor relationships are fundamentally relational, not transactional. Supporters value clarity, simplicity, and a streamlined experience - receiving a single consolidated annual receipt fosters trust, minimises confusion, and enhances their overall connection to the cause.

Introducing more frequent administrative communications - such as monthly receipting - may feel burdensome or intrusive, particularly when the donor has committed to a long-term giving relationship. This risks eroding donor satisfaction, weakening loyalty, and ultimately reducing giving behaviour over time.

In addition, charities are already operating under a high level of public scrutiny around how donor funds are used, particularly regarding the cost and environmental impact of physical mail. Increasing the volume of posted donation receipts twelvefold (or more) could be viewed not as a service improvement but as wasteful or inefficient - potentially undermining public trust and perceptions of financial stewardship.

While real-time tax credit rebates might offer some donor-side benefits, this does not fully offset the frustration and reputational risks associated with multiplying receipt communications. Maintaining an annual receipting approach supports both donor experience and sector sustainability.

Recommendation:

Accordingly, we recommend that any changes to donation tax credit processes be carefully evaluated not only for compliance feasibility but also for their real-world impacts on:

- **Administrative and system overhead**, including increased costs for financial systems, IT infrastructure, database security, staff resourcing, and compliance reporting - diverting resources from core services.
- **Fundraising income and appeal effectiveness**, which are essential to sustaining charitable services and delivering social benefit. Reductions in income risk shifting unmet needs and financial burden back onto government.
- **Supporter relationships and trust** are built on simplicity and transparency. Overly complex processes risk eroding donor goodwill and weakening long-term engagement.

We recommend retaining the current annual consolidated donation receipting process as the default system. This model is efficient, cost-effective, and aligned with donor preferences, ensuring both administrative simplicity and supporter satisfaction.

However, to encourage flexibility and innovation, we suggest charities be offered the option to opt-in to real-time receipting on a voluntary basis. This allows organisations with the capacity, readiness and resources to adopt real-time systems without imposing unnecessary compliance costs across the sector. Maintaining this flexibility ensures the donation tax credit process remains practical, accessible, and sustainable - safeguarding both fundraising income and public benefit delivery.

In summary, we urge Inland Revenue to retain annual receipting as the standard approach while offering real-time systems on a voluntary basis to accommodate organisational diversity across the sector.

In response to the IRD’s Consultation Paper 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?

1. **Defining "Unrelated Business Activities":** PFRA strongly agrees with other sector submissions that distinguishing between "related" and "unrelated" business income will be subjective, administratively complex, and costly. While we acknowledge the Issues Paper’s recognition that certain fundraising activities are generally considered aligned with charitable purposes, we seek explicit assurance that professional fundraising undertaken via third-party supplier agencies - such as face-to-face fundraising and telefundraising - is also treated as related income. These activities are integral to enabling charitable purpose delivery. Narrow interpretations risk unintended compliance burdens for charities and their suppliers despite the clear alignment of these activities with charitable mission and purpose.
2. **Compliance Costs and Sector Sustainability:** Implementing income tax requirements on "unrelated" business activities will inevitably lead to increased accounting, audit, and reporting costs. Charities may require new tax expertise, additional audit processes, and financial system upgrades. These resources would otherwise be directed toward charitable outcomes and impact.
3. **Transparency Imbalance:** Charities are already held to higher transparency and financial reporting requirements than for-profit entities, including detailed service performance reporting. Imposing additional tax compliance obligations exacerbates this imbalance and could erode competitiveness.
4. **Request for Financial Impact Analysis:** We note the Issues Paper does not include a detailed cost-benefit analysis. We respectfully request the publication of financial modelling that outlines the expected revenue impact versus increased compliance and operational costs to the sector and government.
5. **Transition Period:** Should any policy changes proceed, we recommend a minimum 2–3 year transition period to allow charities sufficient time to adjust without jeopardising operational stability. Fundraising contracts - such as supplier agency agreements, are typically negotiated 12 to 24 months in advance, meaning immediate changes would disrupt existing commitments. Additionally, system upgrades (including IT procurement, financial systems integration, and compliance reporting tools), staff training, and budgeting cycles require significant lead-in time. A well-structured transition period is essential to enable charities and their partners to adapt processes, renegotiate agreements, and absorb compliance costs without risking service delivery or critical revenue streams.

RELATED BUSINESS INCOME CONCERNS:

In response to the IRD’s Consultation Paper 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?

We caution that if definitions around “unrelated business income” are interpreted too narrowly, they risk inadvertently capturing legitimate and innovative fundraising methods - such as merchandising, face-to-face fundraising, telefundraising services, or collaborative campaigns. These activities directly support and fund charitable purposes and should not be subject to additional compliance reporting or financial uncertainty. Maintaining clear exemptions for all core fundraising activities is essential to protect the financial sustainability of the charitable sector.

Recommended criteria for defining "unrelated business income":

To ensure clarity and fairness, we recommend Inland Revenue adopt a principle-based definition of “unrelated business income,” guided by the following criteria:

- **Purpose alignment:** Activities should be considered “related” if they are undertaken primarily to advance or enable the charitable purpose.
- **Control and transparency:** Activities governed by the charity and carried out in its name, including through third-party suppliers, should be considered related.
- **No private gain:** Where no individual or external party receives undue private benefit, the activity should be presumed to support the public interest.

These criteria would support consistency while recognising the diverse ways modern charities operate - including through partnerships, innovation, and fundraising models essential to financial sustainability.

FRINGE BENEFIT TAX EXEMPTION IMPLICATIONS

In response to the IRD’s Consultation Paper 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?

Even if overall compliance costs are reduced through changes to FBT administration, removing or reducing the exemption for charities would still have significant negative consequences. Many of our charity members and their supplier partners rely heavily on essential staff benefits - such as vehicles, mobile phone plans, and related tools - to maintain operational efficiency and deliver services. These resources are particularly critical for roles involving donor engagement, fieldwork, and logistical coordination.

Removing the exemption would increase operating costs across these areas, diverting funds from charitable purposes. More importantly, it risks undermining workforce stability. These staff benefits help charities attract and retain skilled fundraisers in a competitive labour market - especially when they cannot match private sector salary levels. Additional FBT costs could disincentivise the provision of key non-monetary benefits, making it harder for charities to maintain workforce capability and service reach.

DONOR-CONTROLLED CHARITIES

PFRA acknowledges integrity concerns around donor-controlled charities. However, we urge that interventions be targeted and proportionate. To avoid regulatory duplication, any abuse concerns should primarily be addressed through the Charities Act and regulatory framework rather than the tax system.

CONCLUSION

In conclusion, PFRA submits that:

- **Tax concessions to the charitable sector are not a cost to the taxpayer but an investment in delivering essential public benefits.** They enable charities to meet societal needs more efficiently and sustainably, reducing pressure on government services and infrastructure.
- **Any proposed reforms must be guided by transparent cost-benefit analysis and meaningful sector consultation** to ensure changes are evidence-based and proportionate.
- **Proposals to redefine “unrelated” business income, alter donation tax credits, or remove FBT exemptions carry a high risk of unintended consequences** - including increased compliance costs, operational strain, reduced financial sustainability, and ultimately diminished public benefit.
- **We urge Inland Revenue to prioritise simplicity, fairness, and proportionality** and to avoid adding administrative complexity that may erode donor confidence or create disproportionate burdens on charities.
- **We further recommend that any real-time donation tax credit system remain voluntary, offered as an opt-in option alongside the current annual receipting model.** This flexibility is essential to accommodate the diverse operational capacities of charities and to respect the varied preferences, expectations, and behaviours of their supporters.
- **Finally, we recommend Inland Revenue commit to publishing clear and accessible guidance following this consultation,** especially if changes proceed. Practical examples and definitions - particularly concerning “related” vs “unrelated” business income and donation tax credit eligibility - will be essential to support compliance, minimise confusion, and preserve public trust in the charitable sector.

SCHEDULE A: THE PUBLIC FUNDRAISING REGULATORY ASSOCIATION

ABOUT THE PUBLIC FUNDRAISING REGULATORY ASSOCIATION (PFRA)

The Public Fundraising Regulatory Association (PFRA) was established in 2003 and formally incorporated in 2007, namely to enhance public trust and confidence in the New Zealand charitable sector and to assist charities in raising funds for their charitable purposes by encouraging the long-term sustainability of fundraising in New Zealand, particularly (*but not limited to*) Face-to-Face Fundraising, through the development and continuous improvement of professional standards, best practices, and ethics in fundraising;

We do this by self-regulating and improving the coordination and monitoring of such fundraising in New Zealand and by educating fundraisers and others involved with raising funds for charities, as well as the government and the wider public, on matters relating to such fundraising in New Zealand.

IN OUR APPROACH TO REGULATION:

In our approach to regulation, we collaborate with members, local councils, business associations, and the government to protect the long-term sustainability of public fundraising.

- ⇒ **Set professional standards:** We establish the Code of Conduct for Face-to-Face Fundraising and Charity Street Trading, which members adhere to.
- ⇒ **Inform and educate:** We collaborate with industry experts to deliver fit-for-purpose resources that create sustainable fundraising outcomes, thereby gaining the public's trust and confidence in charity fundraising.
- ⇒ **Member accreditation:** We check members' adherence to the Code of Conduct and that industry best practice standards are demonstrated in both policy and practice.
- ⇒ **Monitor & promote compliance:** We monitor and promote high standards of fundraiser compliance to the Code of Conduct.
- ⇒ **Inquire & investigate:** We thoroughly investigate and manage complaints from public, site managers, members, and fundraisers through our complaints process.
- ⇒ **Accountability:** We hold members accountable for breaches to the Code of Conduct by issuing fines, penalties, and de-registration for serious misconduct.

THE IMPACT OF PFRA SELF-REGULATION

The primary aim of self-regulation through the PFRA is to ensure professionalism and establish agreed standards in charity fundraising. This is crucial for the sustainability of charity fundraising in New Zealand and for maintaining public trust and donor confidence.

PFRA's Role and Commitment:

- The PFRA is an independent body regulating Face-to-Face Fundraising for charities and suppliers, funded entirely by its members. This self-funding underscores the charity sector's dedication to maintaining high standards and regulations in public fundraising.

Membership:

- PFRA has 43 accredited and affiliated members, including over 30 of New Zealand's most prominent charities, as shown on [our website](#).
- Membership in the PFRA is mandatory for all organisations conducting public street Face-to-Face Fundraising in major cities such as Auckland, Wellington, Hamilton, and Christchurch. Local authorities support this requirement, ensuring that only PFRA members are allowed to fundraise in these areas.

Industry Figures:

- In 2023, more than 65,000 New Zealanders pledged a regular donation to support a charity member and more than \$49 million was received by charities via Face-to-Face Fundraising.
- In the past decade, more than 720,000 people have pledged their support, and more than \$581 million has been received by their chosen cause through this type of fundraising.
- On average, during the year, 184 fundraisers advocate for our charity members each day, inspiring the public to support them with a regular monthly donation.
- To put a face to our fundraisers, 61 per cent are New Zealand citizens or permanent residents, 20 per cent identify as Māori or Pacific peoples, and 58 per cent identify as European.

Strict Codes of Conduct and Penalties:

- PFRA members must adhere to strict codes of conduct, including the "PFRA Face-to-Face Fundraising Code of Conduct" and the "PFRA Charity Street Trading Code of Conduct." Non-compliance results in penalties ranging from fines to temporary fundraising bans. There is also a formal process for escalating complaints.

Active Compliance and Auditing:

- The PFRA delivers a robust compliance model that includes mystery shopping, regular audits, accreditation of members, and reviews of disclosure and financial statements. These measures ensure ongoing adherence to PFRA standards and address any issues promptly.
- In 2023, the PFRA conducted 83 mystery shops and audits.
- We Accredited 43 organisations that demonstrate adherence to our Code of Conduct.

Effective Regulation and Monitoring and Training:

- The PFRA actively regulates and monitors Face-to-Face Fundraising activities across New Zealand, including 133 unique council street sites, 780 unique residential locations, and 886 unique private sites in 2023.
- In 2023, 472 fundraisers completed the PFRA Face-to-Face Fundraiser Code of Conduct online training.

Public Engagement and Transparency:

- The PFRA serves the public by acting as an independent regulatory body, providing various contact methods and a complaints process. This transparency helps minimise fraud, manage fundraising activity, and prevent public overexposure to fundraising efforts.
- In 2023, the PFRA received and investigated five public complaints.

Collaborative and International Alignment:

- The PFRA works closely with the Fundraising Institute of New Zealand (FINZ) and the Department of Internal Affairs – Charities Services.

- The PFRA also collaborates with and leads international standards for Face-to-Face Fundraising in Australia, the USA, and the UK, reinforcing its self-regulatory framework.

Summary:

- Since its establishment in 2003 (*formally incorporated in 2007*), the PFRA has been the only organisation in New Zealand dedicated solely to regulating Face-to-Face Fundraising. Its independent and self-funded nature, along with clear standards, penalties, and endorsements from councils and industry bodies, demonstrates its effectiveness and commitment to maintaining professionalism and public trust in charity fundraising.

This summary highlights the key impacts of self-regulation by the PFRA, referencing evidence of its active compliance efforts, strict standards, and collaborative approach to maintaining high standards in charity fundraising.

The Youth Climate Collective's Submission

1. Clarification of the Tax-Exempt Status for Charities

There is value in maintaining exemptions for income generated by activities that directly supports the objective of the Youth Climate Collective.

The Bill does not define what constitutes “related” and “unrelated” activities as this could directly impact our essential revenue streams.

By taxing any streams of income and forcing charities to rely on donations, many will inevitably be at risk of shutting-down including ours. Therefore we strongly oppose any changes to Tax Laws impacting Charities.

2. Impact on Donor-Controlled Charities and Private Foundations

The proposed introduction of additional regulations to donor-controlled charities, including private foundations could actively discourage philanthropic contributions and stiffen the funding pathways for private foundations. With several Government funded charity pools being established in the last financial year, there are fewer and fewer grants available to keep charities like the Youth Climate Collective alive.

Should the Government wish to introduce additional regulations, there needs to be a balanced approach that doesn't prevent charitable giving or undermine the flexibility of private foundations.

3. Proportionality of Tax Exemptions

The Youth Climate Collective asks for a fair and proportionate approach to their charitable activities rather than administrative structures. Tax exemptions should be aligned with the public benefit and not based solely on the scale or type of operations. The current proposed bill implies that there are indirect implications for a charity's administrative structure.

4. Simplification of Compliance and Reporting Requirements

The Youth Climate Collective complies with all reporting requirements. The Youth Climate Collective is supportive of the simplification of compliance and reporting requirements. Following implementation, clearer guidelines and practical frameworks that enable charities to focus on their mission while remaining compliant with regulations would be useful.

5. Commercial Activities and Revenue Generation

Revenue from commercial activities such as fundraising events play a crucial role in supporting the Youth Climate Collective's core mission of empowering youth for grassroots climate action

movements. There is value in maintaining tax exemptions for fundraising, especially when the revenue is reinvested directly by the organisation and not for profit.

6. Potential Unintended Consequences

The Youth Climate Collective encourages a comprehensive consultation to understand the potential unintended consequences of the additional regulations such as reducing funding opportunities, especially for small or community focused charities like the Youth Climate Collective.

New Zealand has seen several charities shut down and close operations over the last year, and these charities all do important work. Less funding threatens the survival of multiple charities, not just the Youth Climate Collective.

7. Support for the Circular Economy and Sustainability

Given the climate focus of the Youth Climate Collective, there is value in tax policies that support circular economy initiatives, waste reduction, and environmental sustainability. Policies that promote innovative solutions to waste and resource management while maintaining the framework of tax exemptions.

8. Clarity and Predictability

There is a need for clear and predictable tax rules to allow the Youth Climate Collective to plan our activities and finances for the future. This is crucial for our long-term planning and operational sustainability.

9. Public Benefit Test

There needs to be further clarity on guidance on the “public benefit test” to ensure it is consistently applied to the New Zealand charities sector. A review is required to understand how the test is applied in practice especially for new and changing charity models.

10. Support for Charities Operating in Challenging Environments

Many charities are already facing constrained operating environments and should be granted special consideration or additional support under the proposed changes to allow their work to continue without the additional tax resource requirements.

Inland Revenue Department

Policy.webmaster@ird.govt.nz

Taxation and the not-for-profit sector

Submission – Rotorua Trust – March 2025

Introduction –

Rotorua Trust is a philanthropic, not-for-profit organisation established in 1994 to serve the people of Rotorua. The Trust was formed from the sale of Rotorua Electricity Limited, with an initial capital of \$32m. With careful management, the capital has grown to over \$160m, with more than \$130m having been invested back into Rotorua. Rotorua Trust supports a wide range of community organisations, which collectively have a positive impact on nearly every Rotorua resident.

As a Tier 2 charitable organisation, Rotorua Trust is subject to a high level of public transparency and accountability. The financial returns from the Trust's investments are integral to our ability to grant funds and engage in local impact investments. Rotorua has high levels of deprivation, and our ability to support current and future needs, together with the Government, is crucial.

In principle, Rotorua Trust supports the government's objectives of simplifying tax rules, reducing compliance costs and addressing integrity risks. However, we have serious concerns that the current proposals will not achieve the stated objectives and are likely to cause unforeseen harm.

Questions for Submitters –

The below answers have been provided from a Rotorua Trust perspective, and from the perspective of the organisations that Rotorua Trust supports. We have attempted to clarify the basis of our concerns in the answers provided.

Chapter 2 – Charity business income tax exemption.

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?

The Issues Paper states that every tax concession has a cost, that is, it reduces government revenue and therefore shifts the tax burden to other taxpayers. While we can understand the logic of this statement, we urge you to consider the converse viewpoint, i.e. every tax concession has a benefit whereby every concession, or reduction in compliance costs, increases the funding available to provide public benefit, thereby reducing the pressure for government funding. We also ask that the government consider the views of the Social Investment Agency and Treasury figures relating to the cost-benefit analysis of charitable services.

The factors in 2.13 and 2.14 do not warrant taxing charity business income:

- a) Charitable organisations already have increased compliance costs with the requirement to produce audited accounts, at a much lower income threshold than the private sector.

- b) The recently introduced requirement to include a performance report, which also must be audited, has already increased the cost base for the impacted organisations.
- c) Some charities have bank overdrafts, which are often significantly more difficult, and therefore expensive, to negotiate due to the uncertainty of future earnings.
- d) Many charities have to employ external resources to complete applications for government RFP's, or to philanthropic organisations, such as Rotorua Trust. The current tightening of available funding now means that they are having to complete more applications in order to generate the funds required to deliver their charitable services.
- e) The inability to raise private equity funding can result in the need to use debt to finance business activities, resulting in higher operating costs.
- f) Most charities obtain funding through short-term, or one-off, grants and/or contracts. This results in a much higher level of uncertainty regarding future earnings. As a result, many charities operate a Reserves Policy so as to protect the ability to continue to deliver charitable services regardless of funding changes.
- g) Even with a tax exemption, a charitable organisation has higher compliance and often operating costs versus those in the private sector and therefore there is no guarantee of higher retained earnings.

The most compelling reason not to tax charity business income is that the Issues Paper has not quantified the potential benefit in terms of increased tax revenue to the government versus the guaranteed increase in cost to the charitable sector and therefore their ability to deliver their charitable activities.

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?

If this change is introduced, the definition of “unrelated” will be critical and likely to always be open to interpretation. There will be large charitable organisations that will pay lawyers/accountants to determine ways to maximise the interpretation and to then structure their unrelated business in a way that minimises any tax risk/liability.

Rotorua Trust's operating model is that revenue from investments is allocated into an annual granting budget. Through grants, we support not-for-profit charities to achieve maximum community impact. We recognise that not-for-profit organisations also have to be not-for-loss organisations to be sustainable and survive.

If the proposed changes to the charitable tax environment did occur, it would:

- a) Increase the complexity of financial management, due to the need to produce separate accounts for taxable and non-taxable activities. This would likely require revised policies re the allocation of central overheads, in a manner compliant with the IRD requirements. This would result in both an initial and ongoing increase in operating costs.
- b) Increase the complexity of compliance, and therefore the cost.
- c) Increase the pressure on government departments to fully fund all actual costs associated with contract services delivery.
- d) Reduce the ability of charitable organisations to achieve self-sustainability.

The true “cost” of any tax changes would therefore fall on communities and the people who receive the service. One example is Rotorua Trust's investment in child poverty, ensuring all Rotorua children can attend, participate and succeed in school.

Any potential increase in the government's tax take will have a corresponding decrease in community-based services. This will impact all areas of the community, including sport, education, health, employment, housing and crime, all of which Rotorua Trust currently supports.

The Issues Paper refers to investment income and accumulated reserves for donor-controlled organisations, but it doesn't elaborate on whether managing investments in a professional manner amounts to a business, or whether this would be considered as unrelated. Income from investments is the sole source of income for Rotorua Trust and therefore, if this became liable for income tax, it would have a significant, detrimental impact on the funding available for community grants and/or impact investments.

The most significant practical implication of the proposal will be a reduction of income for charities to operate and an increased expectation on the Government to fully fund services that it currently partially funds, including areas such as health, education and crime. The removal of the tax exemptions would likely reduce charitable funds, require a determination of what unrelated business income, increase accounting and audit costs, complicate tax rules and increase compliance costs. Some of the Charities that Rotorua Trust supports will not be viable as most operate on minimal financial margins.

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?

Regardless of the business activity, if the business income is utilised to support the delivery of charitable activities, it should be considered as related.

Depending on the problem the government is looking to address, we suggest referencing the existing legal framework under the Charities Act 2005 and the Tax Administration Act 1994, which defines how an organisation gets its charitable status.

The Tax Administration Act 1994 aims to ensure that organisations genuinely operating for public benefit continue to receive appropriate tax treatment and are not unfairly penalised.

We urge you to define the problem you are trying to solve. The current proposal takes a broad brush approach, appearing to use a sledgehammer to crack a nut. It remains unclear what nut the proposal is trying to crack.

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?

To reduce complexity, the use of current, applicable thresholds would be most appropriate, i.e. the use of the current Tier 1 to Tier 4 structure and/or the threshold for audit, i.e. where total operating expenditure exceeds \$1.1m in each of the two preceding financial years.

Tier 3 and 4 charities, below the threshold for audit, should be exempt. Many of these organisations do not have the financial resources to navigate this requirement. This will further burden volunteer or small workforces without high-level accounting knowledge.

The Issues Paper has provided statistics on the number of charities, at each Tier, that reported business income. However, there is no information provided on the value of that business income or the potential increase in tax revenue. If the business income of Tier 1 and Tier 2 charities became taxable, this would apply to a maximum of 1,300 charities, but would be less, as not all would be unrelated business income. This compares to a total of 29,000 registered charities.

Rotorua Trust is questioning the benefit of imposing additional taxes versus the cost of compliance, monitoring and collection. Therefore, we believe that the current tax exemptions should remain in place.

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 purpose of a charity is to operate for charitable purposes. Regardless of where the funding is sourced from, it should remain tax-exempt, as long as the source is legal.

If only income not distributed for charitable purposes becomes taxable, this will require clear definitions as to what is an allowable distribution and the timeframe within which the distribution must be made. This will further increase complexity, and therefore costs, but also will increase the opportunity for manipulation. The cost of enforcement could therefore quickly outweigh any benefit from increased tax revenue.

Philanthropic organisations, such as Rotorua Trust, accumulate reserves both to ensure long-term sustainability as well as to retain the flexibility to provide significant financial support to key, major, local projects, e.g. the rebuilding of the Rotorua Museum, which provides significant benefit to the local community. Any changes in the tax status of these accumulated reserves would have a significant impact on the Rotorua community.

Rotorua Trust believes that business income distributed, or accumulated, for charitable purposes should remain exempt.

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?

Rotorua Trust believes that the government needs to be much clearer as to the problem that they are attempting to address with these changes, as well as the “best” mechanism for achieving this. We suggest that the Charities Act 2005 and the Tax Administration Act 1994 have the tools to define a charity and charitable activity.

Any changes to income tax exemptions would likely reduce funds available for the local community and are likely to have a significant impact, with potentially negligible national benefit.

Chapter 3 – Donor-controlled charities.

Rotorua Trust has no direct dealings with donor-controlled charities. However, Rotorua Trust would urge the government to carefully consider potential un-intended consequences e.g.

- a) A reduction in funding to local community organisations, from this source, will put significant additional pressure on both government and philanthropic organisations, such as Rotorua Trust.
- b) Will the tax changes achieve the outcome that the government is trying to realise, or will these organisations find other mechanisms for minimising their tax obligations ?
- c) If revised rules are applied to donor-controlled charities in the short term, what protection will philanthropic organisations, such as Rotorua Trust, have in the medium term that these changes won't be rolled out to a broader group within the sector?
- d) The investments of donor-controlled, and philanthropic organisations are made into commercial operations that can generate the required returns. These funds provide significant support to the private sector, ultimately resulting in increased employment and profitability, and therefore government tax revenues. Have the potential knock-on implications within the private sector been investigated/quantified?

Chapter 4 – Integrity and simplification.

In principle Rotorua Trust supports the objective of improving the integrity and simplification of the current tax regime. However, based on the proposal these objectives are unlikely to be achieved. The following are responses that relate to Rotorua Trust's operations.

Q11 – What are the implications of removing the current tax concessions for friendly societies and credit unions ?

The arguments are the same for any organisation operating in the not-for-profit sector.

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 ?

Without an understanding of the likely reduction in compliance costs it is difficult to comment on the implications. Many smaller charities do not employ internal financial resource and are likely to have a limited number of benefits that would be subject to FBT. Regardless of any reduction in compliance costs, these organisations are unlikely to be able to cover the additional cost of an external party completing their FBT returns.

In New Zealand c. 145,000 individuals are employed within the charity sector, which equates to less than 5% of the total New Zealand workforce. The Issues Paper states that charities being exempt from FBT distorts the labour market. It is reasonable to assume that a low proportion of the 145,000 employees would be receiving benefits that would be subject to FBT, however, no information is provided within the paper.

Private sector organisations have a variety of options to provide legitimate FBT exempt benefits to employees e.g. discounts on purchase of company products, employee share schemes etc. These options generally do not exist for charitable organisations thereby putting them at a greater disadvantage in the labour market.

As with for-profit organisations charities require high quality staff to effectively, and efficiently, achieve their charitable purposes. They are therefore often competing within the same labour pool, generally without the same flexibility to offer higher remuneration rates.

Removing the FBT exemption for charities will increase their compliance costs and put them at a disadvantage in the labour market, with potentially low revenue benefit to the government.

Conclusion –

It is not clear from the Issues Paper how the proposals support the objectives of -:

- Simplifying tax rules.
- Reducing compliance costs.
- Addressing integrity issues.

The introduction of the concept of 'unrelated' business income will add potentially significant increased complexity, and therefore increased compliance costs. It will also create another opportunity for those (few) organisations to find ways around the revised requirements.

The Aotearoa New Zealand charity sector delivers substantial benefit at a localised and national scale. It is heavily relied on to deliver a wide range of services, thereby reducing the burden on central and local government.

Any changes in the current tax regime need to be considered on a balanced, cost v benefit basis.

Unintended consequences also need to be carefully considered, including -:

- The extinguishing of charities ability to be innovative in terms of revenue generation.
- A reduction in individual donations as donors perceive they are contributing to higher operating costs (including tax) as opposed to supporting the charitable activity.
- Increased opportunities for tax avoidance.

Thank you for the opportunity to make a submission.
We are happy to be contacted.

Ngā mihi,

Blair Gilbert
CHIEF EXECUTIVE



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From: Marcel Manders s 9(2)(a)
Sent: Monday, 31 March 2025 9:51 am
To: Policy Webmaster
Subject: Taxation and not-for-profit sector

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Kia ora

The WEL Energy Trust is an Energy Trust that provides approximately \$10.5M in grants to the community. Recipients of the grants are largely from the not-for-profit sector of the community.

Our observations on the Consultation paper ‘Taxation and the not-for-profit sector’ include:

- The effect of the proposed tax changes would put demonstratable pressure on already strained organisations through reducing available cashflow that directly support those in our communities e.g., those who rely on our services and employees of our charitable sector. The unintended consequences of the introduced tax will be, more charities facing closure, more job losses, and a continued strain on the community sector.
- The lack of clear definitions for “related” vs. “unrelated” activities makes it difficult to reliably categorise income derived by charities and not-for-profits. More structured guidance be provided, concerning what is deemed related or non-related taxable income. The use of case studies would be valuable 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.
- Providing more information on what the impact on Tier 3 and Tier 4 charities from the proposed tax changes, 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.

The observations are provided for information, with no requirement for the officials of Inland Revenue to contact us further.

Ngā mihi nui | Warm regards

Marcel Manders | CEO

s 9(2)(a)

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Submission on Proposed Taxation of Charity Business Income – Arohanui Hospice

Thank you for the opportunity to provide feedback. Our submission responds to the consultation questions with quantified data from Arohanui Hospice, demonstrating the potential consequences of taxing charity business income on our services, the public health system, the environment, and the wider community.

The benefit Arohanui Hospice provides to its community:

We provide care to over 1,100 patients and their families annually. With demand for these services growing. We do this in a fund partnership with Te Whatu Ora, with close to 50% of our operating costs funded through community raised funds (Fundraising activities and initiatives)

Through this community partnership Arohanui Hospice provides a net benefit to government that the government would otherwise be financially liable to pay for. Removal of the tax exemption would significantly impact Arohanui Hospice's ability to provide specialist palliative health care and shift that demand onto the current fully funded health services, such as emergency departments and hospitals. Or alternatively create a requirement for additional government funding to meet the service need. Or worst case scenario leaving patients in our region without access to any form of specialist palliative care.

Importance of provisioning for capital funding:

It is important to note that over and above the community partnerships funding of service, Arohanui Hospice also provide their own capital funding, This means accumulation of reserves for capital funding investment (such as for buildings like In patient units, clinics and essential resources for service delivery like vehicles is not only prudent but necessary. We highlight this point as important for the questions in relations to donor controlled charities because they may be an important source of capital funding.

Is there a better way:

We understand and appreciate the need for review, but suggest a better approach may be to address who should be considered a charity, addressing what is charitable purpose in the modern context.

Please see below our response to Consultation Questions

Q1: What are the most compelling reasons to tax, or not to tax, charity business income?

- Taxing charity business income, particularly for volunteer-driven, donation-based services, could severely weaken the social fabric and environmental sustainability that these organisations cultivate. For example in the In the last two financial years within our retail operations we have diverted over 85 cubic metres of waste annually, reducing landfill burden and supporting circular economy practices, with ongoing measures to increase this volume.
- Unlike for-profit businesses, our retail operations exist to support vulnerable communities and social responsible consumers, not to compete. Taxing our operations risks closing these services, increasing hardship not only for patients in the service but also members of our community that rely on the shops.
- All of the funds raised by our retail operations go to the provision of palliative care services for our 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?

As mentioned above we currently provide care to over 1,100 patient annually with growing demand, community fundraising funds contribute close to 50% of our annually operating expenses

- A tax would significantly reduce funds available for delivery of specialist palliative care and hospice services.
- The impact on our patient care services would be severe, leading to reduced services overall including community nurse visits and inpatient admissions. This would ultimately result in more patients presenting to emergency departments and already stretched hospital and primary care services.
- Additional compliance costs would further strain resources.

Please see below and example of the impact on delivery of care for patients should the proposed tax be applied, this forecasts a 16.8 % reduction of services, 192 patients not able to access services in that example years, who would likely land in a crisis situation on emergency departments and hospitals.

Economic & Social Impact:

Service	2024 (Pre-Tax)	Projected 2024 (Post-Tax)	% Reduction
Patients cared for	1,160	968	-17%
Community nurse visits	4,356	3,638	-16.5%
Admissions to inpatient unit	320	251	-21.5%
Total engagements	5,836	4,857	-16.8%

Q3: If the tax exemption is removed, what criteria should be used to define an unrelated business?

- We believe that the criteria should be whether profits are clearly spent in a reasonable timeframe for a charitable purpose.
- Charity business models, such as hospice retail, fund raising programmes dependant on volunteer contribution and fundraising events, directly contribute to service funding and should not be deemed unrelated.

Q4: What would be an appropriate threshold to continue to provide an exemption for small-scale business activities?

- A tier-based exemption, similar to the UK’s £8,000 / £80,000 model, would provide relief for smaller-scale charitable enterprises.
- Hospice retail is a mature, established business, with limited opportunities for expansion to offset taxation losses.

Q5: Should charity business income distributed for charitable purposes remain tax-exempt?

- Yes, charity business income should remain tax-exempt when used to fund core health services.
- Income should be exempt if distributed to a separate entity whose sole purpose is charitable.

Q6: What policy settings should be considered if taxation is introduced?

- Provisions should allow charities to retain capital for long-term investments (e.g., inpatient facilities).
- Investment funds, such as hospice endowments, need protection from inadvertent taxation.

Q7: Should New Zealand distinguish donor-controlled charities for tax purposes?

- Yes, provided it supports a broad-based tax system while ensuring charities remain financially viable.

Q8: Should investment restrictions be introduced for donor-controlled charities?

- Yes, with safeguards to prevent abuse while allowing legitimate capital accumulation for service expansion.

Q9: Should donor-controlled charities have a minimum distribution requirement?

- Yes, a model similar to Australia's private ancillary funds should be considered, with exemptions for long-term fundraising projects.

Q10-Q11: Should tax concessions be adjusted for NFPs, friendly societies, and credit unions?

- Arohanui Hospice does not have a specific position but supports a broad-based tax system that sustains a well-performing healthcare sector.

Q12: What are the likely implications of removing tax exemptions for specific sectors?

- Arohanui Hospice does not have a position on this, beyond advocating for policies that maintain charitable healthcare funding.

Q13: What are the implications of removing the FBT exemption for charities?

- Any policy change should not increase administrative burdens for essential healthcare providers like hospices.

Q14: Should the FENZ simplification be extended to all NFPs?

- No specific comment, though simplifying tax compliance for volunteers would be beneficial.

Q15: How can donation tax concessions be improved?

- We support de-linking donation tax credits from income tax and enabling real-time tax credit payments.

Critical comments for consideration and context

Taxing charity business income, particularly for volunteer-driven, donation-based services, could severely weaken the social fabric and environmental sustainability that these organisations cultivate. As mentioned above for example our retail operation, diverts approximately 85 cubic metres of waste annually — waste that would otherwise burden local landfills and contribute to environmental degradation. This impact goes beyond income generation; it represents a direct service to the community, reducing pollution and fostering circular economy practices.

The argument for taxation to prevent unfair competition (as raised in section 2.13) overlooks the unique role of charities not only delivery essential service but also in addressing market gaps. We provide affordable, essential goods to people who may otherwise go without, not to compete with businesses but to serve those in need. All income generated is directly reinvested into supporting our palliative care services, ensuring that funds are used to enhance community well-being rather than for private gain.

Section 2.16's concerns about income unrelated to charitable purposes should be carefully weighed against the operational realities of grassroots charities. In our case, every aspect of the business — from selling donated goods to relying on volunteer labor — is intricately tied to our mission. Even activities that may appear “unrelated” on the surface contribute to the charity's ability to deliver its core services. Without the income generated, our ability to offer low-cost goods, reduce waste, and foster social connection would be significantly reduced, creating a ripple effect of harm across the community.

In our farming programme, taxing proceeds misrepresents its nature—profits stem from donated labour and gifted grazing, not commercial investment. Volunteers and community contributions is what create the value, making taxation a levy on goodwill rather than income. This would discourage support, weakening our ability to fund essential hospice care and engage with a key industry in our local community.

Beyond that, many people are drawn to working for charities due to a strong sense of purpose, believing their work will be deeply meaningful and rewarding. However, misconceptions about the realities of the sector often lead to challenges in attracting and retaining staff. Unlike private organisations, charities such as Arohanui Hospice, which provides essential palliative care, cannot offer competitive salaries, extensive benefits, or career advancement opportunities at the same scale. The highly specialised nature of palliative care work requires dedicated, skilled professionals, yet the financial constraints of a charitable model make it difficult to match the job security and incentives found in the private sector. Additionally, the emotional demands of hospice work can contribute to burnout, further impacting staff retention.

In Australia, the government recognizes these challenges and supports the not-for-profit sector by providing Fringe Benefits Tax (FBT) exemptions and concessions to charity employers, allowing them to offer salary packaging benefits that make working in the sector more financially viable. These allowances help offset the lower wages typically found in charities, improving their ability to attract and retain skilled staff. In contrast, New Zealand charities do not receive equivalent tax concessions, further limiting their competitiveness as employers.

In relation to Section 2.7 of the IRD Taxation and Not-for-Profits officials' paper, it is not appropriate to frame charities as competing with private organisations, as this misrepresents the reality of the sector. Unlike private businesses, charities like Arohanui Hospice operate under financial constraints that make it difficult to offer comparable remuneration and benefits. Instead of suggesting that charities have an unfair advantage, policy discussions should recognise the structural challenges they face in maintaining a skilled workforce to deliver essential community services.

In short, taxing charity business income risks dismantling critical support systems that local communities rely on. Rather than taxing charities that provide demonstrable social and environmental value, it would be more effective to strengthen policy frameworks that protect and enable these contributions to flourish.

Conclusion

Applying tax to charity business income would reduce essential hospice services, increase public healthcare demand, and negatively impact environmental and social outcomes.

- **Patient Care Impact:** A 16.8% reduction in patient engagements means fewer people receiving end-of-life care, increasing pressure on the public health system.
- **Financial Impact:** Any reduction in available funds would force service cuts, increasing reliance on taxpayer-funded healthcare services.
- **Social & Environmental Impact:** Our operations provide affordable goods, reduce waste, and strengthen community engagement. Taxing these efforts would harm the very communities they serve.

We urge the IRD to maintain current tax exemptions for charities engaged in mission-driven business activities to prevent unintended consequences that would shift financial burdens onto the public sector and reduce overall service availability.

Arohanui Hospice stands in full support of Hospice New Zealand's submission and reinforces the need for a taxation framework that protects vital community services rather than undermines them.

For questions or further information, please contact:

Clare Randall
Chief Executive
Arohanui Hospice
s 9(2)(a)

C/- Deputy Commissioner, Policy
Inland Revenue Department
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30 March 2025

SUBMISSION ON TAXATION AND THE NOT-FOR-PROFIT SECTOR

Introduction

I support reform of the taxation provisions so that genuine NFPs are not taxed, and NFP concessions are not used as a loophole for political and religious groups whose “charity” only applies to their own members.

Summary

To qualify for tax exempt status, there should be:

- A formal public benefit requirement (no financial benefit to members) AND
- scale – income under a certain threshold to be tax free
- unrelated businesses need to meet the formal public benefit requirement i.e. unrelated business income **must be applied to charitable purposes that are not tied only to members or associates of the organisation**. My perception is that unrelated businesses are creating unfair competition through use of businesses under control of associated persons.
- Environmental charities should be exempt provided that all their income is applied to environmental purposes.

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 all entities has the advantage of simplifying the tax system and removing any potential loopholes, and maximising revenue for the state.

However not taxing charities is beneficial to the government as the charities are generally undertaking activities that benefit people and the state and reduce the potential need for government expenditure.

Because charities are likely unable to raise loans (lack of collateral), they need to be able to retain earnings to provide financial security for the organisation e.g. through endowment funds and reserves, and shouldn't be penalised for this.

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?

This begs the question as to whether the charities which currently have an exemption should actually qualify as charities. This is particularly relevant to religious organisations which only benefit their members and associates, and **where income is benefitting leaders** e.g. Destiny Church.

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 mentioned are reasonable except where large businesses are largely run by volunteers. I understand there are some large businesses in the horticulture industry where employees are "volunteers" [church members] and/or are not paid or paid a lower rate or paid/provided with for accommodation and the like – should be subject to Fringe Benefit Tax.

This is completely different to an environmental organisation running a small native plant nursery, proceeds from which are used exclusively for environmental and conservation purposes and there is no financial benefit to the members, or Menz Sheds selling coffins and pest traps.

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?

I agree in principle with a threshold.

As above, this depends on how business income is defined and whether the charity is entirely altruistic or whether its benefits are limited to a select group of members.

No environmental charity should be taxed because the benefits are for the environment and all people.

Charities which only benefit a select group of people (church members, trade associations) should not receive tax concessions.

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?

Not sure of the best mechanism but tax exemption should only be given if the funds are not to benefit only members or associates of the business.

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?

Unsure.

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?

Yes there should be a distinction. The Canadian example seems appropriate. However I know of a private individual who has set up a trust solely controlled by herself where all the funds are applied to helping people. My understanding is that the person uses their own business income (IT consulting) to fund their charitable activities.

As above, if the funds are applied widely with no restriction, such arrangements should be tax-free. In this example I guess the person pays income tax, and applies their profits to charity. A tax deduction would seem appropriate in such cases.

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?

I agree with the 2019 Tax Working Group that recommended donations between associated parties should not be exempt tax.

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?

I agree in principle with a minimum distribution rule for private foundations, and the only tax credit that they should receive should be on the amount distributed.

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.*

An increase in the \$1000 deduction is warranted given inflation and the realities of running an organisation.

Q11. What are the implications of removing the current tax concessions for friendly societies and credit unions?

Not sure.

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, · income tax exemption, and · non-resident charity tax exemption?

There should be an income threshold to qualify for any tax exemption.

I live in a small town and the Keep Beautiful Society is run on a very small budget (largely financed by donations) and similarly for business promotion organisations, most activities of which rely on member subscriptions and grants.

However herd improvement and veterinary services are part of the cost of farming businesses and should not be subsidised by a tax exemption.

Bodies promoting scientific or industrial research may be benefitting society as a whole. Exemption should be based on public v private benefit.

Bona fide Non-resident charities that have open beneficiary or environmental benefit activity should be able to claim an exemption.

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?

Charities should be able to be exempt FBT e.g. if employees use their own vehicle for their jobs or to transport goods or provide transport for disabled people etc. Otherwise charities will find it more difficult and expensive to operate and attract staff.

Charities generally pay much lower wages than ordinary businesses.

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?

Honoraria up to a certain amount and travel expenses should be tax exempt. Over that threshold, the normal salary & wage rules could apply.

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?

I am not surprised the Donation Tax Credits are not well known as most wage and salary earners do not have to file tax returns. Personally I have not claimed such as I consider that I can afford to pay tax and prefer the government has tax revenue to spend on social and environmental problems.

I have used its existence as a carrot to encourage people to make larger than usual donations to an NGO I am a member of. I have noticed that by and large it is mainly wealthy people who do not need a tax credit who actually request a receipt so it can be claimed.

Thank you for consulting the public on these matters.

IRD officials may contact me if they seek clarification.



31 March 2025

He Atawhai, tā kaupapa matua.
Mercy the business of our lives

Submission to Inland Revenue

Re: Consultation Document – “Taxation and the Not-for-Profit Sector” (**Consultation**)

From: Whānau Mercy Ministries Trust (**WMMT**)

Executive Summary

Whānau Mercy Ministries Trust (WMMT) welcomes the opportunity to respond to Inland Revenue’s consultation on the taxation of the not-for-profit sector. As a registered charitable trust continuing the legacy of Ngā Whaea Atawhai o Aotearoa Sisters of Mercy New Zealand, we deliver essential services across education, healthcare, housing, and community support—always guided by our values of *whanaungatanga*, *aroha*, and *kaitiakitanga*.

We support a balanced tax framework that recognises the unique public benefit delivered by charitable organisations. However, we are concerned that aspects of the proposed reforms may inadvertently limit the ability of legitimate charitable organisations to deliver critical social services, particularly to vulnerable communities.

Key points in our submission include:

- **Retaining Business Income Exemptions:** We **oppose** the proposal to tax charitable income. Whether this is derived from donations, service contracts, or fee-based models – it is vital for enabling ongoing services and reinvestment in community outcomes.
- **Proportional Regulation:** We **recommend** a “dominant purpose” or income-threshold approach to business activity, rather than rigid related/unrelated income tests that fail to reflect the integrated operations of modern charities.
- **Donor-Controlled Charities:** We **oppose** additional restrictions on donor-controlled charities without robust evidence of widespread abuse.
- **Integrity and Simplification Measures:** We **recommend** safeguards and a clear threshold to avoid undue compliance burdens on small-scale or volunteer-led operations.
- **Fringe Benefit Tax (FBT):** We **oppose** the extension of FBT rules in ways that penalise modest, mission-aligned staff support. However, simplification of FBT rules and support for volunteers is welcome and should be extended.
- **Donation Support:** We **support** enhancements to the donation tax credit regime to increase participation and accessibility.

We respectfully request that policy makers maintain ongoing engagement with the sector to ensure any changes uphold the spirit and substance of charitable work in Aotearoa. The tax system should continue to enable - not constrain - organisations that exist to serve.

The following paragraphs provide our initial response to the consultation, and we welcome further discussion regarding any of our responses.

Business Income Derived by Charities

Position: We **oppose** the proposal to tax income from business activities not directly aligned with charitable purposes, especially where those services meet essential public needs.

Whānau Mercy Ministries Trust operates schools, a private hospital, a hospice, affordable rental housing for older people, and community services. These entities are part of the fabric of core social infrastructure that delivers education, healthcare, housing, community-based support services, and palliative care to the public. These services are designed to be accessible and compassionate. While some involve partial or full cost recovery or are operating in a competitive environment, all income is reinvested directly into our charitable mission.

Our affordable housing programme for older people is an example of how fee-based models can deliver deeply charitable outcomes. While tenants contribute rent, these services are operated not for profit but for the wellbeing of elderly New Zealanders. Without the service offered, many of whom would otherwise be at risk of housing insecurity or isolation. These models must continue to be recognised as charitable in nature, despite involving financial transactions.

We urge policy makers to:

- Recognise services (such as education, healthcare, hospice care, community services and affordable housing) as inherently charitable, even where fees or contracts are involved.
- Avoid a rigid “related/unrelated” test that does not reflect the operational realities of integrated charitable organisations, especially those with multiple operations.
- Consider an income threshold or “dominant purpose” test to allow charities flexibility in generating revenue that supports their mission.

Donor-Controlled Charities

Position: We **support** efforts to prevent misuse of charitable status, but **caution** against overly broad definitions that may impact legitimate community- or faith-based charities.

We acknowledge the concern around donor-controlled structures used to access tax concessions. However, many genuine charitable entities are founded by individuals, families, or faith-based communities and may have overlapping governance and operational roles—without any intent to misuse tax rules.

Any reforms should:

- Clearly distinguish between tax avoidance and legitimate charitable governance models.
- Protect transparent, well-governed organisations - especially those subject to Charities Services oversight.

- Focus enforcement on abuse, not structure alone.

Integrity and Simplification Measures

Position: We **support** the aim of improving clarity and reducing abuse in the system, but **caution** against one-size-fits-all reforms that add compliance burdens to smaller or more complex charities.

Simplification is welcome in principle, but charities with diverse operations, such as WMMT require a framework that reflects the complexity of their services. Sudden removal of concessions or significant compliance changes could disproportionately affect our ability to deliver front-line services.

We recommend:

- A phased approach to any changes that impact existing charitable models.
- Clear and accessible guidance, developed in consultation with the sector.
- Safeguards to protect charities whose services are demonstrably charitable in nature, even where commercial or mutual models are used to support them.

Fringe Benefit Tax (FBT)

Position: We understand Inland Revenue's interest in reviewing how Fringe Benefit Tax applies within the charitable sector. However, we **oppose** the application of stricter FBT rules for charities in ways that do not reflect the values-based and service-oriented context in which we operate.

Charities frequently provide modest non-cash benefits to staff (e.g. vehicle use, shared vehicles, wellbeing allowances, food during long shifts) as part of their holistic support for employee wellbeing, cultural care, and staff retention. These benefits are particularly important in sectors where salaries may be lower than in comparable government or private roles, and where workers are often delivering care and services under emotionally and physically demanding conditions.

Further taxing such modest, mission-aligned benefits would effectively amount to double-dipping, given that these contributions already generate public good. Any such taxation risks disincentivising supportive employment practices that enable the sustainability and effectiveness of the charitable workforce.

We recommend flexibility and exemptions where such benefits:

- Are low-value and not used for significant private gain
- Support the charitable mission and staff wellbeing
- Reflect pastoral or cultural support, particularly in kaupapa Māori or faith-based contexts

Concluding Remarks

Whānau Mercy Ministries Trust supports a tax system that is fair, transparent, and upholds public confidence. At the same time, we believe that tax exemptions for charities are not merely concessions; they are a

recognition of the unique and irreplaceable role played by charitable organisations in building the common good and providing public benefit.

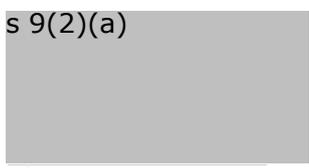
Our work is not transactional; it is about restoring dignity, nurturing wholeness, and accompanying people at every stage of life. Whether through teaching a child, healing a patient, housing an elder, or walking with the dying, we honour the belief that compassion is the heart of mercy.

We ask that any reform to the taxation of the not-for-profit sector be approached in a way that supports this mission, enabling charities like ours to continue responding with courage and love in an increasingly complex social environment.

We request ongoing consultation on the matters raised in the consultation

Ngā mihi nui,

s 9(2)(a)



Gerald Scanlan
Chair

For and on behalf of *Whānau Mercy Ministries Trust*

office@whanaumercy.nz

www.whanaumercy.nz

31 March 2025

By Email: policy.webmaster@ird.govt.nz

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

Dear Mr Carrigan

Submission on the officials' issues paper "Taxation and the not-for-profit sector" (24 February 2025)

1. Introduction

- 1.1 Thank you for providing an opportunity to submit on the issues paper.
- 1.2 Attached to this letter are the submissions of the Milford Foundation on the proposals. This cover letter summarises those submissions and provides some background on the Milford Foundation.

2. Background

- 2.1 The Milford Foundation is a registered charity that is dedicated to strengthening the future of communities within Aotearoa, New Zealand, by leveraging its financial resources, investment expertise, and commercial discipline to create a sustainable future for generations to come.
- 2.2 Focusing on youth, education, and the environment, the Milford Foundation supports initiatives that provide opportunities for young people, enhance educational outcomes, and ensure environmental sustainability. Since its inception, the Milford Foundation has committed over 8 million dollars in grants and donations to various charitable partners, addressing systemic issues in education, youth mental health, and urgent community need.
- 2.3 The Milford Foundation has a focus on making long term impacts on the charities it supports through grants, time and stewardship and encourages charities to reduce their reliance on donations. The Milford Foundation itself is a leader in being a self-reliant charitable organisation as 50% of every dollar donated to the Milford Foundation is granted and 50% of every donated dollar is grown for future granting.
- 2.4 The Milford Foundation is making its submissions both in its role as a charity and as a major donor to other charities in New Zealand.

3. Summary

- 3.1 The overarching submissions of the Milford Foundation on the issues paper are as follows:
 - (a) The Milford Foundation fundamentally disagrees with the taxation of unrelated business income derived by charities and with the idea that accumulations by charitable organisations are a bad thing. If New Zealand is going to have an efficient, agile, and sustainable charitable sector it is important that charities can make investments to support their charitable purpose. There is no policy reason to justify different tax treatments for different types of investments made by charities and doing so would damage the charitable sector.
 - (b) If charities are going to be disincentivised from investing in businesses by taxing unrelated business income earned by a charity:
 - (i) relief should be provided when taxed business income derived by a charity is applied to a charitable purpose; and

- (ii) legislation should create safe harbours for passive investment activities. In other words, legislation and/or guidance should make clear that investing in managed funds, shares or bonds should not constitute a business.
- (c) The Milford Foundation is broadly supportive of the potential changes to the donation tax credit regime outlined in the issues paper.

3.2 The Milford Foundation's specific submissions and responses to questions raised in the issues paper are attached. We would be happy to provide further comments or work with you further to ensure there are no unintended consequences of any future reforms to the charities and not-for-profit sector.

Yours sincerely

s 9(2)(a)

Bryce Marsden
Chief Executive
Milford Foundation

s 9(2)(a)

MILFORD FOUNDATION SUBMISSIONS ON ISSUES PAPER

1. Submissions

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?

- 1.1 The Milford Foundation does not support the taxation of charity business income on the basis that doing so would reduce the ability of charities to be able to sustainably fund their charitable purposes. In addition, and as noted by officials, the income tax exemptions for charities do not provide charities with a competitive advantage over taxpaying businesses. The Milford Foundation does not consider that the factors described in 2.13 and 2.14 outweigh the reasons not to tax charity business income.
- 1.2 The Milford Foundation provides significant medium to long term funding for other New Zealand charities (for example the MoneyTime NZ Foundation). As part of this the Milford Foundation encourages charities that it is funding to consider ways to reduce their reliance on donations (e.g., by taking more balanced investment approaches). It is the view of the Milford Foundation that charities should look to seek sustainable income streams to move them from dependence to independence.
- 1.3 While not appropriate for all charities, the Milford Foundation itself, for example, does not derive any business income. Operating businesses and deriving business income “tax free” can allow charities to reliably and sustainably fund their charitable activities. The benefit of this is that in recessionary periods where charitable services are needed the most, and donations are at their lowest, charities can continue to provide public benefits.
- 1.4 The Milford Foundation agrees with officials that businesses operated by charities have no particular advantage over taxpaying businesses. A business owned by a charity has the same profit maximising objective in aiming to grow funds to go towards its charitable purpose as a taxable business that aims to return profits to shareholders. In addition, as charities can earn tax-free income from alternative passive investments their behaviour is not distorted as compared with a tax-paying entity. This concept is explained well by the Tax Working Group in the Charities and the not-for-profit sector background paper (see [here](#)):

To explain the reasoning a bit further, suppose that a taxpaying business can earn 5% pre-tax by putting money in a bank account, and is taxed at 28%. If this business is taxed comprehensively on all its investments (passive and active), the business will invest in all active business projects where the post-tax rate of return is above 3.6%, and the pre-tax rate of return is above 5%. It will stop at 5% pre-tax (3.6% post-tax) because at that point it can simply let money sit in the bank

Now consider a charity that is taxed at 0% on all its income. It will identify all investment projects that earn 5% pre-tax. Any investment project earning less than 5% will not be worthwhile, because it would prefer to earn 5% by putting the money in the bank.

What happens is that both businesses (0% taxpayer and 28% taxpayer) invest up until the rate of return on projects is 5% pre-tax. The charity has no incentive to invest at rates of return below this level when it could put the money in the bank and earn 5% without doing anything.

- 1.5 There is no policy rationale for having different tax treatments for different investments made by charities. Doing so creates an economic distortion and encourages charities to make passive investments, which may not have the same broader economic benefits as active business investments (e.g. is it better for New Zealand for a charity to invest \$1 million in running a tourism business in New Zealand or invest \$1 million in global equities).

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?

- 1.6 The Milford Foundation believes that removing the tax exemption for unrelated business income of charities would significantly increase their financial burden, reducing funds available for core charitable activities. This could lead to a decrease in services provided to the community and therefore negatively impact those communities which they support. In addition, any reduction in resources able to be committed to a charitable purpose due to taxation of business profits could require in a corresponding increase in and reliance on Government support.
- 1.7 Additionally, charities would face higher administrative and compliance costs to separate taxable and non-taxable income, diverting resources from their primary missions. The need to maintain financial stability and reserves for long-term projects would be compromised, making it harder for charities to plan for the future and respond to unexpected challenges.
- 1.8 Moreover, this change could discourage donations if donors perceive that their contributions are being used to pay taxes rather than supporting charitable work. Overall, the broader not-for-profit sector could experience a ripple effect, with smaller charities being particularly hard hit.

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?

- 1.9 The Milford Foundation does not have a particular view on this point other than to note that a clear definition that includes safe harbours of business activity should be adopted.

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?

- 1.10 The Milford Foundation is supportive of a threshold that maintains the status quo for the majority of charities in New Zealand and, if tax was introduced on unrelated business income derived by charities, that only targets those charities that earn considerable amounts of unrelated business income.
- 1.11 The proposal in the issues paper to provide a de minimus exemption for charities based on their financial reporting tiers is a reasonable starting point, however, doing this could mean that some large charities that derive a small amount of business income could be impacted and those that derive a reasonable amount of business income e.g. \$4 million might not be.
- 1.12 A more appropriate de minimus exemption could be to provide an exemption for charities whose total unrelated business income is less than \$500,000 per annum. This is the same as the threshold for requiring two-monthly GST filing.

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?

- 1.13 The Milford Foundation agrees that if the tax exemption is removed for charity business income that is unrelated to charitable purposes, that charity business income distributed for charitable purposes should remain tax exempt. If this was not the case the tax treatment for businesses operated by charities would be inconsistent with the tax treatment of taxable business who make charitable donations and receive an income tax deduction.
- 1.14 Designing an effective way for charity business income distributed for charitable purposes to remain tax exempt will be a complex policy challenge. The Milford Foundation has no strong views on what the most effective way to achieve this would be, but notes that:
- (a) any regime should not distinguish between trading activities carried on directly by a charity and by a subsidiary;

- (b) a refund on tax paid should be available if business income that has been taxed is subsequently applied to a charitable purpose; and
- (c) any refund on tax paid should be paid in a timely manner and charities should not need to wait until the end of the financial year to claim a credit as this could reduce the amount of support charities are able to provide in times of high need (such as after a natural disaster or during a recession).

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?

- 1.15 The Milford Foundation is concerned that narrowing the income tax exemption for business income could lead to circumstances when charities with significant passive investments that they use to fund their charitable activities could be deemed to be in business in respect of those investment activities.
- 1.16 The current drafting of the income tax exemptions that apply to charities, sections CW 41 and CW 42 of the Income Tax Act 2007 (**Tax Act**), means that charities that satisfy the control condition and the territorial condition do not need to consider whether passive investment activities they undertake constitutes a business. However, if a further condition to section CW 42 was added, such that it only applies in respect of related businesses, the question of whether passive investments could constitute a business would need to be settled.
- 1.17 In IS 24/08 Inland Revenue commented that “charities that engage in activities on a continuous and ongoing basis, commit time, money and effort to those activities, and conduct a large volume of transactions with the intention of making a surplus are carrying on a business.”
- 1.18 In almost all circumstances simply making investment into a bank account or managed funds should not constitute a business, however, section CW 41 should be amended to specifically allow passive income to be exempt from taxation to provide clarity and comfort to charities that make passive investments. The Milford Foundation is concerned that, in the absence of such a specific rule, some charities would swap from long term strategic investments that generally provide relatively higher returns over the long term to simply having term deposits or holding funds in a bank account. The obvious consequence of this is that the charitable sector would have less money to apply to charitable purposes.

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?

- 1.19 If a “donor controlled” charities regime is introduced in New Zealand the Milford Foundation considers that:
 - (a) it should only apply to privately controlled foundations or trusts that do not have arm’s length governance or distribution policies. This mirrors the recommendation of the Tax Working Group (Future of Tax: Final Report Volume I – Recommendations) and would ensure that companies, individuals, and families who are directly involved in charities and do so on an arm’s length basis are not penalised; and
 - (b) the legislation and guidance need to be clear so that charities have certainty around whether they are captured by a potential donor-controlled regime.
- 1.20 Officials should consider the interaction of this proposed regime and the mischief that it is trying to prevent with other pieces of legislation such as the Charities Act 2005, which should prevent individuals from receiving a private pecuniary profit from charities, and the tax avoidance provisions in the Income Tax Act 2007 and articulate why a specific “donor-controlled” charities regime is required.

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?

- 1.21 The Milford Foundation does not have a strong view on this point but notes that:
- (a) removing this exemption would reduce the ability of charities to attract high-quality employees;
 - (b) this issue should be considered as part of the current review of the FBT settings, and any policy changes should ensure that complying with the FBT regime would not create an unreasonable amount of compliance burden for charities; and
 - (c) there should be a reasonable transition period to allow charities with employees who have accepted employment at a charity because of fringe benefits to transition to other employment contracts.
- 1.22 A reasonable starting point for a transitional period is 5 years. This is the same as the period that was given for the removal of the FBT exemption for health insurance.

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?

- 1.23 The Milford Foundation is broadly supportive of the policy initiatives proposed.

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

mailto: policy.webmaster@ird.govt.nz

31 March 2025

RE: Taxation and the not-for-profit sector

To whom it may concern,

Thank you for the opportunity to submit feedback on the taxation of charity business income. ARFNZ appreciates the Government's commitment to ensuring that the tax system remains fair and effective while recognising the critical role charities play in Aotearoa. Our submission addresses the questions posed in the consultation document.

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?

The exemption of charity business income from taxation has been a long-standing recognition of the essential role charities play in delivering public benefit. The key reasons not to tax charity business income include:

- **Public Benefit and Social Good:** Charitable entities reinvest surplus income into their missions, directly benefiting communities. Taxing this income could reduce funding available for essential services, research, and advocacy.
- **Equity and Fairness:** Unlike commercial entities, charities do not distribute profits to private shareholders. Their income is used solely for charitable purposes, making taxation an unnecessary financial burden.
- **Operational Challenges:** Additional tax compliance costs would divert already limited resources away from charitable services.

While the concerns in 2.13 and 2.14 highlight potential competitive advantages, these factors do not outweigh the significant public good charities provide. The

inability of charities to raise equity capital offsets any perceived advantages from tax-exempt status.

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?

- **Reduced Charitable Impact:** A tax on unrelated business income would reduce funds available for core charitable activities, limiting ARFNZ's ability to provide critical health education and advocacy.
- **Administrative Burden:** Determining what qualifies as unrelated business income could create compliance complexity, increasing costs for charities.
- **Unintended Consequences:** Some charities may restructure or close revenue-generating activities, leading to lost services and employment.

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?

We believe:

- A clear, principles-based definition should be applied, ensuring that any revenue used to directly support charitable purposes remains tax-exempt.
- Income-generating activities that align with and support a charity's mission should be excluded from taxation.
- Revenue-generating activities that are incidental to charitable work, such as event sponsorship or educational workshops, should not be classified as unrelated business income.

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 revenue-based threshold should be set to ensure small-scale fundraising and business activities remain viable. For example, an exemption for business income below a percentage of total revenue (e.g., 10–15%) or a fixed dollar amount (e.g., \$2 million) could prevent undue harm to smaller charities.

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, ARFNZ strongly supports retaining tax-exempt status for business income that is used for charitable purposes. The most effective mechanism to achieve this would be:

Allowing a tax exemption for income that is demonstrably reinvested into charitable work within a defined period (e.g., five years).

Establishing clear, transparent reporting requirements to ensure accountability without excessive compliance costs.

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?

- **Transitional Support:** If changes are made, a transition period with phased implementation would be necessary to allow charities to adapt.
- **Impact on Donor Confidence:** Taxing charity business income could undermine public trust in the charitable sector, leading to reduced donations.
- **Sector Consultation:** Ongoing dialogue with the charitable sector is essential to assess real-world impacts and refine policy settings accordingly.

In conclusion, ARFNZ urges the Government to carefully consider the potential negative consequences of taxing charity business income. Maintaining the current tax-exempt status ensures that charities can continue delivering essential services without undue financial and administrative burdens. If any changes are implemented, they should be carefully targeted to avoid unintended harm to the charitable sector and the communities we serve.

Ngā mihi nui,

Michaela Tahere
Grants and Fundraising Executive
Asthma and Respiratory Foundation NZ

From: Walk on wheels <info@walkonwheels.co.nz>
Sent: Monday, 31 March 2025 10:06 am
To: Policy Webmaster
Subject: Taxation and the not-for-profit sector

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

Good Morning
Please find below our submission
Thank you for the opportunity to comment on this
Kind Regards
Chris and Adam Heaps

Question 1

We own a small business selling renting and servicing rehabilitation equipment based in Auckland. Some of our main competitors and suppliers in New Zealand are Charitable Trusts and as such are able to undercut pricing as they do not pay income tax. This 33% allows for unfair advantage selling the same product to the same customer base.

We believe if you are trading in the same market then all entities should face the same tax obligations otherwise you have an unfair and skewed market. This unfair advantage opens the door for charities to get bigger and squeezes tax paying entities out. This will ultimately distort the market and the government will eventually not be earning any income from this stream.



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Submission on the Proposed Changes to Taxation in the Not-for-Profit Sector

To: The Finance and Expenditure Select Committee

From: Glenfield Community Centre Incorporated

March 2025

Introduction

Glenfield Community Centre is an incorporated society with charitable status that provides essential services and support to the community. We welcome the opportunity to submit our feedback on the proposed taxation changes affecting the not-for-profit (NFP) sector, as outlined in the IRD issues paper *Taxation and the Not-for-Profit Sector (February 2025)*.

We recognise the Government's aim to ensure tax fairness while maintaining support for charitable activities. However, we believe that some of the proposed changes may have unintended consequences that could negatively impact community-based organisations like ours.

1 Business Income Tax Exemption Changes

Proposed Change:

- Taxation of business income unrelated to charitable purposes.
- Introduction of a 'de minimis' threshold for small-scale trading activities.
- Mandatory distribution requirements for income retention.

Our Concerns:

- Many community facilities, including ours, rely on venue hire and fundraising to sustain operations. Imposing taxes on these income streams could reduce available funds for essential community services.
- A rigid distribution requirement may limit our ability to save for future capital projects or respond to unexpected community needs.
- Increased compliance costs could divert resources away from service delivery.

2 Donor-Controlled Charities

Proposed Change:

- New restrictions on charities with significant donor influence, including potential investment limitations and minimum distribution requirements.

Our Concerns:

- Some donors play a key role in supporting community projects without expecting undue influence. Restricting donor involvement too broadly may discourage philanthropy and impact funding.
- Investment limitations could reduce financial sustainability and hinder long-term planning.

3 Integrity and Simplification Measures

Proposed Change:

- Review of tax treatment for member transactions.
- Potential reassessment of Fringe Benefit Tax (FBT) exemptions.

Our Concerns:

- Reciprocal arrangements such as discounted room hire for volunteers or member organisations could be unfairly classified as taxable benefits.
- FBT changes could increase operational costs and affect staff retention.

Recommendations

We urge the Government to:

1. **Retain tax exemptions for community-based income streams** that directly fund charitable activities and essential services.
2. **Allow flexibility in distribution requirements** to accommodate long-term financial planning and unforeseen community needs.
3. **Refine the definition of ‘donor-controlled charities’** to distinguish between legitimate philanthropy and undue influence.

4. **Ensure tax changes do not impose excessive compliance costs** on small and medium-sized charities that already operate with limited resources.
5. **Consult extensively with the NFP sector** before implementing changes, ensuring policies align with real-world charitable operations.

Conclusion

We appreciate the opportunity to contribute to this important discussion. Our organisation remains committed to serving our community and ensuring that any tax reforms support—not hinder—our ability to deliver vital services.

Thank you for considering our submission.

Sincerely

Upasana Nigam

Chair of Governance

Glenfield Community Centre Inc.

09 444 5023

gcc.net.nz

Submission on proposal document to Tax the not-for profit sector within New Zealand

By: Jason Wayne Monson

s 9(2)(a)



Submitting on behalf of myself

Affiliations: I have affiliations and membership to Toastmasters New Zealand; a current recognized not for profit group, I however do not speak for this organisation.

Submitting In relation to ; Proposal to tax not-for-profit organisations.

As outlined in the document:

‘Taxation and the not-for-profit sector Issued: 24 February 2025’

Position: Opposed in the strongest possible way to application of any tax directly to the not-for profit or charity sector

Reasons:

1. Increased financial impact on individuals in clubs
2. Increased compliance costs.
3. Reduced membership of clubs and charities
4. Reduced access to services from clubs and charities to general public.
5. Reduced opportunities for fellowship, training, and support.
6. Loss of social cohesion
7. Tax income vs society cost
8. Purpose of government

1. Increased Financial impact on individuals in clubs

Many not for profits operate (as they should) on a shoe string budget.

Any addition of tax would be passed on to members through fee increases.

For people living in a financial crisis, many people are struggling with finances, additional costs to members would present a real barrier to individuals looking to join, or continue membership of not for profit groups.

2. Increased Compliance Costs.

Many groups are operated by volunteers, in their spare time. Imposing tax requirements would add time for treasurers to deal with tax requirements. Many treasurers probably do not have formal accounting training, time, or training in tax law. The lack of expertise would require groups to engage specialized trained individuals to ensure any obligations are met. Increased compliance costs would therefore be borne and also be passed to the member fee; further adding to the financial barrier to membership.

Groups that fail to engage specialized individuals would risk fines and compliance orders from the IRD for potentially failing to report, gather information, or submit dues potentially without even realizing it.

3. Reduced membership of clubs and charities

A direct impact of higher fees is reduced membership.

Not for profits and charitable organization are already struggling with membership levels. The tax increase and compliance cost increase would further raise barriers for people already struggling with finances to join groups.

4. Loss of services

A loss of membership would threaten the ability of groups to continue to provide the level of services that they deliver. In the case of charities, individuals that rely on charity would find themselves to be without the service that they previously relied upon.

Communities would lose access to groups that might have to close due to low membership. A direct consequence of closed groups is a loss of the social cohesion supplied by such groups.

5. Loss of training and development opportunities.

Many Not for profit groups are supported by volunteers who typically are not professionals. In this sense the not for profit structure provides substantial training and development to individuals who find themselves in leadership roles within those groups.

The flow on benefits is of benefit to society through upskilling of the general public in areas of leadership, accounting, publicity, promotions etc through the various groups.

All of these benefits are lost and are at threat from this proposal. People will not join due to cost, and the upskilling opportunities are lost to those individuals.

6. Loss of social cohesion

Many social activities and interactions also occur within the various groups, people join to maintain and develop friendships through shared interests and passions. In a society that is increasingly isolated, maintaining a forum for social interaction is essential. Not for profits are a highly effective way to maintain social interaction at all levels. The loss or reduction of this aspect cannot be calculated by a financial bottom line.

7. Added government income vs added cost

The added income to government from taxing small not for profit groups I expect to be minimal. The expected cost both tangible and intangible from such a proposal is excessive and actually incalculable on the basis of the explanations given within this submission.

8. Purpose of government is to support society

It could be argued that governments are meant to be supporting society and providing a platform for society to succeed. By not taxing not for profits, the government is meeting this objective. If the government is to start taxing not for profits, society will suffer.

The argument that IRD poses states that by not taxing not for profits, the rest of society is supporting them, is correct, and I would argue it is as it should be.

Society gains much from the not for profit groups, even if not everyone gains a direct benefit, society as a whole benefits. It is appropriate that society as a whole therefore bears the cost. The simplest and best way for this to occur is to not tax the sector.

Conclusion

The social and economic benefits of not for profits are not calculable by a price alone; by raising a financial barrier for an individual to be involved, participation is discouraged. The losses as a result to and from the sector cannot be underestimated.

The not for profit sector is already struggling with membership from increased time demands on individuals. Over many years many groups have seen memberships drop, the drop accelerated through covid lockdowns. This proposal might threaten the very existence of some groups.

I would argue the role of government is not to simply raise funds, it is also to provide and enhance communities, I would suggest use of tax to subsidise communities by allowing no tax status on groups that benefit the community is exactly what governments should be doing.

If taxes are placed on community groups – it may be the government gets additional funds, but in all likelihood many groups would simply close. Income to the government would not increase, instead a loss of social interaction would occur and society would be poorer for it.

Position statement

Tax absolutely must not be applied to registered not for profit organisations.

I also believe

Not for profit organisations , charities, sports groups that provide benefit to the community should be registered to maintain tax free status.

To summarise:

Impacts if tax were to be applied to not for profits:

Lower membership of groups as costs are passed to fees.

Possible group closures from lower membership.

Reductions of services from groups that are closed or have reduced membership.

Loss of training and development opportunities.

Loss of social interaction since groups have closed.

Loss of social cohesion since groups have closed.

Outcome desired:

No change to the tax status of not for profits.

Alternate outcome desired:

Changes could potentially be made to how a not for profit is defined.

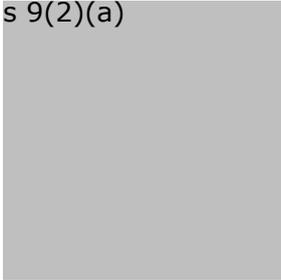
In all cases a not for profit should derive most of its income from members, sponsorships, or gifts. Income from sales, products, or similar should be a minority.

Not for profits should spend most of its income on the members, or in case of charities – on social causes.

Not for profits should not be holding significant investments or funds in the bank over multiple years. To allow for flexibility of operation, I would personally see funds in the bank should be enough to allow for 2 – 3 years of normal operation; beyond this the funds would be leaning towards an investment.

For: Jason Wayne Monson

s 9(2)(a)



• by email to policy.webmaster@ird.govt.nz

Copy to my local elected representative

with “Taxation and the not-forprofit sector” in the subject line,

From: Adele Cubitt Cohen s 9(2)(a)
Sent: Monday, 31 March 2025 10:10 am
To: Policy Webmaster
Subject: Submission on charities tax consultation paper

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

Hello,

Please find my submission below to be considered as part of the tax consultation paper for the nfp sector.

Thank you,

Adele Cubitt

To ensure all charities and all aspects of charities are meeting their charitable purposes, consider:

- Resource DIA / IRD to review applications, conduct an audit and monitor compliance. Any business that is not for a charitable purpose OR income for a charity to deliver its charitable purpose, can be identified and required to operate under existing companies and tax law.
- Change the tier approach to better group the type of charities and extent of funding / reliance on funding and whether deliver a public service ie. Iwi/te ao Māori, funder, religious, service delivery etc,
- Consider approach to businesses owned and managed by religious organisations separately. There are numerous examples of businesses owned by religious leaders or bodies, such as Mormon, Life or Destiny churches in which businesses and wealth accumulation is clearly at play.
- Review approach to funds under management, implementing a sliding tax or levy scale based on use of funds and use of funds for ethical and/or charitable purposes. Essentially to empower and ensure the sector uses the money to actually address the issues they are committed to. The argument is that funds under management are for charitable purposes in perpetuity - in reality they are essentially “land-banked”, dominated by traditional investment logic and being accumulated at expense of the charitable purpose that needs addressing. This logic does not apply to Iwi or other te ao Māori approaches. There are billions under

management that could be used to address intergenerational poverty (and the related wellbeing, health, housing security, and productivity that will follow) and critical issues.

- This could involve targeting highest tiers and / or foundations created by statute or previous governments. ^{§ 18(c)(i)}

- Require all funds under management to abide by ethical requirements or be in ethical funds with increasing benefits the more active they are for the benefit of NZ. As an example, NZ is struggling to pay for precision health medicines / infrastructure, welfare / solutions to address poverty, interventional trauma / mental health or environmental infrastructure, which could be invested through these funds. These can directly align with the purpose of the charity, which could improve social licence to do so (ie. it's not a general tax in which you'll get huge push back on and will result in more costs on government - it's money to fund the things the charity is actually committed to changing. The public is not aware of the extent of billions under management and the traditional approaches to governance and use of funds).
- Any tax or levy, could contribute to government's social investment fund, an environment solutions fund, universal basic income, the new housing fund or health technology fund. The point is: use legislation and tax levers to fund for the benefit of NZ as originally meant by the charities act rather than traditional approaches to these funds.
- A wealth tax can then be directly used in these funds as well to create buy in and avoid wealthy creating new philanthropic foundations.

This can also help drive new thinking and accountability in charitable governance and within finance sector to look at more ways to advance for NZers. The objective is to better utilise these amounts or encourage by tax settings how they are used and at what cadence.

31 March 2025

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

By email: policy.webmaster@ird.govt.nz

Dear Deputy Commissioner,

SUBMISSION BY THE NEW ZEALAND HOUSING FOUNDATION ON INLAND REVENUE'S OFFICIALS' ISSUE PAPER: "TAXATION AND THE NOT-FOR-PROFIT SECTOR"

Organisation making the submission and scope of the submission

Organisation making submission

1. The organisation making this submission (**submission**) is the *New Zealand Housing Foundation*.
2. The submission responds to the invitation made by officials of the Tax Policy division of Inland Revenue (**IR**) to obtain feedback on various issues and questions (**questions**), that are identified in IR's 24 February 2025 Official Issues Paper, "Taxation and the not-for-profit sector"¹.

The New Zealand Housing Foundation

3. The New Zealand Housing Foundation² is a charitable trust that was established with the charitable purpose of relieving poverty by providing affordable housing for low-income families throughout Aotearoa New Zealand.
4. The Housing Foundation is an industry leader in providing affordable housing solutions for Kiwi families in need, and it often works in partnership with iwi, government agencies, and other charitable and philanthropic organisations that share the Housing Foundation's vision and goals in respect of the provision of affordable housing.

Scope of submission

5. The main focus of the submission is with questions 1 to 6 in "Chapter 2: Charities business income tax exemption"³ of the Issues Paper.

Summary of main points of submission

6. The main points in this submission are:
 - a) There are compelling reasons why charity business income derived by charities (including charitable housing providers) from various types of business activities should not be taxed;

¹ Inland Revenue's 24 February 2025 Official Issues Paper, "*Taxation and the not-for-profit sector*" (**Issues Paper**).

² Referred to in this submission as the "Housing Foundation".

³ Referred to in this submission as the "business income tax exemption".

- b) The current business income tax exemption is clear; has been authoritatively considered by IR and relevant judicial authorities; is subject to rigorous legal and tax controls and limitations; and requires all business income to be destined for a charity's charitable purposes;
- c) Creating a tax test to distinguish between a charity's business income that is connected to activities that directly relate to its charitable purposes and business income from activities that are unrelated to its charitable purposes, may prove difficult to do and hard in practice for charities to comply with;
- d) If the tax exemption is removed for unrelated business activity income it will be helpful that any new rules have helpful exclusions for "small-scale trading activities", and tax mechanisms to ensure that business income that is distributed for charitable purposes remains tax-exempt;
- e) The class of "business charities" in New Zealand appears to be not large and the circumstances in which an "unrelated business activities" test apply in other tax jurisdictions may not sensibly translate to the New Zealand "charity" environment.

Responses to IR questions 1 to 6 in respect of the charities business income tax exemption

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?

- 7. The Housing Foundation understands that the focus of IR's review of the business income tax exemption that is found in s CW 42 of the Income Tax Act 2007⁴ is not with charities whose business activities "directly relate to their charitable purposes"⁵ but rather with tax-exempt business activities that "are unrelated to charitable purposes"⁶.
- 8. It is the view of the Housing Foundation that for charities operating in the "affordable housing sector" of the New Zealand community⁷ there are compelling reasons why charity business income should not be taxed even if the source of that income could be considered to be from an "unrelated business activity"⁸.

Reasons why charity business income should not be taxed

- 9. These reasons include:
 - a) Without the ability to receive tax-exempt business income from their business activities, the work of many charities (like charitable housing providers) in New Zealand would be significantly compromised, given the unique funding, pricing, commercial, regulatory, and other constraints and challenges that are often associated with a charity's business operations and which impact on its financial viability;

⁴ Section CW 42 of the Income Tax Act 2007 (ITA), referred to in the submission as "s CW 42".

⁵ See [2.3] Issues Paper

⁶ Above n. 5 at [2.3]. Referred to in this submission as "unrelated business activities".

⁷ Referred to in this submission as "charitable housing providers".

⁸ How the excluded class of "unrelated business activities" is defined will obviously be critical in this context.

- b) As Inland Revenue's recent Interpretation Statement, *Charities – Business income exemption* makes clear⁹, the business income tax exemption is only available for the business income of a charity if on an annual basis the charitable entity can satisfy a number of rigorous statutory and legal tests (of a substantive and compliance nature) under both charity laws and income tax laws, including things like registration with Charities Services¹⁰; making relevant financial and other disclosures; carrying on a “business” for s CW 42 purposes; complying with the “territorial” restrictions in s CW 42¹¹; and ensuring that the “no control” and “no private benefit and advantage” limitations in s CW 42¹² are not breached;
- c) The business income tax exemption has been in New Zealand's tax laws since 1940, and as IR's commentary in IS 24/08 makes clear, the scope and limitations associated with this exemption are clear, well-understood, and have been authoritatively considered judicially¹³. Consequently, the level of tax non-compliance by charities that rely on this exemption should be low and easily identifiable;
- d) The business income tax exemption only applies to income an entity derives from a business “carried on by, or for, or for the benefit of a charity”. As noted in IS 24/08¹⁴:

“For business income a charity derives to be exempt under s CW 42 both the entity whose income derivation is being considered and, if it is a different entity, the entity carrying on the business must be charitable. The entity deriving the business income must be a tax charity and the entity carrying on the business must be a registered charity”.

As presently operating, therefore, the business income tax exemption only applies to business income that is always “destined for charitable purposes”, which is consistent with the “destination of income” approach that IR has indicated currently underpins the relevant tax policy framework¹⁵;

- e) Given that the business income tax exemption also requires as a pre-condition that the charity is recognised as a charity under charities law, and charities law requires that all activities that are undertaken by a charity are to be carried out in furtherance of the charity's charitable purposes or are incidental to those purposes (including requiring any business income to be directed to those charitable purposes)¹⁶, it is not clear what the nature and extent of the class of “unrelated business activities” that are referred to in the Issues Paper is intended to cover for the purposes of charities law, and until this question is determined the tax policy case in favour of altering the existing settings for the business tax income exemption remains unclear;
- f) If business income derived by a charity from business activities of various types is always destined for charitable purposes, and the income is applied in fact to advance those charitable purposes for the benefit of the New Zealand community and not for the private benefit of individual persons, then that

⁹ Charities – Business income exemption, *Tax Information Bulletin*, Vol 36, No 10 (November 2024): 36 (IS 24/08).

¹⁰ See s CW 42(1)(aa).

¹¹ See s CW 42(4).

¹² See s CW 42(1)(c) and s CW 42(5)-(8).

¹³ See for example *CIR v Dick* (2002) NZTC 17,961 (CA) and *Latimer v CIR* (2002) 20 NZTC 17,737 (CA).

¹⁴ Above n. 9 at [5].

¹⁵ Above n. 1 at [2.5].

¹⁶ See s 5 Charities Act 2005.

income should be eligible for a business income tax exemption because it will directly relate to the furtherance of the charity's charitable purposes;

- g) The task of distinguishing between "charitable purpose related business activities" and "unrelated charitable purpose business activities" is likely to prove very difficult to define legally, and in practice there could be significant compliance costs associated with the identification and apportionment of income and expenses associated with these two separate classes of business activities;
- h) New Zealand has a longstanding and chronic shortage of affordable housing and it will be important if the proposal in the Issues Paper proceeds that any tax changes do not create further barriers for charitable housing providers in funding and carrying out their provision of affordable housing.

Relevance of factors in [2.13] and [2.14] of the Issues Paper

- 10. The Housing Foundation does not consider that the suggested "second-order imperfections" and other possible "advantages" discussed in [2.13] and [2.14] of the Issues Paper have any real relevance for charitable housing providers operating in New Zealand.
- 11. Providing affordable housing solutions to low-income families in need, particularly given the long timeframes associated with identifying and securing suitable housing locations in New Zealand, obtaining relevant regulatory consents, and then constructing affordable homes that can be supplied to those families, requires a long-term commercial commitment by charitable housing providers to support these goals and to have access to significant and reliable funding over the entire period of any affordable housing project or projects.
- 12. Given that private investment in charities is prohibited, and the level of investment returns associated with activities in the affordable housing sector will often not be as high as in other "commercial housing" settings, access to conventional and appropriate third party funding remains the most significant and constant challenge that charitable housing providers face, which is why many of them "partner" with other charitable organisations in respect of common projects and may look for the assistance of the government and other agencies to support their work.

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?

- 13. Without further specific details around the test that IR proposes would be applied to distinguish between charitable business activities that directly relate to charitable purposes and unrelated business activities that do not, it is unclear at this point the extent to which the proposal could have an impact on charitable housing providers, particularly as most charitable housing providers' business activities will be directly related to the advancement of their core charitable purpose of providing houses for persons in need.
- 14. However, given the importance for charitable housing providers being able to access significant funding and other assistance through a variety of commercial means and from a range of sources, it will be very important in this context that the test of an "unrelated business activity" does not extend too far, and cover conventional investment, funding, and third party business activities that may be required by charitable housing providers to assist them to promote their charitable purposes.

15. Without some form of tax exclusion for charities conducting small-scale trading activities¹⁷, it is possible that the increase in taxation from their “unrelated business activities” could have a significant financial impact on the operation of some of these charities (and this is so even if the charities would become eligible for normal tax entitlements in relation to these activities (for example, a deduction for business-related costs and tax losses).

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?

16. There are traditional “principal purpose”, “ancillary purpose”, “necessary and relevant”, “use”, and other statutory tests that are commonly used in current tax rules to create the relevant “nexus” that is required to identify “unrelated business activity” that is “outside” the business activities that directly involve a charity’s charitable purposes.
17. It will be important also though to ensure that whatever taxation test is adopted for “unrelated business activities”, there are sensible exclusions from its operation of the type identified in the Issues Paper are provided for¹⁸.

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?

18. While the Issues Paper notes¹⁹ that only a portion of the 12,000 New Zealand’s registered charities that reported business income will be “carrying on activities unrelated to charitable purposes” and “it will remain unclear the exact number of these unrelated businesses until the term is formally defined”, it would be surprising if the fiscal cost in overall terms of not taxing the unrelated business income of many of these charities is that significant.
19. If this is the case, then excluding Tier 3 and Tier 4 charities from the proposal in the manner suggested²⁰ could make sense.

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?

20. Due to the constant challenges faced by housing providers to obtain suitable funding to advance their long-term affordable housing programmes and for other reasons, it is not uncommon for some charitable housing providers to hold business accumulated surpluses (funds) of the type described in the Issues Paper²¹.
21. To extent that any of these accumulated surpluses are comprised of “unrelated business income”, then the tax treatment of these surpluses could be of significance for the Housing Foundation and other charitable housing providers in the future.
22. As a general proposition, providing a deduction for distributions (donations or dividends) that are paid to parent charity of a charity business for charitable purposes during the tax year in the manner identified in the Issues Paper to ensure that any relevant income will remain tax-

¹⁷ The Issues Paper notes (at [2.29]) that were it to be decided to exclude from any new taxing rule applying to the business income from the unrelated business activities of Tier 3 and Tier 4 charities, then this would limit the impact of any new policy change to less than 1,300 charities.

¹⁸ See Issues Paper, n. 1, at [2.24].

¹⁹ Above, n. 1, at [2.28].

²⁰ Above, n. 1, at [2.29].

²¹ Above, n. 1. at [2.30] to [2.34] and the accumulation of funds by charities can occur for a range of reasons.

exempt is a sensible proposal, as too are the other possible tax treatments for the distribution of accumulated funds used in later years that are discussed in the Issues Paper²².

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?

23. The Housing Foundation considers that when considering relevant policy settings or issues in terms of the proposal outlined in the Issues Paper, care needs to be taken when drawing comparisons with the tax treatments that have been applied to the unrelated business activities/income of charities in other tax jurisdictions, which usually will have a huge and wealthy charitable business sector with charities undertaking a wide range of commercial business activities and where there may be other tax concessions that are not available in New Zealand.

Communication with officials of IR

24. The management team of the Housing Foundation welcomes the opportunity to discuss with IR officials any of the points or suggestions made in this submission.

s 9(2)(a)

Dominic Foote

Chief Executive

s 9(2)(a)

²² Above, n.1, at [2.34] and [2.35].

To:

Taxation and the not-for-profit sector

C/- Deputy Commissioner,

Policy Inland Revenue Department,

PO Box 2198 Wellington 6140

From:

Momentum Waikato Community Foundation

David Christiansen

Executive Officer

23 March 2025

RE: INLAND REVENUE CHARITIES TAXATION REVIEW SUBMISSION**Momentum Waikato Community Foundation****Background**

Momentum Waikato is the Community Foundation covering the Waikato region. We have been in operation since 2013, and currently hold over 30 funds, and \$32 Million total funds under management.

We are a place based local community foundation building regional philanthropic wealth across the Waikato, led by local volunteer trustees, and for the sole charitable purposes to benefit local communities including funding local charities.

Our charitable purposes are clear. Our ability to grow overall philanthropic giving through the growth of endowed funds operating in perpetuity, to the benefit of our region, is significant. Our current tax exemption is justified, and our value to our community is immense. Any direct change to, or unintended consequential change to, our tax exemption, to our grant's distributions, or fringe benefit tax could seriously undermine years of future value to communities.

General Comment

The proposal to consider the taxing of unrelated charity business does not seem to be strongly made. The need for change is not strongly evidenced, and while differences across various jurisdictions *may* be of interest, they do not constitute a strong argument in themselves. It is unclear in the proposal precisely what problem these changes are really intended to fix.

Importantly, the charitable sector in New Zealand, is attempting to address real social and cultural and environmental deficits which otherwise would be even worse. Taxation changes should be aimed at assisting, and boosting this work, and enabling innovation, not making it more complex, costly and uncertain.

Compliance cost burdens and uncertainty

The definition of *unrelated* business income is likely to be more problematic than it may seem. Uncertainty such as this inevitably leads to higher compliance costs, which the sector overall can ill afford.

We, at Momentum Waikato, do not currently have any form of unrelated business income. Nonetheless, it is possible that in the future, perhaps we could envisage setting up a for-purpose operation that, as part of its wider operating model may wish to do so – perhaps a café operation in a wider community centre-type offering. A change such as proposed could be a significant barrier to achieving a wider commercially viable for-purpose operation. This underscores the important role unrelated business income can lend to many charitable operations.

Should this proposal go forward the risk is that additional complexity and compliance costs are borne by the whole sector, in a bid to achieve an uncertain, and unevidenced goal that, ultimately is most likely targeted at a very small part of the sector. If such a proposal does go forward a *very high* trigger point in terms of unrelated business income should be utilised, say tier one status only charities. This would not only leave the bulk of the sector unaffected, but also focus the effort onto, presumably, the scale of charities that the proposal really wishes to target – and which are at a scale that the resulting tax changes are meaningful to the governments tax revenues.

Fringe Benefit Tax

Again, this seems like a solution in search of a problem. Fringe benefit tax, for the vast bulk of the for-purpose sector, is usually a small, yet significant benefit for staff. Again, only for those charities operating at vast scale (typically with high staff numbers) could

this even begin to be seen as disruptive of wider employment market relativities. Additionally, such changes can lead to unintended consequences and costs.

Flexibility around donor tax concessions

The proposed flexibility around the claiming of donor tax concessions are a simple and positive example of changes that can be made that support and encourage charitable giving. These are unlikely to have any negative impacts at all, and hopefully would promote generosity through maximising donors' ability to claim back tax concessions in a way that best suits them, and positively rewards their generosity in a more timely manner.

Thank you for considering our submission.

David Christiansen

Executive Officer

Momentum Waikato Community Foundation

Submission on the Officials Issues Paper,
Taxation and the not-for-profit Sector,
by David McLay, Barrister

This submission is made by me as a tax and charity law specialist. It is not made by any of the entities in which I hold (or have held) governance roles and it is not made on behalf of any clients. But it is informed by over 40 years of specialist tax practice and over 30 years of advising in the Third Sector, principally within the charitable sector.

In summary, my submission is:

- The Issues Paper over-simplifies the issues and does not provide a solid foundation for any immediate tax changes.
- The identification of the metes and bounds of what is a “business” within the Third Sector is not easy.
- There is a clear need for exclusion of investment activities of Third Sector entities from being a “business”.
- The treatment of the provision of housing by charitable entities also necessitates an exclusion from the relevant definition of “business”.
- The treatment of secondhand stores and other selling of secondhand goods also will need clarification, and these transactions cannot be addressed in a fair manner by any *de minimis* rule.
- The concepts of “related business” and “unrelated business” will only make sense and be workable if the preceding submissions about the New Zealand tax concept of “business” are accepted.
- The Issues Paper does not identify how any new rules will be administered, and therefore it does not highlight the additional compliance costs for **all** charitable entities (both in monitoring their activities to identify “business” transactions and in filing additional information with the Charities Regulator and/or Inland Revenue).
- The enactment of rules relating to donor-controlled charitable entities would necessitate a review of the existing rules relating to settlor-related control transactions, which presently have some unintended consequences.

ANALYSIS OF OVERALL PROPOSAL

1. In this section, I address the general problem underpinning the Issues Paper, submitting that the questions posed unfortunately ignore the key issues of complexity in the tax concept of “business”. The Issues Paper does not address economic effects of the possible proposal. The Issues Paper seems to be based on a misreading of data about the extent to which there are “business” activities of registered charitable entities. These three aspects are considered in this part of my submission.

Practical Problems with the Concept of “Business”

2. The second question posed by the Issues Paper concerns the practical implications of a proposal for taxing business income of charitable entities. The real first question, which is a partial answer to the Issues Paper’s question, is: “is there sufficient certainty about the application of the test of “business” in the context of activities of charitable entities?”
3. The Issues Paper only refers to two cases. A number of cases need to be considered by Ministers and officials in evaluating the complexity of the proposal for taxing unrelated business income of charitable entities. In the Appendix, I set out views that I expressed in 2001 about the complexities, but with a couple of contextual clarifications for the purposes of this submission. I wish to stress the statement of the eminent New Zealand tax jurist, the late Sir Ivor Richardson, in the **National Insurance** case that highlights the lack of precise rules.
4. It is my respectful submission that the following types of activity raise considerable difficulties for any proposed taxation of (unrelated) business income derived by charitable entities:
 - Investment activities.
 - Secondhand goods selling – some of the difficulties are acknowledged in the context of the Goods and Services Tax Act 1985, where sales of donated goods are tax-exempt for GST purposes.
 - Provision of social housing – although there is an exemption, some providers have adopted a charitable purpose approach rather than registering as a Community Housing provider.

(i) Investment Activities

5. Investment activities have been the subject of a number of cases, as well as many other assessments and challenges resolved outside the court process. The existence of more than a single assessability provision makes reading the relevant cases difficult. However, the following points need to be considered if there is to be a reasoned development of a proposal for the taxation of unrelated business income.
6. The case law (and the Income Tax Act) recognises differences between a business of dealing, which means the buying and selling shares or other types of property, and a business of investing. In relation to the latter situation, it has been frequently argued by Inland Revenue that businesslike activities and frequency of transactions is sufficient to create a “business” rather than a business of dealing. The statements of Lord Cooke in **CIR v Stockwell**

emphasise dollar values and numbers of transactions.

7. It is acknowledged that the operation of investment markets has changed since the transactions addressed in the leading cases which mainly relate to transactions in the 1980s. Since that time, large investment vehicles have developed, and these can be invested in an overtly passive matter by entities such as charitable entities. However, where those investment vehicles have tax transparency (also referred to as pass-through tax characteristics), the application of business disciplines and profit-seeking behaviour by fund managers could be alleged to be attributed to the investor. At the current time, most charitable entities that have significant investment portfolios do not need to address the differences in tax treatment for the taxation of investment income because the rules for business income and non-business income are largely the same (except where there is some non-New Zealand purpose).

(ii) Secondhand Goods Selling

8. A number of charities rely on the donation to them of secondhand goods that are then sold. Some such sales are made at fairs and similar events, while others are sold in secondhand stores.
9. The operation of secondhand stores by charitable entities such as hospices and some religious charities (especially Salvation Army and St Vincent de Paul) are significant operations. Although they do not purchase their goods, that is not a factor that would be sufficient to place their activities outside the definition of “business” for income tax purposes.
10. Most fairs and similar events are run irregularly and may therefore not represent a “business”. But for larger churches operating in many locations but within the same legal entity, the overall size and frequency of the activities could be sufficient to deem those activities to be a “business”.
11. In most cases, these types of activities would be, or could be argued to be, “unrelated” to the principal charitable purpose of the entity.
12. The sales of donated goods are tax-exempt for GST purposes under section 14(1)(b) of the GST Act. It is submitted that any unrelated business tax rule needs to exclude all transactions that satisfy section 14(1)(b)’s requirements.

(iii) Housing

13. The provision of housing by charitable entities usually involves the renting of such housing. The derivation of rental income, even when it is at a concessional rental, is potentially income derived from a “business”. There is no doubt that such income is assessable income but for the application of an exemption. However, there is sometimes a need to determine whether the renting activity is a “business”. Again, the **Grieve** analysis is relevant.
14. In general terms, renting activities by a company will always be a “business” while leasing by an individual will almost always not be a “business”. The position of trusts (and charitable trusts) is on a continuum between that of a company and that of an individual. In other words, the position lacks clarity. The extent, frequency and size of transactions undertaken are relevant factors.
15. Government recently has been encouraging the Third Sector to take a significant role in the provision of housing in order to alleviate the housing crisis.

That encouragement will count for little if charitable entities (which include charitable companies, charitable trusts and other charitable entities (including limited partnerships)) are taxed on their business income. (I note that some but not all charitable entities may be able to demonstrate that their renting activity is their principal charitable purpose and others that it is related to their principal charitable purposes.)

16. The treatment of Church houses being houses acquired for accommodating Church workers also needs to be addressed. Those houses are usually rented to Church workers but there will be circumstances where they are rented to third parties. Will that constitute a relevant “business” for the purposes of the possible tax law change?
17. I also note that there are charitable entities that are engaged in the provision of commercial property. Some will do so where the relevant property is being held for longer-term purposes of the entity, but there are some that have significant commercial property portfolios. My question is whether this aspect was considered by the commentators who criticised the derivation of unrelated business income by charitable entities – I suspect not. Clearly Government needs to consider the position with care.
18. The property leasing aspect again shows that there may be difficult “line drawing” issues to be considered in the application of any rule imposing income tax on unrelated business income by charitable entities.

Adverse Economic Effects

19. There are a number of potential adverse economic effects in the following arenas:

Retirement villages. There are For-Profit and Not-For-Profit entities competing in this sector. Currently, there have been concerns expressed by representatives of retirement village occupants about the lack of fairness to holders of Occupation Rights where all the “capital gains” accrue (under the terms of the Occupation Right contracts) to the Operator (that is the owner of the retirement village). There are a small number of charitable entities that share those “capital gains” with the holders of Occupation Rights. Taxation of business income will adversely affect those Operators, and it will be likely to slow the movement to greater fairness.

Māori Fisheries. The holders of fishing quota allocated to Iwi are all held in registered charitable entities. The imposition of income tax on business income of charitable entities will adversely impact those holdings and thus the wellbeing of Māori people. It is surprising that the Issues Paper did not identify this aspect.

Investments: The line between a business of investing (or one of dealing) and passive investing is difficult to articulate with precision (as already noted). There is much less likelihood of a “business” existing where investments are made in collective investment vehicles. Therefore, the imposition of income tax on business income, unless all investments are excluded with a clear rule, will create an incentive for investing in collective investment vehicles. This raises the question of whether the tax system should be providing encouragement for

paid investment managers over self-managed investment by charities. In my submission, the tax system should not be creating “winners” and “losers”.

Charity Shops: Many charities use donated secondhand goods retailing as a means of raising funds. Although some of these are small operations, they will all be “businesses” for income tax purposes. Although there is a suggestion that there be a *de minimus* exemption, the difficulty is that that approach will incentivise the devolution of charity shops into smaller entities, while penalising large entities (such as some Hospices, the Salvation Army and other large churches that operate at a national or regional level, rather than in smaller congregational units). The commentators who suggested the need for taxation of unrelated business income turned a “blind eye” to this aspect. It is submitted that an exclusion from any possible tax on business income ought properly to apply to entities that satisfy the donated secondhand goods resale rules contained in the Goods and Services Tax Act 1985.¹

Mistaken Analysis in Issues Paper

20. The Issues Paper contains information about the extent of business income derived by registered charitable entities. Paragraph 2.28 asserts that charities “reported business income” but it provides no basis on which this analysis is based. It is a problematic analysis because there is no requirement for charities to identify their business income under financial reporting standards. Tier 3 reporting standards only require identification of income under the following categories, noting that the categories with asterisks are compulsory.²

Revenue

Donations, fundraising and other similar revenue*

Fees, subscriptions and other revenue from members*

Revenue from providing goods or services*

Interest, dividends and other investment revenue*

Other revenue

21. For Tier 1 and 2 reporting entities, PBE IPSAS 1³ only used the word “business” five times, but does not refer to “business income”. So, again, my question is how have officials determined the extent to which charitable entities are in business (in the general accounting sense of the term), let alone which are in “business” for income tax purposes. The summation in paragraph 2.29 of the Issues Paper that there might only be 1300 charitable entities in Tiers 1 and 2 that will need to consider the potential application of any unrelated business income rule is submitted to be erroneous.

¹ Section 14(1)(b), GST Act.

² Categories are contained in the template accessed at www.charities.govt.nz/assets/Templates/Template-for-PBE-SFR-A-NFP-PDF-version-Jan-19-200775.5.pdf

³ Public Benefit Entity International Public Sector Accounting Standard 1 Presentation of Financial Reports PBE IPSAS 1) accessed at www.xrb.govt.nz/dmsdocument/5054/

22. The submission that I am essentially making is twofold:
- (a) The tax concept of “business” is not one that is often applied within the context of charitable entities, so that there is a need for a clear definition.
 - (b) It is highly likely that the only cost will be additional compliance costs and government administration costs arising from the need for all charitable entities to consider their “business income” each year before they then distribute that income (but not their passive income). In other words, there will be little revenue for Government (but some additional administration costs) and more compliance costs for charitable entities (reducing their contributions in many needy sectors).

ANSWERS TO ISSUES PAPER QUESTIONS

Q1 reasons to tax, or not to tax, charity business income

The additional taxation of charitable entities is not appropriate. At the present time (and since 1988) the non-refundability of imputation credits for charitable entities has been an unprincipled and unfair imposition on the charitable sector.

The “payback” for society of the current tax treatment of charities is very significant. Charities have the ability to mobilise people and also resources in a way that is almost impossible for central and local government. There is simply “more bang for the buck” inherent in the concessional treatment of charitable entities. From this perspective, I do not support the proposal for the taxation of business income of charities, whether unrelated or related to the principal charitable purposes of the entities.

Q2 significant practical implications

The key problem as addressed in the earlier part of this submission is that there is a much broader reach of the concept of “business” than is stated in the Issues Paper. Specific rules will be needed to eliminate uncertainty in the following areas:

1. The treatment of investment income, and I submit that all investment income needs to be declared to be non-business income for any unrelated business tax rule.
2. The treatment of the provision of housing. Again, I submit that this activity needs to be wholly excluded from being business income for the purposes of the proposal.
3. The activity of selling donated goods also needs to be wholly excluded.

The compliance costs of identifying the metes and bounds of “business” and of the amount of such income will be a burden for charitable entities.

The community trusts established under the Community Trusts Act 1999 were granted an exemption (under section CW 52) in order to reduce unnecessary compliance costs relating to their investment income. It would be deeply ironic if investment income of charitable entities were to be taxed as unrelated business income.

Q3 criteria to define an unrelated business

The areas noted in my answer to Q2 need to be expressly excluded from being “business income” and from being “unrelated business income”.

Criteria may appear to be simple but need to deal with two types of charitable entity, being those with a single charitable purpose and those with multiple charitable purposes. The criteria, however developed, will be difficult to apply in the multi-purpose entities.

It is regrettable that the Issues Paper simply alludes to overseas precedents (in paras. 2.21 and 2.24. Usual practice over recent decades in tax consultation (under the Generic Tax Policy Process) has been for officials to do the research and then allow that research to be tested in the consultation process. I submit that the analysis in the first part of this submission indicates that there is a need to develop home-grown rules that take account of New Zealand circumstances. In this respect, I note that para. 2.24 does refer to charity op-shops but I submit that clarity about the use of other forms of sale of donated goods will also be needed.

Q4 exemption for small-scale business activities

Correlating a threshold to the Tiers used for XRB-governed financial reporting is a simple way forward but it is one fraught with some conceptual difficulty. The conceptual difficulty is that the External Reporting Board (XRB) will be “gifted” the power to determine future changes in the level of the proposed income tax exemption, but it does this from a financial reporting viewpoint. As already explained in this submission, there are a number of complexities in applying the “business” test, but those will not be relevant to any decisions that XRB may make in future.

A second conceptual difficulty is that the financial reporting tiers are based on expenditure rather than on income, although the concept of “expenditure” has been extended to include grants and distributions made by each charitable entity.

The proposal for this threshold does not address how section CW 43 would operate – that provision applies in relation to deceased estates where there is a bequest for charitable purposes. It is not impossible for the deceased person (and therefore his or her estate) to be carrying on a business, especially a farming business.

There is an inherent bias contained in the proposed exemption. It is likely to adversely affect the position of some churches that operate in larger regional (or national) structures. Their position is economically similar to groups of local congregations, but the proposed threshold will only be available to the decentralised churches. The same bias is likely to exist for other centralised organisations when compared to decentralised organisations – this may arise in early childhood organisations, The Order of St John, Red Cross, Scouts New Zealand, etc, etc.⁴ It could even encourage the deconstruction of such charitable entities. That possibility highlights the lack of detailed analysis that has preceded the publication of the Issues Paper.

Q5 treatment of distributed charity business income

In my submission, the distribution of income of a charitable trust that is derived from unrelated business needs to be treated as exempt beneficiary income (under the trust rules contained in the Income Tax Act). Few amendments to the Income Tax Act would be required to achieve this outcome.

⁴ I name these particular entities as examples, but I lack detailed knowledge of their national organizational structures. Their carrying on of fairs and similar activities at the local level could well be sufficient to be a “business” and thereby to result in the imposition of a completely unintended tax.

Greater complexity will arise in the treatment of undistributed unrelated business income in charitable companies. The proposal will effectively create an excess retention tax of the kind that existed until 1993. However, there will need to be a mechanism to allow a clawback of such tax when a distribution is made of the relevant undistributed unrelated business income.

The suggestion in para. 2.35 of the Issues Paper of a form of memorandum account like an imputation credit account leads me to ask why Government has continued to penalise charities that received imputed dividends without permitting refunds. It has been inherently unfair to the charitable sector that repeated submissions on this aspect have been ignored over the past 30+ years.

Q6 other tax policy settings

The issue of non-refundability of imputation credits (as just mentioned in this submission) is an issue that needs to be addressed. The imposition of a new tax on unrelated business income will be an unfair import on the charitable sector if imputation credits continue to remain nonrefundable.

Q7 definition of donor-controlled charities

No comment.

Q8 investment restrictions

If investment restriction rules are to be established, the existing rules relating to settlor-related control transactions (contained in section CW 35(1)(b), (3), and (5)-(8)) will need to be reviewed. Those rules at present operate in a peculiar manner when a charitable entity is the settlor of another charitable trust – at the very least, there needs to be an exclusion for charity-created charities and for charity-owned charities.

In general terms, governments are not good at creating rules governing commercial behaviours, such as investment, because of the continuing development of new modes of business. In the present context, I ask:

- How will investment restrictions deal with fungible assets such as cryptocurrencies?
- How will collective investment vehicles be dealt with?

In my submission, investment restriction rules would need to be developed in a fuller consultation process.

Q9 minimum distributions

In my submission, it will be difficult to establish such rules. The needs for reinvestment of income will vary from sector to sector, noting that the provision of social housing is most likely to be adversely affected by any such rules. (Apart from large social housing providers, there are a small number of donor-controlled charitable entities that provide social housing.)

It is important to recognise that charitable entities are not able to access equity markets in order to obtain capital.

The optics of Government acting paternalistically in prescribing minimum distribution levels are problematic when no such rules apply to For-Profit companies and other entities.

An annual time-horizon is not an appropriate period for such a review, noting that many donor-controlled charities have tackled social issues that have not been tackled by Government.

Q10 small NFPs

The lack of any regular review of monetary thresholds within the Income Tax Act is a form of “bracket creep”. The \$1,000 threshold currently contained in section DV 8 has not been amended since 1976 (if not earlier).⁵ Using the Reserve Bank’s inflation calculator, the threshold should be at least \$10,450.⁶ Review of the threshold was discussed with Inland Revenue tax policy officials in about 2002, but nothing has been done with the monetary limit.

Q11 friendly societies and credit unions

No comment.

Q12 other exemptions

No comment, although I recollect making a submission about veterinary clubs in about 2006. I also note that the need for a comprehensive review of the treatment of the various entity types in the Third Sector was discussed with a member of the McLeod Review, and I repeat that this is needed.

Q13 FBT treatment

No comment.

Q14 volunteers and honoraria

The fact that there has been a rule established for members of Fire and Emergency New Zealand but without wider analysis just demonstrates that there is a need for a comprehensive review. The current treatment creates some risks in the use of “volunteer agreements” enabling some form of control of volunteers, although such control is needed for Health and Safety risk management.

Q15 donation tax concessions

It is surprising that the recent survey identified a poor understanding of the availability of donations tax rebates. This may be because there is no need for many individuals (mainly receiving employment-related income) to file income tax returns. I am in favour of reforms to the administrative process, but I recognise that Inland Revenue is unlikely to do this unless there is encouragement by Government.

⁵ See section 61(34) of the Income Tax Act 1976.

⁶ www.rbnz.govt.nz/monetary-policy/about-monetary-policy/inflation-calculator.

APPENDIX: Business of Investing

A key question is whether the investment activities of a trust (including a charitable trust) represent a “business”.

The term “business” is defined to include “any profession, trade, manufacture, or undertaking carried out for pecuniary profit”. That concept has been judicially interpreted in the leading decision, **Grieve v CIR**.⁷ Richardson J stated that the test of “business” involves a two-fold enquiry into the nature of the activities carried on and into the intention of the taxpayer in engaging in those activities. Relevant considerations are the nature of the activity, the period of engagement, the scale of operations and volume of transactions, the commitment of time, money and effort, the pattern of activity and the financial results. The active management of an investment portfolio may often result in the entity being characterised as being in “business”, even if there is not quite a “dealing” business. The nature of the investments, whether fixed interest securities, shares, derivatives, land, or other assets, is largely irrelevant.

There have been a number of cases in New Zealand that have followed the principle first enunciated in **Californian Copper Syndicate (Limited and Reduced) v Harris** (1904) 5 TC 159. Richardson J synthesised the case law in **AA Finance Limited v CIR** stating:⁸

Liability to tax does not depend on showing that the taxpayer is carrying on a separate business of dealing in investments. A transaction may be part of the ordinary business of the taxpayer or, short of that, an ordinary incident of the business activity of the taxpayer although not its main activity.

Five cases decided in the 1990s are useful illustrations of the current position in New Zealand. In **State Insurance Office v CIR**,⁹ a general insurer successfully contended that peculiarities of its investment fund meant that its sale of shares was not part of its business. Similarly, another general insurer was able to show that its sale of its whole 30 percent shareholding in a private merchant bank was a capital gain and not within the scope of its business.¹⁰

By contrast, Rangatira Limited was an investment company for predominantly charitable shareholders. The Commissioner assessed Rangatira on gains from the realisation of shares during the 1980s, and the tax dispute was finally determined in the Privy Council.¹¹ The taxpayer had had a long-term investment focus, but sharemarket conditions and volatility during the 1980s had led to an increased frequency of share sale transactions. The trial judge had held that there was no “business”,¹² but was reversed by the Court of Appeal on the basis of the frequency of the transactions.¹³ The Court of Appeal focussed on the existence of 51 sale

⁷ [1984] 1 NZLR 101 (CA).

⁸ (1994) 16 NZTC 11,383 (CA).

⁹ (1990) 12 NZTC 7,035, [1990] 2 NZLR 44 (HC: Heron J).

¹⁰ **CIR v National Insurance Company of New Zealand Limited** (1999) 19 NZTC 15,135 (CA). The decision cites **Waylee Investment Limited v CIR (Hong Kong)** [1990] BTC 543 (PC). In **Waylee**, the relevant holding was also of 30 percent of the share capital of a company. The shares had been acquired by the taxpayer as part of a debt recovery plan (or rescue) of a customer of a bank, which was the holding company of the taxpayer.

¹¹ **Rangatira Limited v CIR** (1996) 17 NZTC 12,727 (PC).

¹² **Rangatira Limited v CIR** (1994) 16 NZTC 11,197 (HC: Gallen J).

¹³ **CIR v Rangatira Limited** (1995) 17 NZTC 12,182 (CA).

transactions over a seven-year period. The Privy Council restored the decision of the High Court on the basis of the determination being a question of fact, citing **Edwards v Bairstow**.¹⁴

Contemporaneously, a superannuation scheme was held to be subject to tax on its gains from the sale of shares. The reasoning is, however, unsatisfactory with respect to the application of the first limb of the predecessor to section CD 4.¹⁵

In a case involving a taxpayer's claim for deductions of losses incurred in relation to the purchase of shares, Cooke P agreed with the proposition that "where a person spends a significant part of each day pursuing share trading activities, has some 10's of thousands of dollars at risk, and engages in, say, 10 transactions per month" there is a business.¹⁶ The position is perhaps best summarised by Richardson P in the **National Insurance** case:¹⁷

[A]s Lord Bridge observed in **Waylee Investment Ltd v CIR**, it has to be recognised that the law has never succeeded in establishing precise rules which can be applied to all situations to distinguish between trading stock and capital assets; and the indications to show to which category a particular investment belongs may be uncertain, inconclusive or even conflicting. And in **Rangatira** Lord Nolan observed that "whether a particular business consists of or includes the buying and selling of shares for profit is indeed as much a businessman's as a lawyer's question".

Submission

I submit that the lack of clarity existing in the early 1990s still exists. It might be suggested that the cases do not apply to charitable trusts. However, the statement made in **Rangatira** does refer to trustees. Although Lord Nolan refers to the question being a businessman's question, that does not provide the precision that is needed in order to have an administratively efficient tax system.

Even if it might be rare for a charity to be treated as being in business, it is not impossible. The simplest way forward is to declare that charitable trusts and other registered charitable entities do not derive business income from their investment activities.

¹⁴ [1955] 3 All ER 48 (HL). The Privy Council also relied on dicta of Cooke J in **Calkin v CIR** (1984) 6 NZTC 61,781, 61,785 (CA).

¹⁵ **Piers v CIR**

¹⁶ **CIR v Stockwell** (1992) 14 NZTC 9190, 9193-4 (CA). Cooke P indicated a leaning against a finding of "business" in the situation of an individual having one transaction per month. Subsequently, Lord Cooke of Thorndon was a member of the Privy Council in **Rangatira Limited v CIR**, supra. In that case, the Privy Council stated (at 12,730): "It may well be that in the case of individuals or trustees the holding of investments would very rarely amount to the carrying on of a business." The references to dollar amounts emerged in the course of a series of cases involving individual taxpayers claiming tax losses from their share investments that were adversely affected by the October 1987 sharemarket crash.

¹⁷ Supra, 15,138.

To: Inland Revenue Department – Policy Team

Subject: Submission on “Taxation and the Not-for-Profit Sector” Consultation

Submitted by: Stephen Talbot

Date: 31 March 2025

SUMMARY OF SUBMISSION

I commend Inland Revenue for its careful review of the charitable and not-for-profit (NFP) tax settings. This submission reflects concerns arising from both research and practical experience in the charitable sector, especially as it relates to the proposed reconsideration of tax exemptions on unrelated business income.

The core position is this:

The spiritual, social, and economic contribution of the charitable sector far exceeds the limited revenue that might be gained through altering current tax exemptions. Any policy shift that undermines the financial sustainability of charitable enterprises risks narrowing the nation's view of value to purely fiscal terms—while overlooking the immense public good charities deliver daily.

RESPONSE TO CONSULTATION QUESTIONS

Reasons *not* to tax charity business income

- **Undermining innovation and sustainability:** Charities increasingly rely on social enterprises and business arms to generate stable income streams that reduce reliance on fluctuating donations or grants. Taxing these enterprises discourages this kind of self-sufficiency.
- **Marginal fiscal gain:** Available data does not demonstrate that taxing unrelated charity business income would yield significant revenue gains. Instead, it risks increasing compliance costs and administrative burden for both government and charities.
- **Spiritual and social capital:** Charities don't merely provide services; they foster social cohesion, spiritual wellbeing, and human flourishing. These outcomes, while difficult to quantify, yield immense benefit to the public.
- **Perpetuates an outdated model:** Viewing charities as reliant only on donations is out of step with how modern charities operate and grow their impact.

Practical implications if exemption is removed

- **Definitional complexity:** The line between related and unrelated business activities is often blurred—e.g., a charity focused on housing might operate a construction company as a training/employment pathway.
- **Regulatory arbitrage:** Charities may respond by funnelling income through other structures or distributing profits to avoid taxation, reducing transparency rather than increasing it.
- **Charitable impact at risk:** Less surplus means fewer funds reinvested into community programmes. The net effect could be a contraction of charitable services at a time when public need is growing.

Defining unrelated business

- Definitions must account for mission alignment, not just legal separation. For example, a charity promoting health that operates a gym for public access is arguably related.
- Policy must include provisions for:
 - Volunteer-led enterprises
 - Donation-based businesses (e.g., op shops)
 - Social enterprises with clear impact reporting

Thresholds for small-scale exemptions

- A tiered system, as proposed, is sensible and would recommend:
 - Full exemption for Tier 3 and 4 charities
 - Clear dollar thresholds aligned to turnover, not just expenses
 - Consider phased implementation with grace periods for transition

On distribution of income for charitable purposes

- If any taxation is introduced, there would be strong support for maintaining exemptions for income distributed to charitable purposes within a defined timeframe.
- However, enforcing a distribution requirement will introduce complexity and monitoring burdens. Therefore, allowing accumulation for mission-driven capital projects or reserves, with transparency requirements rather than penalties is suggested.

Additional policy considerations

- **Valuation of pro bono labour:** This is a real input cost that is difficult to measure but integral to many charity-run enterprises.
- **Transparency burden imbalance:** Charities are already more transparent than most private enterprises. Any policy change must acknowledge this and not increase the reporting burden disproportionately.
- **Sector engagement:** Smaller charities may not have capacity to engage in policy processes and urge the IRD to ensure equity of voice in the reform dialogue.

CONCLUSION

In the drive for fiscal efficiency, it is important that we do not lose sight of what makes Aotearoa stronger: our culture of generosity, manaakitanga, and collective responsibility. Taxation policy should enable—not encumber—the ability of charities to serve and transform lives.

I believe the current exemption on charity business income remains fit for purpose and aligns with New Zealand's unique values and global contribution. I caution against a narrow economic lens and advocate for a broader, values-based policy approach.

With gratitude,
Stephen Talbot

Submission to IRD on “Taxation and the not-for-profit sector” consultation paper.

1. Taranaki Veterinary Centre (TVC) is a veterinary club formed in 2006 & 2009 through the mergers of the South Taranaki Veterinary Club, Stratford & Districts Veterinary Club and Patea Veterinary Club. It is owned by the Taranaki Veterinary Club Trust.
2. It services ~480 dairy farms, ~120 sheep & beef farms and ~6,000 pet owners based around the small rural towns of Waverley, Patea, Hawera, Manaia and Stratford.
3. TVC employs 34 veterinarians and 50 support staff (increasing to 66 support staff at peak dairy workload times) operating out of 5 clinics.
4. TVC is governed by a board comprising of 8 elected farmers and operates as a not-for-profit co-operative veterinary practice to all its clients.
5. Taranaki Veterinary Centre advocates for the retention of Section CW 50 of the Income Tax Act 2007 which exempts veterinary services bodies from income tax.
6. Veterinary clubs are predominantly located in rural towns and geographical areas where private practices might find the return on investment difficult and unattractive. Maintaining the tax-exemption status of the clubs, ensures that animal care is available and animal welfare standards are maintained in rural and remote communities.
7. Many vet clubs in these remote areas have sold the business to private veterinarians, called a contract practice, and the vet club still plays a role with the practice, often as a landlord. These veterinary clubs offer low rents and a source of funds for infrastructure improvements that the contract practice may not afford or find investing in unprofitable.
8. Taxation of vet clubs will have implications that will spread into all the privately owned contract practices as the vet club will pass on any tax obligations that it may have as either as increases in rent, or reduced capacity to fund improvements. While the landlord vet clubs may not be participating directly in the provision of veterinary services, their not-for-profit, no taxation policy means that they are directly promoting efficient veterinary services through low rents and superior facilities to the contract practices, often in undesirable locations.
9. Non-profit veterinary clubs are strongly tied to their local communities, and part of the financial surplus generated each year is reinvested into projects that directly benefit these local communities.
10. For example, TVC’s published Purpose is “*Exceptional animal care and client support for our community*”. With this purpose in mind, TVC makes the following donations and sponsorships:
 - a. \$20,000 annually to the 4 local dairy research farms - making us the major sponsor of Dairy Trust Taranaki.
 - b. \$25,000 annually in cash donations to many schools, sports & culture clubs, and similar local community groups
 - c. Vehicle donated to Taranaki Rural Support Trust valued at ~\$16,000 every 4 years

- d. Free puppy parvo vaccinations annually to low socioeconomic areas – approximately 90 -110 vaccine units per year, total retail value a ~\$7,000 per year
 - e. Scholarships to veterinary students to assist with their individual fees and expenses totally up to \$8,000 per year
- 11. If vet clubs lost their tax exemptions status, funds currently used for these community-orientated projects would be redirected to tax obligations and placing these not-for profit and community groups under financial stress.
- 12. As well as direct sponsorship and donation, vet clubs also offer their services at no charge to support the community interests. This can vary from region to region but as an example TVC provides at no charge:
 - a. Dog Safety lessons at local schools
 - b. Basic animal care at local schools
 - c. Committee member for animal welfare on the Taranaki Rural Coordination Committee which responds to adverse events. As an example in the current Taranaki drought, TVC has donated around 80 hours of senior veterinarian and nutritionist time across all of Taranaki (not just our own clients) in planning and delivering drought information, messaging and support to farmers, preparing the drought application to MPI and other ongoing committee work. This has a value of \$20,000 at our hourly rate of \$250 ex GST.
 - d. Employees for veterinary industry committees and groups at no charge, for example, NZVA Dairy Cattle Vets, NZ Vet Council CAC, Massey University VetStart and other committees. It is estimated that around 200 hours of veterinary time, @ \$238 per hour (ex GST), is donated each year to industry bodies with a full value of ~\$48,000 annually. This donation of time assists these committees to function within their own budgets particularly in tight times.
 - e. Veterinarians and nutritionist present at DairyNZ farmer discussion groups to give advice and answer questions.
 - f. Hosting of around 40-50 veterinary students per year within the clinics to “see practice”, with each student staying for 1-2 weeks. This takes up a large amount of all TVC employees’ time with induction processes, teaching and learning and ensuring the students get to see an adequate level of work and is over double the number of students we would host if we did not want impacts on individual veterinarian earning capacity. 20 students for 1 week each at 1 hour per day of extra veterinary attention is worth \$24,000 annually at full veterinarian rates.
- 13. If vet clubs lost their tax exemption, TVC would have to consider dropping some or all of these important industry and community free services provision to focus on chargeable and profitable activities.
- 14. Veterinary clubs are structured to service the best interests of their clients and communities rather than investors. Without shareholders demanding financial returns on investment, the veterinary advice and services offered remain objective and focused on animal health and welfare to suit client needs as opposed to profit generation. The

veterinary club model continues to promote sustainable veterinary services through trust and efficiency.

15. A shift towards a profit-driven tax-paying model could influence veterinarians' recommendations with clients to more expensive or profitable treatments rather than those most appropriate for the animal's health and welfare.
16. This increased pressure of increased financial demands and expectations on profitability from the employees could lead to increases in an already high level of burnout among veterinarians, leading to staff shortages and a decrease in the quality of animal care provided.
17. Veterinarians remain on the highest skilled shortage list in New Zealand. The not-for-profit veterinary club model provides a superior and more supportive environment for both recent New Zealand graduates and those emigrating from other countries. The low pressure for returning profit expectations means that the focus is more on mentorship, technical skills, and trusted advisor and relationship training. The veterinary club structure is vital in attracting and retaining skilled professionals within rural regions and preventing burnout and mental wellbeing disease and issues.
18. Boards of veterinary clubs are largely composed up of local farmers elected on by their peers. This gives members of rural communities the opportunity for governance training and experience that might not otherwise be available in private practice where the board is composed largely of veterinary shareholders. Some veterinary clubs, including TVC, also appoint Associate Directors annually to give further opportunity for governance training.
19. Veterinary clubs are providing a source of people available for governance of other rural organisations such school board of trustees, sports clubs, and many industry organisations such as Federated Farmers, Dairy Women's Network, Fonterra shareholders council etc.
20. Veterinary clubs will mitigate the new tax obligations with a reduction in board numbers and governance training and courses provided and this will reduce the pool of rural people available for other organisations in the rural and local community space.
21. The veterinary sector in New Zealand is undergoing massive and rapid corporatisation as what has occurred in other countries in both companion animal and production animal practices. The corporate businesses are purchasing smaller veterinary clinics and in large areas of New Zealand there is now a lack of competition in the provision of veterinary services. Examples of corporate businesses are:

a. s 18(c)(i)

b. Franklin Veterinary Services - has expanded significantly, becoming one of the largest privately owned veterinary practices in New Zealand. They operate multiple clinics across Northland, South Auckland, North Waikato, and the Hauraki districts.

s 18(c)(i)

s 18(c)(i)

- d. VetPartners - is a very large, small animal veterinary clinic business in New Zealand, owning over 270 clinics across Australia, New Zealand, and Singapore. They have significantly contributed to the consolidation trend in the veterinary industry.
22. The profitability of smaller veterinary practices both rural and urban is low when compared to other professional services businesses. These practices have difficulty selling their practice to existing staff, as was the case historically, and it is these corporate businesses that are buying them and thus reducing competition across the market.
23. Maintaining the tax exemption status of veterinary clubs will allow them to have a better chance of surviving in the future with low profits and ensuring that competition remains in rural New Zealand for both livestock and pet owners. One could argue that the rural areas have the least buffer against rising prices that are likely to occur through lack of competition and from profit driven corporations.
24. In summary, Taranaki Veterinary Centre strongly opposes any changes to Section CW 50 of the Income Tax Act 2007. The current veterinary club model ensures sustainable access to efficient and affordable veterinary care in rural areas, provides significant community benefits through sponsorship, donations and uncharged services, promotes unbiased and high quality animal care, and supports staff and governance development in rural areas.
25. Removal of the tax exemption would jeopardise these benefits, leading to undesirable economic and social consequences to already struggling rural areas. We urge this consultation process to recognise the invaluable contribution of not-for-profit veterinary services and to maintain their existing tax-exempt status to continue fostering animal welfare and community well-being across New Zealand.

Thank you for considering this submission,

On behalf of the Board

Taranaki Veterinary Centre

s 9(2)(a)

Stephen Hopkinson BVSc

Chief Executive Officer

Response to the Officials' Issue Paper, Taxation and the not-for-profit sector submitted on behalf of the Deacons of Ponsonby Baptist Church by Peter Lineham

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?

This submission identifies compelling reasons not to tax charity business income. In the case of our small church, investments over many years and renting out of rooms for events have enabled the church to gain a source of income separate from current donations, and we fail to see why property investments which make a return are thereby rendered a target for taxation. Our church, although with less than 100 regular members, has a substantial impact in the community, through the separate CORT housing Trust established by the church many years ago, which runs as a separate entity, by community activities, for example a monthly barbecue for people housed by CORT, regular events providing for people with no other connection to the church, and the use made of our beautiful but old wooden heritage church building (erected in 1886 and requiring significant upkeep costs) for concerts and social events by a range of musical organisations, and for an annual concert by people with mental health issues. All these events would not be possible without significant subsidies by the church, and lie far beyond the means of just the regular donation income.

The assumptions made by the Official Paper are in our opinion misconstrued. The history of charities running businesses is a fraught one. Many a church has run a charity shop, and then discovered that the costs and the need to store goods outweigh the benefits. Consequently charities tend to operate niche businesses which are rarely in direct competition with commercial operations. Furthermore, it is by no means clear that untaxed charities will be aiming to maximise profits for income-generating operations. They will typically seek to model best-practice for example in their payment to staff of a living wage, or by making their specialist knowledge in the business area available to others, through investing in public-good research in the area. In our case rental of our rooms to the various AA organisations at a low rate has meant a benefit for them while helping us to have a stream of income.

We are aware of other charitable bodies (for example Trinity Farms and the Foundation North established with specific reasons to create funds to which other charities like our own could apply on a competitive basis for support for specific projects. Since the *raison d'être* of such bodies was specifically not to do business but to support charities through applying profits from investments or income generating operations, we argue

that profit of this kind is not taxable. Specifically, since the effect is not to drive up process (argued in 2.10 in the paper). And as the paper argues, there is no evidence of predatory competition undertaken by charities, and indeed if this is a concern, then it should be addressed in the rules of Charities New Zealand not in the IRD rules. The arguments of 2.13 of second-order advantages are weak in our opinion, since charities are severely restricted in their potential to raise equity capital. In relation to the statement made in most of the following questions of “If the tax exemption is removed for charity business income that is unrelated to charitable purposes”. The term “unrelated” is rather loaded and misconstrued. All income of a charity has a relationship to charitable purposes, regardless of how it is gained. It is about the availability and use of that money. Any form of taxation reduces the money available to be used for charitable purposes and will ultimately weaken the charitable sector.

We are unsympathetic to the argument about the impact on government income (2.15-2.16). The New Zealand charitable sector is significantly smaller than it is in many other countries. The charities that exist make a very substantial contribution to the well-being of New Zealanders, in both measurable and intangible ways. The charitable outcomes are reported to Charities New Zealand in annual reports. The work being undertaken by various agencies by Dr Juliet Chevalier-Watts of Waikato University, Charities Law Reform ANZ, the Grant Thornton report on “Doing Good and Doing it Well?”, and the Were Report all demonstrate that the best policy of government is to strengthen, not weaken the sector. Weakening this sector will come at a high cost to the government and to civic wellbeing.

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 practical result (assuming that there is some clear way to determine profit/loss on specific investments) is that the church would have a significant reduction in income, and we would either need to raise the charges for the rental of our space if this was practicable, or to reduce our activities. It should be noted that, for example, our church hall is used by many small community groups, and increases in prices would probably mean that some groups could not afford our services.

The consequence of the taxation of charitable bodies, which we applied to for grants specifically for an alteration to our building, is that the amount of grant money available would be significantly reduced, and we would need to find way to compensate for the loss of income, probably by rising rents.

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?

We think that the presuppositions of this question reveal the double talk involved in this official issues paper. Any business which contributes to the ability of the charity even if its objective is separate from the charity should be regarded as charitable.

It is also the case that some of the largest bodies which operate as businesses raising money for charities were developed for more than business reasons. For example, the Sanitarium business was set up specifically because Seventh-day Adventists were believers in food reform, reasoning that a healthy body was a spiritual goal. Similarly Trinity Lands came out of a group of farmers some of whose sons and daughters were going overseas for missionary purposes, and farmers freely gave their labour to support the missionary objectives.

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 question appears to be loaded with assumptions, but we would note that the energies in which each business venture would need to maintain its own profit and loss account with expenditure would greatly increase the accounting support required for many charities, and would be particularly severe at the lower tiers of charities where much of the work is undertaken on a voluntary basis.

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?

Certainly it should on the same logic that charitable donations by individuals are exempt from taxation.

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?

We would note that in ordinary businesses, setting aside money for research and for business development rather than for distribution to shareholders is regarded as good business practice.

Chapter 3: Donor-controlled charities

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?

We have little knowledge of the private trusts described in this section of the white paper, and tend to support separate rules for these bodies to operate under.

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?

No comment.

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?

No comment.

Chapter 4: Integrity and simplification

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.

This is outside of our experience, and we have no comment to make.

Q11. What are the implications of removing the current tax concessions for friendly societies and credit unions?

We have no comment to make on these issues, but would note that the number of such bodies seems to be in decline.

Income tax exemptions

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?

We agree that non-resident charity tax exemption is capable of abuse, and if the body wishes to gain donors in New Zealand, then it should establish a branch under New Zealand law, and are aware of this occurring in many aid and development agencies.

We note that New Zealand based charities are able to donate a limited proportion of their charitable income to overseas agencies, but that this level is limited.

FBT exemption

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?

Compliance costs are high for Fringe Benefit tax, and we are loathe to see this disappear without genuine evidence that it would be less costly to administer. However, we accept that FBT rules are not entirely logical at the moment.

Tax simplification

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?

It is certainly the experience of the author of these responses that honoraria create tax complexities which are very difficult to calculate. It should also be borne in mind that honoraria may be intended not just as a voluntary contribution but also to meet costs incurred in providing the services undertaken (e.g. travel costs). This makes the whole area very fraught for volunteers. Sometimes the honoraria are not worth the trouble incurred. This is an unfortunate situation.

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?

This would be a significant piece of work, with immense pressures on the IRD and on donor organisations which would probably have to collect IRD numbers from donors. But it might enhance the willingness of donors, and would also make it possible to follow other tax regimes in Britain for example, where the donor can choose to donate the tax refund back to the charity. This would be welcome.

Submitted on behalf of the deacons of Ponsonby Baptist Church

Peter Lineham

Secretary

deaconsponsonbybaptist@gmail.com

43 Jervois Road, Ponsonby Auckland.

31 March 2025

Submission on charitable taxation in Aotearoa/New Zealand

Sport Canterbury's submission to Inland Revenue/Te Tari Taake

March 31, 2025

Overview: The function of Sport Canterbury and the effects of proposed tax reforms

Sport Canterbury is a Charitable Trust focused on enhancing sport and physical activity and improving community wellbeing throughout Waitaha and Te Tai Poutini. We are one of 18 Regional Sports Trusts (RSTs) across Aotearoa/New Zealand and collaborate with Government agencies, iwi, community groups and Regional Sports Organisations to promote play, active recreation and sport in our area.

Sport Canterbury supports equitable access to physical activity, especially in underserved communities. Our efforts include school and community health programmes, namely Healthy Active Learning, Healthy Families and Live Stronger for Longer, supporting volunteer development, running equity-focused initiatives, and promoting health and wellbeing through movement.

To maintain these services, Sport Canterbury depends on several revenue sources, including central and local Government funding, grants from Community Trusts, partnerships and business activities. These for-profit business activities include providing back-office shared services for sport and recreation organisations. In the last financial year, Sport Canterbury earned \$700k (11.5 % of our revenue) from these activities and commercial sponsorships. Crucially, Sport Canterbury's operations - funded through grants, sponsorships or commercial income - are conducted under a single legal entity and operational structure (the Canterbury West Coast Sports Trust). This makes it challenging, if not impossible, to separate business activities related to charitable purposes from those that are not in an administratively practical way.

The proposed taxation changes would have several unintended consequences for Sport Canterbury, including:

- Reduced ability to reinvest in charitable services because taxation would divert funds away from community programmes
- Increased administrative complexity arises from the need to artificially divide shared overheads (such as staff time and office costs) between taxable and non-taxable activities
- Penalising prudent financial management. Sport Canterbury, which builds reserves to ensure our sustainability, would still face tax liabilities even if income is eventually used for charitable purposes
- Additional staff remuneration costs due to potential Fringe Benefit Tax (FBT) changes. Sport Canterbury relies on non-salary benefits, such as the private use of RST motor vehicles, to help match remuneration levels in other sectors. If these benefits are taxed, Sport Canterbury would either need to pay the FBT or increase salaries to remain competitive, further straining budgets and limiting service delivery.

These changes would also threaten to impose cost and complexity on Regional Sporting organisations, clubs and other charities within the sport and recreation sector across our region, undermining Sport Canterbury's goal of supporting the increase in sport and physical activity. Clubs generate a substantial portion of their income from business activities, including running a bar or renting out facilities. These small community organisations typically operate on tight budgets with limited reserves, so any reduction in available funds will reduce their activities even further.

For these reasons, we strongly oppose the proposals within this consultation that would remove tax exemptions for business income earned by charities and increase FBT liabilities for organisations like Sport Canterbury.

Below are our responses to questions 1,2,3,5 and 6 and question 13, contained in the Officials' Issues Paper *Taxation and the not-for-profit* sector, issued by Inland Revenue/Te Tari Taake on February 24, 2025.

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?

Sport Canterbury is firmly against the taxation of charity business income due to the adverse practical consequences it would bring. **Here are the reasons why:**

- **Reduction in funding for charitable activities:** Sport Canterbury reinvests our revenue into community programmes. Taxation on our business profits or a fringe benefits tax (FBT) would directly reduce the funds available for these programmes, diminishing the positive societal outcomes we achieve
- **Increased compliance burden and costs:** Sport Canterbury's activities are conducted within a single legal framework (the Canterbury West Coast Sports Trust), making it difficult to distinguish between "related" and "unrelated" business activities for tax purposes. Allocating overhead costs like executive salaries, rentals and other administrative expenses between taxable and non-taxable activities would increase compliance and audit costs. This would likely necessitate external tax consultancy, further straining Sport Canterbury's financial resources and reducing the funds available for our charitable missions
- **Financial Instability:** The consultation paper suggests deductions for business income distributed for charitable purposes. If deductions are only permitted when income is immediately used for charitable activities, Sport Canterbury would be discouraged from building the financial reserves we need for sustainability
- **Impact on the sport and recreation sector:** Sport and recreation clubs significantly contribute to physical activity and wellbeing. Although IRD indicates bodies promoting amateur sports and games may not be affected unless registered as charities, the number of impacted clubs is unknown. A 2023 [New Zealand Institute of Economic Research study](#) found sports clubs earn about 30 percent of their revenue from business activities, often within a single legal structure. Taxation could reduce their activities, undermining their sustainability.

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?

Sport Canterbury has outlined the practical consequences of removing the tax exemption in our response to question 1 above.

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?

This is a crucial matter for Sport Canterbury. Although our Regional Sports Trust opposes the removal of tax exemptions, if they are eliminated, any definition of unrelated income must:

- **Acknowledge the interconnected nature of charitable activities:** Many revenue-generating activities directly support charitable work, even if they seem unrelated at first glance. For instance, if our offices generate revenue by renting rooms to community groups for meetings, it becomes more challenging to determine if that income is related to our charitable activities. Similarly, it requires judgement to decide whether providing shared services in the sport and recreation sector is related to Sport Canterbury's charitable purpose in promoting sport and physical activity
 - **Ensure administrative practicality:** Complex definitions of "unrelated" income would lead to disproportionate compliance costs, requiring the use of professional advisors and possibly necessitating structural changes to ensure Sport Canterbury complies with taxation legislation. This is in addition to the complexities mentioned above in allocating revenue and expenditure according to any definition, given Sport Canterbury operates under a single legal structure.
-

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?

Sport Canterbury supports this approach but there are still some issues.

- **Penalises prudent financial management:** Sport Canterbury, which accumulates financial reserves for long-term sustainability, would be taxed on the retained amounts. This contradicts the need to ensure the stability of organisations like Sport Canterbury
- **Ignores cash flow realities:** Sport Canterbury might earn funds in one year to support activities in future years or experience a timing mismatch between earning and distributing funds. This would require us to pay taxes in one year and reclaim them in the future. The consultation paper does not clarify whether tax credits can be carried forward to future years when Sport Canterbury distributes more than we earn
- **Imposes compliance burdens:** Allowing deductions for business income distributed for charitable purposes will still require Sport Canterbury to bear additional compliance costs and burdens as previously outlined.

The consultation paper indicates the IRD believes charities are motivated to maintain larger retained earnings due to the current non-taxation of their business income (paragraph 2.13). However, sport and recreation clubs indicate this is not the case. These organisations often reserve less than six months of operating expenses as they continuously struggle for funding. The funds they receive are typically spent on their charitable activities, leaving them with insufficient reserves to handle unexpected events. This was evident during the impact of the Canterbury earthquakes in 2010 and 2011, which resulted in many sport and recreation clubs struggling to repair and rebuild facilities or manage the loss of income. Taxing undistributed income will worsen this situation and increase the financial vulnerability of these organisations.

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?

We have outlined the policy issues needing consideration if the tax exemption for unrelated business income is removed from charities. Sport Canterbury requests policy settings

acknowledge these concerns and, if the exemption is removed, legislation includes measures to:

- **Reduce compliance and administrative burdens:** The law should address how to alleviate these burdens for organisations like Sport Canterbury, which cannot easily separate revenue from taxable and non-taxable activities, or the costs associated with generating this revenue, as we operate under a single legal and operational structure
 - **Allow flexibility for financial reserves:** Charities should not be compelled to spend income immediately to avoid taxation, as this would undermine their sustainability and fail to recognise the nature of how income is received, and charitable activities are funded
 - **Clarify the definition of unrelated business income:** It is crucial to clearly define what constitutes unrelated business income to understand the impact of any law change removing the tax exemption on Sport Canterbury. This definition must be precise enough to avoid uncertainty while acknowledging activities may generate both related and unrelated business income that is not easily separated.
-

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?

Eliminating or reducing the FBT exemptions for charities will negatively impact Sport Canterbury, directly reducing the funds available for our charitable activities. We operate a large fleet of 24 vehicles, allowing staff to deliver community services. Salaries within RSTs are generally lower than those in the private sector, so we offer vehicle use to employees to bridge this gap. Therefore, removing or reducing the FBT exemption for charities will have the following effects on Sport Canterbury:

- **Increased costs:** Sport Canterbury will face new compliance costs as we will need to start filing FBT returns
- **Diversion of funds from community programmes:** If Sport Canterbury continues to provide vehicles for private use, the FBT cost will reduce the funds available for our charitable activities
- **Difficulty retaining staff:** Removing vehicle use from employment contracts will make it harder to retain staff due to the salary gap with the private sector. For existing staff, the provision of vehicles for private use will need to be "bought out" from their contracts or phased out as employees leave, incurring additional costs.

The rationale for removing/reducing the FBT exemption for charities seems to be based on the idea it distorts the labour market, giving charities a competitive advantage over private sector competitors by lowering staff costs. However, this argument does not apply to Sport Canterbury, as we don't have private sector competitors.

Summary

The proposed changes to charity taxation would jeopardise Sport Canterbury's future financial stability, increase administrative burdens and diminish the funds available for community programmes. We strongly urge the IRD to maintain the current exemptions, allowing Sport Canterbury, RSTs and other charities to continue providing essential services to enhance New Zealanders' wellbeing.



Alhambra-Union Rugby Football Club Inc.

www.aurugby.nz

vis unita fortior - 'unity is strength'



31st 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 Alhambra-Union Rugby Football Club has been a cornerstone of our local community since 1872, 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. We are alongside the University of Otago and Otago Polytechnic and as such we support many first-year students who arrive in Dunedin from out of town.

Beyond playing rugby, we have other sports clubs involved with us - rugby league and netball. The clubrooms are rented out to many organisations, many like

student organisations and charities at a heavily reduced cost and sometimes at no cost. 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 recently hosted for our players a mental health night called Mind, Set, Engage.

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. Alhambra-Union RFC 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,

Geoff Simons
Treasurer

s 9(2)(a)

Alhambraunion1872@gmail.com



DEVELOPMENT WEST COAST

Te Ohu Whakawhanake o Te Tai Poutini

FLCHA

31 March 2025

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

By email: policy.webmaster@ird.govt.nz

Dear Deputy Commissioner

TAXATION AND THE NOT-FOR-PROFIT SECTOR - DEVELOPMENT WEST COAST

Development West Coast (**DWC**) is the regional economic development agency for the West Coast region, and a registered charity. DWC is concerned that it, and the West Coast region, could be negatively impacted by the effect of tax changes under consideration in the Official's issues paper, *Taxation and the not-for-profit sector*, issued on 24 February 2025 (**Issues Paper**).

This letter sets out DWC's major concerns arising from the Issues Paper. Officials will also be aware that on 21 January 2025 DWC wrote to the Minister of Finance in her capacity as settlor, and the Minister of Revenue, seeking legislative clarification of DWC's tax status. The submissions in this letter, and the request in the 21 January letter, should be regarded as separate matters for consideration.

1. Background

- 1.1. DWC is a trust settled by the Minister of Finance on behalf of the Crown in 2001. DWC was established as part of a package intended to ameliorate the economic impact of decisions made by the government in the 1990s in relation to the cessation of indigenous logging and the privatisation of infrastructure on the West Coast. A number of other economic and social difficulties existed in the West Coast region at that time, including high unemployment, low economic growth, minimal property market growth, a reduction in forestry opportunities, low mineral and commodity prices, and significant external challenges to its tourism industry (including SARS and high oil prices).
- 1.2. The West Coast region was hit hard during the 2020 – 2022 period of the COVID-19 pandemic and lockdowns, and continues to face significant economic challenges today. DWC understands and is actively addressing these economic challenges, as a transparent, well-governed entity, subject to audit by the Auditor-General.
- 1.3. The charitable objects of DWC are directed at the promotion of sustainable employment opportunities and economic benefits in and for the West Coast Region, including by supporting projects which are not the ordinary day-to-day running, maintenance and upgrade of the infrastructure that is normally the responsibility of the local authorities or central government. DWC is required to manage its trust fund in a manner which provides adequate and reasonable protection of the funds to ensure both that present

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WEST COAST
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NEW ZEALAND

development opportunities are taken, and that current and future generations will benefit from the establishment of the trust fund. In other words, DWC was established by the Government for the stewardship of funds for public benefit on an enduring, intergenerational basis.

- 1.4. DWC performs a significant role in the development of the West Coast region. DWC has demonstrated over the last 24 years that it is responsive to the economic environment and needs of the West Coast region and its people. DWC has contributed greatly to the region, making commercial investments totalling over \$115 million, and putting an additional \$81.9 million into the region through community distributions and other projects. At the same time, it has grown its equity to approximately \$150 million.
- 1.5. DWC was intended to be exempt from income tax on its own income. DWC's subsidiaries operate businesses which are subject to income tax (see DWC's 2024 Annual Report at https://d3sak6swcqiww.cloudfront.net/media/documents/2024_AR_Web.pdf). DWC is a registered person for GST purposes, and it makes standard-rated and zero-rated supplies.
- 1.6. DWC derives income from its investment portfolio (deriving an annual return of 10.24% in the 2024 financial year). It provides commercial financing (commercial lending, equity investment, and guarantees) to West Coast businesses (DWC has received 454 applications totalling over \$367 million, and has committed to 256 distributions totalling \$115.5 million). DWC is actively assisting businesses operating in the West Coast region with training and resources, including business mentorship, training and leadership programmes. DWC is deeply engaged with regional development projects to attract investment and increase economic development, specifically by facilitating and supporting Te Whanaketanga: Te Tai Poutini West Coast 2050 Strategy.
- 1.7. DWC has been careful to manage its exempt income tax status in accordance with the law. It is registered with Charities Services as a charitable trust, and has obtained binding rulings from the Commissioner of Inland Revenue to ensure that it manages, so far as is possible, its tax status. As noted above, DWC has recently written to the Minister of Finance (as settlor) seeking a legislative change to reduce advisory and compliance costs and to give it appropriate tax certainty. DWC considers that a legislative change confirming its tax exempt status is appropriate, regardless of whether the current tax treatment of charities' business income under the Income Tax Act 2007 changes.

2. Submissions

- 2.1. DWC was established by the government to serve the West Coast region, in order to ameliorate the negative effects on the region of government decisions and actions. DWC is not an entity of the kind that the Issues Paper is primarily concerned with. DWC is concerned that it does not become subject to income tax as an unintended consequence of the tax changes which may occur as a result of the Issues Paper.
- 2.2. DWC is, and was always intended to be, exempt from income tax as a trust established for charitable purposes. It is a registered charity. To the extent that the DWC group derives income through the business activities of subsidiaries, that income is subject to tax. DWC submits that this is an appropriate tax outcome.
- 2.3. DWC does not consider that the Issues Paper makes a compelling case for the taxation of charity business income, and is particularly concerned that any changes should not impact its ability to operate in the manner, and to achieve the goals, intended by the government when DWC was established. Changes that negatively impact DWC's ability to derive income from investments, and to exercise stewardship of its

funds on a sustainable, long term, basis would cause particular difficulties for DWC and the West Coast region.

3. Issues Paper – specific issues raised, and questions asked

3.1. DWC makes the following general observations:

- a) The Issues Paper does not identify a problem that would be solved by the imposition of tax on charities' business income.
- b) The Issues Paper does not identify difficulties arising from the "destination of income" approach upon which the current exemption is based. DWC notes that registered charities must apply their resources exclusively to the pursuit of their charitable purposes, regardless of whether the income they earn from commercial activities is distributed immediately, or accumulated for use in future.
- c) The Issues Paper does not appear to contemplate the potential impacts on charities such as DWC, which was established to compensate for the effect of government policy decisions, and to operate for benefit of the West Coast region on an intergenerational basis. Specifically, imposing income tax on accumulations of income by charities may impede their ability to provide enduring public benefit.
- d) As DWC was established by the government effectively to compensate the West Coast region for the consequences of certain government decisions, DWC submits that changes (if any) made to the tax treatment of trusts should not result in DWC being in a less favourable financial or tax position than currently. Any reduction in the financial resources available to DWC to serve its charitable purposes would be inconsistent with the original purpose and intention of the government.

3.2. As a registered charity, DWC confines its comments on the specific questions raised in the Issues Paper to those concerning the taxation of charity business income.

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?

3.3. Paragraph 1.4 of the Issues Paper states "[e]very tax concession has a "cost", that is, it reduces government revenue and therefore shifts the tax burden to other taxpayers". DWC submits that this statement (together with paragraph 2.15 of the Issues Paper, which focuses on the "fiscal cost" of not taxing charity business income) fails to take into account the fact that DWC and other registered charities throughout New Zealand provide significant services and community support, the burden of which would otherwise fall on the taxpayer, or not be available at all. In addition, entities such as DWC may be able to provide a greater "per dollar" impact than government or private enterprise due to their specialist knowledge, regional focus, governance structure and ability to draw on volunteer labour and community goodwill.

3.4. DWC submits that there is no compelling reason to tax charity business income, and further that the taxation of charity business income, far from relieving taxpayers of any burden, would likely increase it. Impeding DWC's ability to serve its charitable purposes would have a long term negative impact on economic activity in the West Coast region that DWC serves, leading to an increased need for government support, and an associated reduction in tax take from goods and services tax, employment and other income taxes.

3.5. Paragraph 2.13 of the Issues Paper lists "second-order imperfections" in the income tax system that may result in advantages and disadvantages for charitable and non-charitable trading entities. Paragraph 2.14

identifies the potential advantage that a charity might derive from reinvesting tax free profits into its trading activities, enabling faster accumulation of funds and expansion, but acknowledges that the same accumulation could potentially arise from any form of income derived by charities. Neither paragraph identifies a clear problem arising from the current exemption of charities' business income, and both are somewhat speculative.

- 3.6. DWC notes that paragraphs 2.8 to 2.12 of the Issues Paper acknowledge that the charity business income exemption does not give charities an advantage in price competition against taxed competitors.

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?

- 3.7. The main practical implication would be decreasing the financial resources available to charities, and therefore decreasing their capacity to carry out their charitable purposes for the public benefit, particularly in the longer term. The result is likely to be either or both of an increased burden on taxpayers, or an overall reduction in the level of community (and business) assistance and support available.
- 3.8. Like many charities, DWC is intended to continue indefinitely. Clause 4.3 of DWC's Deed of Trust requires that DWC's trust fund is to be managed in a manner which provides adequate and reasonable protection of the funds to ensure both that present development opportunities are taken, and that current and future generations will benefit. To be sustainable and effective in serving their purposes for the long term, charities need to be able to compensate for inflation (a significant issue in recent years), and to plan for the long term (including by committing to funding for long term projects). Reliance on donations or profits from charity shops staffed by volunteers (as it appears may be contemplated by the Issues Paper) is not possible for DWC, and in any event provides insufficient certainty and funding for these purposes, particularly given that donation yields may decrease at the precise time when the demand for charitable services and support increase, due to the effects of the economic cycle.
- 3.9. As identified in the Issues Paper (paragraphs 2.18 and 2.19) taxing income from charities derived from some sources but not others is likely to have a distortionary effect on decision-making, and lead to increased compliance costs for charities. Conversely, some charities may be constituted on a basis that requires them to do certain things, so that they have no choice but to derive "unrelated business" income.

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?

- 3.10. Charities must, by definition, only do things that serve their charitable purposes, and are not carried on for the private pecuniary profit of individuals. In DWC's case, this is specifically addressed in clause 4 of its Deed of Trust. As set out above, charities need to ensure that they have sufficient income to serve their purposes and, in most cases, are sustainable for the long term, or indefinitely. It is therefore submitted that everything that a charity does must be related to its charitable purposes, including business activities from which it earns income for application in pursuit of its charitable purposes.
- 3.11. Paragraph 2.22 of the Issues Paper states that the FBT rules already require some charities to distinguish between related and unrelated business activities. This is presumably a reference to section CX 25 of the Income Tax Act 2007, which has rules for determining whether an employee of a charitable organisation has derived a fringe benefit (i.e. a personal benefit). It is submitted that this is an inappropriate comparison because, as set out above, a charity's business activities must be directed exclusively at serving its charitable purposes, including by ensuring that sufficient financial resources are available to do so. Any

change to the FBT regime to extend the application of the regime is likely to have a significant cost for DWC, and a negative impact on its ability to attract and retain desirable skill sets to the West Coast region.

- 3.12. Depending on how “business” and “unrelated” are defined, there could be unintended consequences. For example, as part of the responsible stewardship of its funds, DWC holds an investment portfolio. The Issues Paper appears to suggest that “passive investment” is not intended to be taxed as an “unrelated business activity”. The intended position of a charity acting as a responsible steward of its funds by investing them with professional assistance and subject to a formal statement of investment policy and objectives (as is the case with DWC) is unclear. It appears possible that the scale of investment carried on by large charities could be taxed as a “business activity” that is not directly related to a charity’s core purposes. Paragraph 2.22 of the Issues Paper cites Interpretation statement *IS 24/08 – Charities – Business Income Exemption*, Inland Revenue, 16 September 2024, which highlights the potential uncertainty (from [51]).
- 3.13. DWC agrees that, as identified in paragraph 2.23 of the Issues Paper, there is significant potential for disputes about whether a trade or business exists, whether it is regularly carried on, and whether it substantially relates to a charitable purpose (with associated costs, uncertainty and potential unintended consequences, as discussed above). It is submitted that in the absence of a compelling need for the removal of the exemption, opening the door to the difficulties associated with attempts to define “unrelated business” is difficult to justify.
- 3.14. The rationale for certain unrelated commercial activities to remain exempt if the general exemption is removed (as suggested by paragraph 2.24 of the Issues Paper) is unclear. It is submitted that policies that are likely to have distortionary effects on decision-making by charities regarding their income-earning activities, or that impede the ability of charities to efficiently obtain funds for use in achieving their charitable purposes, should be avoided, unless there is a clear reason for such policies.

Q4: 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?

- 3.15. DWC observes that this is unlikely to be achievable without a significant degree of administrative churn, difficulty and cost – both for charities and for Inland Revenue, to no clear benefit.
- 3.16. DWC agrees that, at minimum, charity business income distributed for charitable purposes should remain tax exempt, but as set out above, submits that a distinction between distributed and accumulated business income for tax purposes appears to have no clear benefit, and will deprive charities of financial resources that could otherwise 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?

- 3.17. DWC submits that if there are concerns about specific organisations, specific business activities or specific charitable purposes, then those concerns should be addressed on an individual basis. DWC’s position is that the income tax status of entities such as DWC should, in any event, be clarified in legislation to preserve exempt income tax status.

DWC and its advisers would be pleased to discuss the points raised in this submission. Officials should contact Belinda Lunn at DWC s 9(2)(a), with a copy to Neil Russ at Russ + Associates s 9(2)(a), in the first instance.

Yours faithfully

s 9(2)(a)

HEATH MILNE
Chief Executive

cc Neil Russ, Russ + Associates - s 9(2)(a)

From: cp s 9(2)(a)
Sent: Monday, 31 March 2025 10:24 am
To: Policy Webmaster
Subject: Taxation and the not-for-profit sector

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

Hello from the South Island.

Here are my general comments which don't fit into the specific questions in the document, followed by my answers to those questions. Thank you.

General Comments

1. I would like to see resources deployed to proactive monitoring of organisations' eligibility for charitable status. Case in point, the recent "protest" activities of Destiny Church are completely incompatible with provision of public benefit, and should have consequences.
2. Please listen to the people who will make arguments in support of charities' ability to sustain themselves financially, and try to balance charities' contribution with fairness in how taxes are levied, particularly in regard to smaller charities; not the Sanitariums of this world (who took legal action against a small Christchurch shop a few years ago, because it was selling imported Weetabix as part of its specialty UK product offering) – they should pay their full share.
3. Introducing a publicly-accessible tool like Charity Navigator or similar sites in the U.S. would both help the public evaluate individual charities for potential donations, and create transparency and accountability with regard to spending on executives' compensation and percentage of funds that go directly into programmes. Perhaps a rich-lister would consider funding this.

Responses to the Document

Q1.

In the interest of fairness and equitably sharing the tax burden, activities that are not directly related to charitable purposes such as a (charitable/not-for-profit) hospital or school, should be taxed as regular business income, that's only fair. (Additionally, a capital gains tax would further level the playing field, an argument for another day.)

Q2.

Introducing a capital gains tax would help control for charities migrating from commercial activities to other/passive investments.

Q3.

No need to reinvent the wheel. We should adopt best practice from one or more similar countries which have tried-and-tested clear guidelines and requirements in place.

Charities whose leaders are compensated at inappropriately high levels should be removed from the list through active monitoring at least of larger organisations (leaders owning multiple homes, leading lavish lifestyles, etc.).

Outlays associated with religious proselytising, religious education and provision of any type of religious service should not be tax exempt in a secular country like New Zealand.

Q4.

Adopt best practice from one or more similar countries, including the thresholds for smaller charities, as in your UK example.

Q5.

Again, look to best practice from elsewhere. Item 2.34 regarding distributions to parent organisations – take a close look at whether this is appropriate, especially in the case of church-based charities.

Q6.

The Canadian example sounds worth looking at. I don't have any additional ideas, will leave that to the experts.

Q7.

The overseas examples seem to offer good starting points. Could we somehow incentivise potential donors to become part of a reputable existing charity in their area of interest, rather than feeling the urge to create something new with their name on it?

Q8.

Yes, restrictions should be included, potentially along the various models suggested.

Q9.

Yes to minimum distributions annually, with exceptions such as accumulation of funds for specific, validated projects. (Plus follow-through to ensure that this takes place.)

Q10.

I suggest that NFPs under a certain size should not be impacted; I would set a generous benchmark for size.

Q11.

If we had actual competition in our banking and financial services marketplace I would suggest that friendly societies and credit unions should not receive preferential treatment. However, given that they are minnows against the Aussie-based Great White Sharks and Killer Whales that rule the banking sector, I think that improving competition first is a better way forward.

Q12.

The proposed changes look sensible.

Q13.

No opinion.

Q14.

The FENZ example may simplify compliance for the volunteer, however, it probably increases liabilities (ACC, etc.) for the organisation, thereby depleting their available funds. In addition, if honoraria are treated as income, is there a risk that other for-profit organisations in the same field will object, and demand that such payments must be regularised with contracts and related obligations?

If the FENZ approach is extended to all charitable organisations I would like to see a minimum threshold below which such stipends are not liable for tax and do not require any paperwork.

Q15.

I agree with introducing the proposed changes. We also need to spread the word. Besides the usual avenues of social media, radio/TV interviews and so forth, could IRD mention this benefit in routine communications with taxpayers, perhaps a “did you know that..” under the signature line, something along those lines? Encourage more people to donate more.

Taxation and the not-for-profit sector

C/- Deputy Commissioner, Policy
Inland Revenue Department
PO Box 2198
Wellington 6140

Animal Health Centre Waikato Incorporated submission on Inland Revenue's February 2025 Taxation and the Not-for-profit Sector issues paper

1. Animal Health Centre Waikato Incorporated (the **Society**, trading as '**Anexa**') welcomes the opportunity to make this submission on Inland Revenue's issues paper "Taxation and the Not-for-profit Sector" dated 24 February 2025 (**Issues Paper**).
2. This submission focuses on the Society's opposition to the possibility raised in the Issues Paper of a removal or "reduction" of the exemption from income tax for veterinary service bodies (section CW 50 of the Income Tax Act 2007 (the **VSB exemption**)), which applies to the Society. We seek to do so broadly by way of response to question 12 posed in the Issues Paper: *What are the likely implications if the veterinary service body income tax exemption is removed or significantly reduced?*
3. Our key submission points are summarised at paragraphs 6 to 9 below.
4. Following that summary, we provide background and context in relation to the history, structure and operations of the Society.
5. The submission then provides further details regarding the Society's opposition to a removal or "reduction" of the VSB exemption, addressing this matter both from the perspective of the Society in relation to its own operations and, to some extent, from the perspective of not-for-profit veterinary service bodies (**VSBs**) generally.

Summary of Our Key Submission Points

6. The tax-exempt treatment of not-for-profit entities that promote and deliver efficient veterinary services for the benefit of New Zealand's livestock farming industries and New Zealand, such as the Society, continues to be warranted, and any removal or "reduction" of the VSB exemption would be to the net detriment of New Zealand, and in particular New Zealand's rural communities.
7. The implications of a removal or reduction of the VSB exemption would be to:
 - (a) diminish and impair the quality and reach of veterinary services in rural New Zealand;
 - (b) impair or preclude the Society's (and other VSBs') ability to provide the significant broader public benefits that they currently provide; and
 - (c) put VSBs at a significant disadvantage relative to 'for-profit' veterinary providers, all to the net detriment of New Zealand, and in particular New Zealand's rural communities.

8. A likely rational response on the part of the Society (and other VSBs) would be to establish a “sister” registered charitable trust with the purpose of providing the broader public benefits (which, as it stands, are substantially if not wholly charitable in nature) currently delivered by the Society. The Society would then make deductible, charitable donations to the registered charity, so that there would be no income tax paid by the Society.
9. In the result, no material additional revenue would be raised by the Government, but the Society (and other VSBs) would have been forced to incur needless transitional costs and increased ongoing compliance costs.

Overview of the Society’s History and Operations

10. The Society was formed from the 2016 merger of the Morrinsville District Veterinary Association (established in 1939) with the Ngatea Farmers Vet Club (which traced its foundation back to 1923). Today the Society operates 11 clinics across the Waikato and Hauraki Plains, catering for dairy and dry stock farms, as well as family pets within these rural communities.
11. The Society is currently incorporated under the Incorporated Societies Act 1908 and is in the process of preparing for compliance and re-registration under the Incorporated Societies Act 2022. An inherent aspect of the incorporated society structure is that the Society operates for the purposes prescribed in its constitution and does not operate for the pecuniary or financial gain of its members.
12. Each clinic operated by the Society employs on average 6 to 8 people. The exception is the Morrinsville clinic where the Society’s central support services and research functions are based and which currently has 30 employees. There is a total of 47 Vets employed across the 11 clinics. With the exception of 2 to 3 locum or contract veterinarians engaged for increased seasonal workload, all staff including vets are salaried employees of the Society.
13. The Society’s membership base measures 1,276 farmers producing meat, milk and wool. Any farmer deriving income from livestock farming is eligible to be a member and to member-based initiatives. The Society is governed by a board of elected farmer members.
14. However, the Society’s promotion and delivery of efficient veterinary services extends to not only its membership base but also 307 non-member farmers and an additional 9,400 companion animal and lifestyle block clients. All veterinary service clients, whether members or non-members, are subject to the same pricing for products and services.
15. The focus of the Society’s operations is to promote efficient veterinary services in New Zealand, in the rural communities that the Society serves, in accordance with the VSB exemption. The Society aims to:
 - (a) be a VSB with enough vets to provide a full and comprehensive 24-hours, seven days a week service for production animal; and partnership with dedicated afterhours clinics for provision of companion animal services;
 - (b) have enough scale to ensure competitive purchasing power; and

- (c) provide production animal services to farming members in the most remote areas within its geographical reach, and in particular remote west coast areas north and south of Raglan.
16. In furthering its purpose of promoting efficient veterinary services, the Society also operates a highly regarded research division, Cognosco, that has played a part in delivering significant innovation to the veterinary community and agricultural sector in New Zealand. Cognosco consists of two PhD qualified senior research veterinarians and two fulltime research technicians. Cognosco was established in 1997, and to date, has undertaken over 240 on-farm trials and projects. These studies have been designed to investigate practical solutions to common on-farm problems, as well as to test new procedures and treatments.
17. Further, consistent with its not-for-profit structure and operating framework:
- (a) the Society actively supports local rural communities through animal health education, research, and sponsorship of schools, sports clubs, and farming based community initiatives. It focuses this type of support on providing value to the local community, not commercial outcomes;
 - (b) emphasises animal health outcomes over commercial returns; and
 - (c) provides extensive undergraduate and postgraduate veterinary training and supervision, both nationally and internationally, including the 'Super Grad' program in which the Society facilitates and hosts mentoring and training for graduate veterinarians from across various practices in the central North Island.

The Issues Paper

18. The Issues Paper does not articulate any justification for a possible removal or reduction of the VSB exemption other than asserting that "*it may be difficult to justify under a broad base, low rate tax policy framework*" (para 4.21). The Issues Paper notes (para 4.20) that:

"This exemption was introduced to allow veterinary service bodies to invest in better facilities and higher standards of service. These entities are now more established, undertake commercial trading activities outside their immediate services, and compete directly with tax-paying private veterinary practices."

19. It appears implicit in these comments that officials may be concerned that the conditions underpinning the original introduction of the VSB exemption are no longer present and/or that the VSB exemption disadvantages tax-paying private veterinary practices. Neither of those concerns would be justified.

The conditions underpinning the original introduction of the exemption remain present

20. VSBs and the VSB exemption are not anachronisms, especially given the continued importance of New Zealand's livestock farming industries to New Zealand's rural communities and to New Zealand as a whole.
21. In the first place, there is a serious, ongoing shortage of livestock veterinarians and veterinary nurses in rural New Zealand. Despite this constraint, the Society (like other VSBs) provides veterinary services to more remote rural communities where access to veterinary

care might otherwise be very limited or prohibitively expensive. The Society considers that it is not at all clear that it would be possible for a for-profit veterinary practice to provide the same service levels to these communities, particularly taking into account talent shortages and the resulting pressure on remuneration.

22. In addition, the Society (like other VSBs) follows a core ethic of promoting quality veterinary services and animal welfare, ahead of commercial gain. As part of this, the Society:
 - (a) provides extensive educational programs and workshops on animal health, welfare, sustainability and management, at low or no cost, to help farmers improve animal welfare and productivity;
 - (b) plays a vital role in promoting animal welfare through preventative care programs, provision of emergency services, and support of local animal shelters and rescue organisations; and
 - (c) focuses on prevention and education to reduce animal disease and suffering.
23. The demand in rural New Zealand for these add-on VSB services, which supplement VSBs' principal focus on core veterinary services, is as strong as it ever has been, and certainly as strong as it was in the 1950s when the VSB exemption was introduced. Again, the Society considers it is not at all clear that these critical, add-on services would continue to be made available in a taxable environment, where VSBs were effectively compelled to operate on a fully commercial basis.
24. The VSB exemption remains an entirely appropriate and justified trade-off for the extensive community and public benefits delivered by VSBs' support for New Zealand's livestock farming industries and New Zealand's rural communities under their not-for-profit structures and operational framework.

The VSB exemption does not disadvantage private tax-paying veterinary practices

25. The Issues Paper does not explain how the VSB exemption may disadvantage private, tax-paying veterinary practices.
26. The Society accepts that under a broad base, low rate tax policy framework (**BBLR**), there should be equitable imposition of taxation across and within sectors, but within the framework there must necessarily be recognition of fundamental structural and operational differences between entities. The BBLR does not require that a not-for-profit society providing veterinary services must be subject to the same tax settings as a for-profit company offering similar services.
27. If there is a concern that VSBs are able to accumulate funds on a tax-free basis, the Society's response is that there is no evidence that any such accumulation provides any net competitive advantage over commercial veterinary practices. In contrast to VSBs, commercial practices have access to equity funding and the ability to offer key veterinary and other staff an ownership stake in the business. The Society's experience is that it has difficulty competing with the 'total remuneration' packages offered by commercial practices to senior veterinary staff in particular. This clearly counterbalances any theoretical competitive advantage that may arise from the accumulation of pre-tax receipts.

28. Legally, all VSBs can do with their financial surpluses is reinvest them in assets and activities to promote better and more efficient veterinary services. As such, the only benefits associated with the accumulation of funds within a VSB are community or public benefits. By nature, a VSB such as the Society cannot provide private benefits; none of a VSB's funds may be used or available to be used for the private pecuniary profit of any of its members or their associates.
29. Opposition to the VSB exemption on competitive advantage grounds¹ has typically been theoretical and doctrinaire, rather than practical, in nature, unsupported by any evidence of the existence of an asserted competitive advantage and lacking any recognition of the significant community and public benefits delivered by VSBs. Such opposition has made much of the extent of trading operations conducted by VSBs and suggests that it was never intended that VSBs would have trading operations. That line of argument conflates having a trading operation with having a purpose of profit-making. No incorporated society can exist for the pecuniary or financial gain of its membership, but may carry on a trading operation in a profitable manner, with any profit then devoted to pursuing the society's purposes. That is what the Society and other VSBs do.
30. It is also noted, for completeness, that the Society and other VSBs are unable to access grant and public funding that is often restricted to registered charities. Access to training funding is a key example of this.

The Society's answer to question 12 posed in the Issues Paper: *What are the likely implications if the veterinary service body income tax exemption is removed or significantly reduced?*

31. A removal or reduction of the VSB exemption would have a number of extremely harmful consequences for the Society and the communities it serves, and for other VSBs and the communities they serve, to the net detriment of New Zealand. In particular:
- (a) it would impair the Society's ability to promote and deliver efficient veterinary services to members and non-members;
 - (b) it would mean that there would be no counter-balance to commercial practices' access to equity funding and ability to offer key veterinary and other staff an ownership stake in the business;
 - (c) it would put the Society in the perverse position of being a tax-paying "company", but with an inability make distributions to a shareholder base and utilise the imputation system, and as a result leave it at a further, severe disadvantage to commercial practices;
 - (d) it would impair or preclude the Society's ability to continue to provide the public benefit of investing in research and development for the purpose of improving veterinary services;
 - (e) it would impair or preclude the Society's ability to continue to provide the public benefit of undergraduate and postgraduate veterinary training and supervision, and education on animal health, welfare, sustainability and management; and

¹ For example, Dr M Gousmett's 2018 submission to the Tax Working Group.

- (f) it would impair or preclude the Society's ability to continue to provide the public benefit of supporting wider community initiatives.
32. In view of those harmful consequences, a likely rational response on the part of the Society and other VSBs would be to establish a "sister" registered charitable trust. The Society would then make deductible, charitable donations of what would otherwise be (taxable) net income, to the registered charity, so that there would be no income tax paid by the Society. The sister charitable entity would have the purpose of providing the public benefits (which, as it stands, are substantially if not wholly charitable in nature) currently delivered by the Society.
33. In the result, no additional revenue would be raised by the Government, but the Society would have been forced to incur needless, deadweight transitional costs and increased ongoing compliance costs. This would be on top the significant Government-imposed compliance costs already recently incurred by the Society as a result of having to prepare for compliance and reregistration under the Incorporated Societies Act 2022.
34. Ultimately, the reduction or removal of the VSB exemption would be a pointless exercise for the Government and Inland Revenue and result in wasteful application of resources by the Society and other VSBs, based on what are in any event questionable, unsupported and doctrinaire objections to the continuation of the VSB exemption.

Supplementary submissions

35. If, despite the position set out above and despite the truncated and inadequate nature of the Issues Paper consultation process, a decision were to be made to reduce or remove the VSB exemption:
- (a) At most, only VSBs' "unrelated" business income should be excluded from exemption – i.e. income from business operations unrelated to the promotion and delivery of efficient veterinary services. Taxing a not-for-profit, incorporated society VSB's veterinary service income, would be equivalent to taxing a charity's related business income.
 - (b) Generous transitional provisions would in any event need to be introduced. In particular (and without limitation) there would need to be transitional provisions that:
 - (i) provide an entry cost base for depreciable property equal to the greater of the VSB's historic cost and current market value; and
 - (ii) address the treatment of financial arrangements and prepayments.
36. Legislative intervention is needed to ensure that membership organisations, including the Society and other VSBs if the VSB exemption were to be removed, have the option of not treating member levies and subscriptions as income, irrespective of their inherent inability (as a matter of statute) to provide member rebates. This supplementary submission is made as a response to question 10 posed in the Issues Paper.

s 9(2)(a)

Wayne Berry

Chairman (*Animal Health Centre Waikato Incorporated*)



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Our ref KPMGsubNFPissue
spaper

31 March 2025

Dear David

Taxation and the not-for-profit sector

KPMG is pleased to make a submission on the issues paper. We provide our responses to the specific questions below. Please note that we have attempted to answer most, but not all, of the questions asked.

We note that there are a diverse range of entities operating in the charitable and not-for-profit (“NFP”) sector that perform important social functions. Therefore, care needs to be taken that any changes to tax settings do not unduly impact on the effective operation of these organisations.

As a general comment, we are concerned that key matters the issues paper is seeking to address are not specifically tax-driven – for example, the accumulation of business income. Even the tax abuse/avoidance concerns with certain donor-controlled charities raises the broader question whether these serve genuine charitable purposes and should be registered charities to begin with.

Therefore, we question whether changes to tax policy settings for the NFP sector, which will have broad impact including potentially significant compliance costs, are the best approach compared more specific interventions, such as greater enforcement of existing rules and compliance with the Charities Act 2005.

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?

The key problem definition(s) and how the suggested reforms are intended to address these is unclear. We elaborate below.

Paragraphs 2.14 states a potential problem with the current tax settings is the accumulation of business profits (allowing for re-investment at faster rates than for non-charitable competitors due to their tax-free nature). However, it goes on to state that this is true of any income earned by a charity (e.g. passive income), not just unrelated business income. Therefore, if accumulation of income is a wider policy concern it is not clear to us that removing the unrelated business income tax exemption fully addresses that issue.

Paragraph 2.15 notes there is a current fiscal cost from not taxing unrelated business income. However, there is no quantification of what that fiscal cost is and its distribution across the NFP sector. We further note that a de minimis for small-scale trading activities and/or relief mechanisms for distributed business income may result in little or no revenue actually being collected from affected charities, even if the unrelated business income tax exemption is removed. We therefore question the issues paper's rationale of potential revenue loss being a driver of the need for change, given some of these design considerations canvassed.

Paragraph 2.5 notes that the tax exemption framework for registered charities takes a 'destination of income' approach. To the best of our understanding, the validity of this overall framework is not in question. Therefore, we question to what extent key problem areas (such as accumulation or tax avoidance using donor-controlled charities) could be better achieved by greater enforcement of existing rules, rather than changes to tax settings that are likely to have both additional compliance costs and inevitably unintended consequences.

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 key impact will be additional compliance costs. Not just from having to file income tax returns, but also monitor compliance with any related requirements. This will include:

- Determining whether any de minimis criteria apply.
- Determining whether there is a "business" and whether this is related/unrelated.
- Apportionment of business and non-business income. (We note this will become more important if the former becomes taxable.)
- Apportionment of expenditure between tax and non-taxable income sources.
- Application of relief mechanisms, including deductibility for distributions and/or maintenance of a memorandum account for tax paid.

These will require new income tax processes to be implemented, even if no income tax is ultimately payable, and additional resources, such as hiring new staff or upskilling existing staff.

The compliance impact for affected charities could well exceed the additional revenue that is collected.

If this change proceeds, to help mitigate some of the compliance cost impact, and provide certainty, we recommend legislatively codifying when a "business" arises for the purposes of the business income exemption. We note that the Commissioner has concluded in *IS 24/08: Charities – Business Income Exemption* that:

*A charity might **not be carrying on a business** because the nature of its activities is not sufficient to result in those activities being a business and/or the activities are not carried on with a profit-making intention. **For example, activities carried out on a deliberately loss-making or breakeven basis.***

We expect that a number of charities may not be carrying on a business activity, as there will be no profit-making intention to that activity. These charities should not have to rely on meeting a de minimis or other arbitrary criteria to continue to operate under the status quo.

We recommend that the criteria identified by the Commissioner in IS 24/08 be included in a legislative definition of “business” for the purposes of determining whether there is unrelated business income.

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?

If the proposal proceeds, then looking at international precedents seems reasonable. However, the context for why other countries have adopted such rules (and why New Zealand is an outlier) is important.

We understand that (at least) part of the need for more restrictive tax rules may be the comparative lack of transparency in those jurisdictions. In contrast, New Zealand has undertaken significant reform of our charities law and its operation, with more robust registration and disclosure rules in place for charities (including from a tax perspective).

Therefore, we would caution against a simple “lift and shift” approach for tax approaches adopted in other jurisdictions without reference to their “fit for New Zealand” and also consideration of whether changes to tax settings are the best approach to addressing wider concerns with how some in the NFP sector operate.

We make the following observations:

1. It is not clear from the issues paper whether the removal of the tax exemption for unrelated business income will be limited to where the relevant income earning activities are conducted by a subsidiary entity (or through an investment entity, such as a limited partnership) or the main charitable entity (the so-called “parent charity”) as well. If the latter, then a number of design features, including relief mechanisms, will need to accommodate that wider scope.
2. We are aware of some charitable “groups” where a member entity(-ies) may perform a coordination, or act in a service entity, role for the group and receive income for providing specific services. The test for unrelated business income should be purely focussed on activities undertaken outside of the charitable group (i.e. with unrelated parties, such as members of the general public). Charities (and businesses owned by charities) providing services solely or predominantly to other charities should also be excluded from scope, as the concerns listed in paragraph 2.14 should not arise.
3. Based on our reading of the Canadian and UK precedents, the general principles appear to be that a “related business” must be linked to a charity’s purpose (i.e. an usual or necessary concomitant, or offshoot, of a charitable programme) or otherwise subordinate to the charity’s purpose (where the unrelated business activity is a minor part, is integrated into the charity’s overall operations rather than stand-alone, and the charitable goals dominate the overall

decision making). It is important there is sufficient legislative clarity for affected charities to be able to determine their obligations with a high degree of confidence. We have recommended above legislatively codifying the criteria for when a “business” is carried on (based on the IS24/08 interpretation). Similar legislative guidance should be considered for when a business is “related”.

4. We agree that income relating to the activities listed in paragraph 2.24 should remain exempt.

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?

We have concerns about linking the de minimis exemption to the financial reporting rules (the Tier system) for charities, as it could result in counterintuitive outcomes. For example, it would appear that a charity that has significant business income but very little operating expenses (e.g. because it is effectively accumulating surpluses) would be unaffected by this change, whereas a charity that has consistently high operating expenditure because it is applying the income towards charitable purposes would become taxable.

There are also a number of practical issues with basing the de minimis solely on the financial reporting rules for charities.

- We understand Tier 3 and Tier 4 reporting charities can elect to report under the Tier 1 and Tier 2 requirements for financial reporting purposes. This choice may be made for a range of reasons to access the full suite of generally accepted accounting standards applicable for larger charitable entities. Choices around which accounting policies are adopted should not drive whether the de minimis exemption applied, or not.
- In our experience, there are significant judgments and diversity in practice for financial reporting and administrative purposes on the concepts of control and reporting entity boundaries for charities. This impacts the level of aggregation and disaggregation for reporting entities and these judgements flow through to filings with Charities Services (e.g. as individual or group registration). (A group entity will file a single annual return for all of the entities within the charitable group.) Again, decisions made around group or individual entity financial reporting should not drive tax outcomes.

We consider the de minimis criteria, if the unrelated business income tax exemption is removed, would be better based on a concept of income. We outline some of the design principles that would need to be considered.

- *Should the threshold be based on gross or net business income?* Having regard to the stated problem definitions in paragraphs 2.14 and 2.15 (i.e. accumulation and fiscal risk), charities, or enterprises that are owned by charities, that consistently run low surpluses should not be within scope – see below.

- *How should net income be calculated?* To minimise compliance costs, charities should be able to rely on accounting/financial reporting concepts to determine net income for de minimis purposes.
- *What should be the level of the threshold?* Again, to balance compliance costs and fiscal risk, we consider that the exemption threshold needs to be set at a reasonable level – for example, \$1 million.

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?

Deductible distributions

We agree that there should be a deduction, for tax purposes, if unrelated business income is distributed to the parent charity. However, there are a number of important design considerations, which are discussed below.

- As noted earlier, there will be complexity in how different charitable groups are organised. The concept of a “parent charity” therefore needs to be clarified in the context of distributions made within such charitable groups. Distributions made within the charitable group should be eligible for relief if it is made to any member of the charitable group that undertakes the group’s charitable purpose(s).
- A deduction should be allowed if a distribution is made within the same tax year or within an appropriate period of time following year-end. (We note that deductions are already available for donations, under section DB 41 of the Income Tax Act, if the underlying income is subject to tax.) This is so that there is a reasonable period of time for business income to be distributed, without it being subject to tax. This additional period could be up to 6 months, to mirror the rules for distribution of beneficiary income for trusts. (The taxing mechanism for unrelated business income could be modelled on trust income.)
- To mirror the situation with distributions from subsidiaries, unrelated business income derived directly by a charity should also be exempt if the income is applied for its charitable purposes in the same tax year or within such additional period as allowed for distributions.
- It is not clear whether relief is intended to apply on distribution to the parent charity, or on application of the income by the parent charity (or other charity within a charitable group) to the charitable purpose(s). We consider that the compliance costs of tracking when distributed business income is applied to the charitable purpose(s), for deductibility purposes, is likely to outweigh any integrity benefit.

Refundability of tax paid

We support the availability of a refundable credit to be attached to future distributions. The design of such a mechanism needs to be carefully considered to minimise compliance costs for affected charities, including:

- Whether a memorandum account to record tax paid will be optional or mandatory for affected charities and charitable groups. There may be some charities that on compliance cost grounds may choose not to maintain such an account – e.g. if any unrelated business activities are regularly distributing net income.
- Whether a single memorandum account can be maintained to track tax paid on business income for charitable groups, rather than different accounts having to be maintained for different group entities.
- How and when “transactions” are required to be recorded to the memorandum account.
- How the refundability mechanism will work for charities that carry on the business activity directly. We assume that the proposed relief mechanisms will apply, albeit on use of any retained income as part of the charitable activities.
- The criteria for refundability of tax paid and the timing of refunds. For example, if the parent charity is not an income tax filer, how will it be able to access any refunds of tax paid by its subsidiaries on unrelated business income?

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?

Paragraph 2.36 lists some of the complexities that will need to be addressed, which we agree with. We make some additional observations below.

Arguably, even under the current tax exemption settings the policy rationale for the “territorial restriction” for business activities carried on by a charitable entity is unclear, particularly when there are no such restrictions on sources of non-business (i.e. passive) income. There seems even less justification for such a restriction if unrelated business income will be subject to tax (albeit the interaction with any de minimis exemption would need to be considered).

Any change to the business income exemption, where a charity invests through a hybrid structure, such as a limited partnership, needs to be carefully considered. The issues paper, at paragraph 2.39, notes that new rules may be required to ensure that unrelated business income earned through a limited partnership is taxed. This raises an important policy question as to whether a charity can be said to carry on the underlying business activity as, technically, limited partners cannot be involved in the management or operations of a limited partnership. Therefore, when/should an investment in a limited partnership be more correctly treated as a “passive” investment with the underlying income treated as non-business income?

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?

We consider the stated problem definition could be better addressed by greater enforcement of the existing rules by Inland Revenue and Charities Services. For example, if it is clear that the principal purpose or objective of setting up a donor-controlled charity (and/or entering into transactions with such a charity) is tax avoidance, there are existing mechanisms (section BG 1 of the Income Tax Act) to combat this. We would also assume if tax benefits are the key driver, then it is likely to bring into question whether there is a genuine charitable purpose(s) for establishment of the charity to begin with, which would be void against the requirements of the Charities Act 2005.

However, if a distinction is to be drawn, there needs to be a clear definition for a “donor-controlled charity”. Based on the stated problem definition, it appears that the target is charities that are set up by private groups of individuals (generally, but not always, associated by blood or other familial relationships) who are acting together. The reference to “private foundations” is presumably instructive as to what is intended to be captured.

If a definition is introduced, it should not be so wide as to capture charities where there is a group of persons who may be considered “founders” but where there is no pecuniary benefit to those persons from establishment of the charity. We agree that similar criteria to that in Canada (outlined in paragraph 3.9 of the issues paper) are a useful starting point. It is also critical that the definition does not capture charitable entities within wider charitable groups (as by definition they could be “controlled” entities).

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 the donor-controlled charities distinction proceeds, then there needs to be clarity on which transactions are of concern, from a tax avoidance or tax abuse perspective.

We do not favour blanket prohibitions on transactions involving donor-controlled charities, as we do not believe it should be the role of tax policy to police what transactions should, and should not, occur. We consider this raises a bigger policy question – are these genuine charities? If not, any counteraction should be via amendment to the Charities Act and/or enforcement by Charities Services.

We consider the better approach to targeting risk of tax abuse is via enforcement, including application of section BG 1 where tax avoidance is a concern, rather than targeted rules. However, if targeted tax rules are required, our preference would be for “arm’s length” rules for transactions entered into by donor-controlled charities.

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?

Paragraph 3.17 notes that the rationale for a minimum distribution rule is to mitigate risks around unrestricted accumulation and a significant timing mismatch between the tax benefit and ultimate public benefit.

We note the removal of the unrelated business income tax exemption is also aimed at (in part) addressing the issue of accumulation. It is not clear why a minimum distribution rule is also required for donor-controlled charities, if a donor-controlled charity's unrelated business income will become taxable. If the concern is accumulation by donor-controlled charities of non-business income, which does not appear to be the focus of the issues paper, that should be made explicit.

Further, if other integrity measures (i.e. restrictions on transactions / arm's length rules) are also implemented there would be a cascade of tax (and non-tax) measures that would apply specifically to donor-controlled charities. It is not clear to us, from the issues paper, that the risk of tax abuse for these NFP entities warrants this level of legislative attention (particularly given the enforcement tools already available to address tax avoidance and abuse).

If a minimum distribution rule is introduced:

- It seems sensible for the distribution rate to be set by reference to the charity's surplus income, rather than net assets. If based on net assets, this should exclude any assets that are used for carrying on of any charitable purposes (e.g. buildings).
- There should be exceptions where accumulation of surplus income is for a specific purpose, such as to fund capital projects that are related to the underlying charitable purpose.

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.**

We understand that Inland Revenue's updated view in the draft operational statement will be the subject of a separate consultation, so we make no comment on the change in interpretation.

However, we consider that it would be useful to consider whether the current tax policy framework for non-charity NFPs is fit-for-purpose, rather than focussing on specific issues, such as changing de minimis thresholds or modifying compliance obligations.

Q11. What are the implications of removing the current tax concessions for friendly societies and credit unions?

Again, we consider that any reform of the rules in this area need to be part of a wider review of the tax settings for the non-charitable NFP sector, rather than looking at the role of specific tax exemptions.

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 stated rationale for removing this exemption is potential labour market distortions and lack of coherence.

However, there is no evidence provided in the issues paper to suggest that the current FBT exemption for employees of charities is creating distortions in the labour market or that salary packaging to substitute cash remuneration for non-taxable benefits is indeed occurring in the charitable sector. We raise this as applying the FBT rules is likely to have a material adverse impact, both monetary and compliance costs, on charities.

While we acknowledge the “broad base” (coherence?) argument for aligning the FBT settings for charities with that of income tax payers, in our view, the scope of FBT has extended to taxing well beyond salary substitution (including where there is arguably no benefit being provided). These are known issues which are the subject of a separate FBT review. Application of the current rules, and their distortions, is likely to have a disproportionate impact on charities, their employees, and their ability to undertake charitable activities.

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?

We acknowledge the simplification benefits for volunteers. However, care needs to be taken that compliance costs are not simply shifted to charities, which may not be in a position to absorb these. We support optionality.

Further information

Please do not hesitate to contact us if you would like to discuss our submission in greater detail.

Yours sincerely

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s 9(2)(a)

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ISNZ

Independent Schools of New Zealand

Independent Schools of New Zealand Submission to Inland Revenue on Inland Revenue's Taxation and the Not-For-Profit Sector Issues Paper

1. Independent Schools of New Zealand (ISNZ) welcomes the opportunity to make this submission on Inland Revenue's Issues Paper "Taxation and the Not-for-Profit Sector" dated 24 February 2025 (**Issues Paper**).
2. ISNZ itself is a charitable trust registered under the Charities Act 2005 (CC23795), but this submission is made from the perspective of independent schools represented by ISNZ. Many of ISNZ's member schools are owned and operated and/or supported by charities potentially affected by matters raised in the Issues Paper.
3. ISNZ's key submission points are summarised at paragraphs 5 to 8 below.
4. That summary is followed by background and context in relation to ISNZ and the independent schools represented by ISNZ and then further detail regarding ISNZ's submissions on each of the following matters raised by the Issues Paper:
 - 4.1 Prospective taxation of charities "unrelated" business income.
 - 4.2 Prospective removal or "reduction" of the FBT exemption for charities.
 - 4.3 Separate regulation of "donor-controlled charities.

Summary of ISNZ's Key Submission Points

5. ISNZ welcomes the Issues Paper's confirmation that charities deriving income from business activities related to their charitable purposes, including charity schools, are not the target of the review. Charities' "related" business income should not be taxed.
6. In relation to the prospective taxation of charities' "unrelated" business income, ISNZ submits that:
 - 6.1 The current, straightforward income tax exemptions for charities should not be changed to tax charities' accumulated "unrelated" business income.
 - 6.2 If any changes are to be made to tax "unrelated" business income, then:
 - (i) they should be targeted at charities with large-scale unrelated businesses;
 - (ii) it should be crystal clear that related business income, investment income, and charity fundraiser income will not be taxed; and

- (iii) tax exemption or relief should apply to unrelated business income distributed or applied to advance a charity's charitable purposes.
- 7. The FBT exemption for charities should be retained, not removed or "reduced". It is a limited but important form of practical support provided to charities, lowering charities' costs in relation to offering remuneration that can attract and retain good employees. This is especially important for charities running independent schools, which receive minimal government funding for staff salaries.
- 8. Trying to separately define and regulate "donor-controlled charities" is not necessary or appropriate. Concerns raised in the Issues Paper are not exclusive to such charities, and the existing regime for all registered charities enables such concerns to be policed.

About ISNZ and its members

- 9. The ISNZ charitable trust is focused on advancing education in New Zealand, and in particular independent or private school education which gives families greater choice in relation to the education offerings for children.
- 10. ISNZ's charitable purposes include: improving the quality of education in New Zealand; promoting freedom of choice in education; promoting private schooling in New Zealand and encouraging the formation of independent schools; encouraging cooperation between and dissemination of information to independent schools; facilitating training and professional development for trustees, governors, teachers and other staff who work in independent schools; and developing, consulting with and maintaining close working relationships with other organisations involved in education including the Government.
- 11. ISNZ represents 51 of New Zealand's independent schools. Our member schools:
 - 11.1 Represent 89% of all independent school student enrolment in New Zealand, catering for 27,926 students.
 - 11.2 Employ 4,497 FTE staff, including 2,663 teachers.
 - 11.3 Vary significantly in terms of their size (with total school roles ranging from approximately 25 students up to 2500 students), their approach to education, and the families/children who use their education services.
- 9. Independent schools are a significant part of New Zealand's education sector and economy. In 2018 ISNZ a report estimating that, each year, independent schools spend approximately \$489m, directly contribute around \$361m to New Zealand's economy, and have a total GDP impact (including direct, indirect and induced impacts) of around \$697m. These figures are likely to be conservative given they are now six years old.
- 10. Independent schools save the government from having to incur significant additional school salary and other operational costs – estimated at \$130m in 2015,

and at least \$175m in 2020 – as well as capital investment costs.¹ If the 4% of students who are currently enrolled in independent schools were in the state system, the cost to the government would be significantly higher.

11. Independent schools receive limited government funding through a fixed appropriation of just over \$40m, an amount that has not changed (even for inflation) since 2009., This is significant less than the funding that state, state-integrated and charter schools receive on a per student basis.
12. While many independent schools are owned and operated by registered charities that are exempt from income tax, a significant amount of GST is collected on school fees each year. A 2024 survey of 30 independent schools found that net GST from those schools was 14m above the fixed appropriation. The total GST component of tuition fees over twice that of the fixed appropriation. As noted in ISNZ's submission to the Tax Working Group, for equity and also efficiency reasons GST on primary and secondary education services should be zero rated, helping to offset the inequity of parents paying both general taxes that fund state education plus school fees that are subject to GST for sending their children to independent schools which takes pressure off the state education sector.²

Prospective taxation of charities "unrelated" business income

13. Under current charity income tax exemption settings, for charities that operate and support independent schools in New Zealand that are registered under the Charities Act 2005 (**registered charities**), both non business and business income is fully exempt from income tax. There is no need for such charities to distinguish between different types of income stream; they can consider different options for sustainably generating revenue to support the delivery of their education services without having to be concerned about any particular revenue stream being taxable.
14. If those current, straightforward settings were to be changed to tax registered charities' "unrelated" business income then, depending on the design details of the changes, the implications for charities running schools would include the following:
 - 14.1 They would need to keep track of the characterisation of their income streams, to identify whether or not any income is "unrelated" business income that may be taxed under the changes (and if so, related expenditure/loss).
 - 14.2 If their income were to include any "unrelated" business income taxed under the changes, that income (net of deductions) may be subject to income tax (and under current charitable trust structures, for example, trust income is generally taxed at the 39% trustee income tax rate unless distributed as beneficiary income and taxed at a lower rate for the beneficiary).

1 See, for example, MartinJenkins' *Report on the Economic Contribution of Independent Schools in New Zealand*, 2016 ([Economic.Contribution.of.Independent.Schools.in.New.Zealand.pdf](#)) and NZIER's *Independent Schools: What would a smart state do?*, 2020 ([https://www.nzier.org.nz/hubfs/Public%20Publications/Client%20reports/independent schools full report final june 2020.pdf](https://www.nzier.org.nz/hubfs/Public%20Publications/Client%20reports/independent%20schools%20full%20report%20final%20june%202020.pdf))

2 ISNZ Submission to the "Future of Tax" Review by the Tax Working Group, 2018 (https://www.taxpolicy.ird.govt.nz/-/media/project/ir/tp/publications/2020/2020-tax-working-group/submissions/twg-subm-3983260-independent-schools-of-new-zealand-pdf.pdf?sc_lang=en&modified=20200910074415&hash=6B0F11B73ED934E8DD75AC69EF5B4237)

- 14.3 They may look to stay away from "unrelated" business income opportunities that might otherwise help to support their educational charitable purposes, and/or restructure (involving time and cost) so that they can generate income from those opportunities without paying income tax (eg using a company for any unrelated business activity, with the company being taxable but able to make tax deductible donations to the charity).
15. The overall result would be significant deadweight costs in terms of transitional changes and ongoing compliance, with immaterial additional revenue collected by the government. That would be done at the expense of charities that run independent schools focusing their time and resources on their delivery of education services and allowing them to generate tax-exempt revenue to support those services – for the benefit of not only those who use their services but also the government and New Zealand, saving the government significant costs in relation to the delivery of education services to all New Zealanders and producing well-educated students who can contribute to New Zealand.
16. **ISNZ's primary submission is that, in light of the points set out above, the current, straightforward income tax exemptions for charities should not be changed to tax charities' accumulated "unrelated" business income.**
17. In support of that primary submission, ISNZ further submits that:
- 17.1 The Issues Paper does not properly take into account the public benefit that arises from charities' delivery of their services, as exemplified by the contribution made by registered charities running independent schools in New Zealand. That benefit outweighs the amount of any tax revenue foregone by exemption charities' business income including "unrelated" business income, and tax exemption also does not confer a competitive advantage. Once the public benefit of charities' services is properly taken into account, tax exemption is a fiscal gain, not a fiscal cost, to the government and a benefit, not a burden, to taxpayers.
- 17.2 If there is a concern about some other charities that derive tax-exempt business income are not delivering public benefit, because they do not use the income for their charitable purposes or because of the nature of their charitable purposes, then that should be the target of any review, not taxing any of the business income of charities such as those which run and support independent schools.
- 17.3 Changing current, straightforward charity income tax exemption settings would potentially give rise to significant complexity, uncertainty, compliance costs, and transitional costs for charities, including those that run and support independent schools, without necessarily generating much tax revenue, ie the dead weight costs would be significant.
18. **ISNZ's secondary submission is that if changes were to be made to tax charities' "unrelated" business income, the design details of the changes must ensure that the changes are targeted at large scale "unrelated" businesses and do not create inappropriate transitional, compliance and tax**

costs for registered charities such as those which run and support independent schools.

19. In relation to that secondary submission:

19.1 ISNZ welcomes and supports Inland Revenue's confirmation in the Issues Paper that charity schools' operations, along with those of charity hospitals, are an example of "related" business activities (if such operations are to be viewed as a business in the first instance).

19.2 There should be clear exclusions from any "unrelated" business income taxation rules for registered charities that do not run large-scale unrelated businesses. For example:

(i) an exclusion for all registered charities/groups that are in tiers 3 and 4 for Charities Act 2005 financial reporting purposes; and

an exclusion for all registered charities/groups, regardless of their financial reporting tier, whose "unrelated" business income does not exceed a specified threshold.

That second exclusion is important, so that a charity school's non-business/related business operations do not result in the charity having to deal with "unrelated" business income taxation rules when the latter income is not significant.

19.3 Any "unrelated" business income taxation changes, including the exclusions recommended above, should make it easy for charities to be able to distinguish between "business" and "non-business" income, and between "related" and "unrelated" business activities.

19.4 As part of those design details, it should be made clear that:

(i) charities' investment income, including income such as interest, dividends, rent and royalties, which does not involve competing in any market, will not be taxed as "unrelated" business income;

(ii) income such as charities' sponsorship, fundraising event income (eg, from a charity dinner or auction), and lottery/raffle income will not be taxed as "unrelated" business income;

(iii) business activity is "related" to a charity's charitable purposes if the nature of the business activity and/or the way it is carried out advances one or more of a charity's charitable purposes; and

(iv) all aspects of a charity running an independent school, including the tuition provided by such schools and the provision of associated student boarding facilities if applicable, would be treated as "related" business activity (if it is viewed as a business at all). This would be aided by specifically including or referring to independents schools' provision of tuition and associated boarding schools, or more generally the delivery of education services, in the relevant definition provisions.

- 19.5 If a charity is not excluded from the "unrelated" business income taxation rules, any unrelated business income should only be taxed to the extent that it is not distributed or applied to advance a charity's purposes – even if this occurs within the same legal entity. For that purpose, any unrelated business income distributed or applied for charitable purposes should be tax-exempt or a tax deduction should be available. If tax has already been paid, it should be refunded when income is distributed or applied for charitable purposes.

Prospective removal or "reduction" of the FBT exemption for charities

20. The current, limited FBT exemption for charities enables registered charities such as those that run independent schools to include benefits covered by the FBT rules (not the income tax/PAYE rules) in their employees' remuneration, without having to deal with FBT compliance and payment. Limitations apply in relation to:
- 20.1 employees mainly employed in any business activity that falls outside of the charity employer's charitable purposes; and
 - 20.2 "short term charge facility" benefits (eg, use of a charity employer credit or debit card or third party supplier account, and vouchers), which must not exceed the lesser of \$1,200 and 5% of an employee's salary/wages each year.
21. The exemption effectively lowers charities' costs in relation to offering remuneration with fringe benefits that can help to attract and retain good employees. Fringe benefits may also be delivered by charities without significantly cutting into their financial resources (eg, benefits such as free or discounted access to a charity's own services, sponsored benefits such as a car or discounts provided by a sponsor and the like).
22. If the current, limited FBT exemption for charities were to be removed or "reduced" for charities running independent schools, the implications for those charities would include the following:
- 22.1 They would need to identify relevant benefits and work out whether or not such benefits would continue to be FBT-exempt on any other basis.
 - 22.2 If FBT would become applicable to any benefits because of the change, they would either need to deal with FBT compliance and payment or discontinue or restructure the inclusion of such benefits in employees' remuneration.
 - 22.3 Discontinuing or restructuring the inclusion of benefits in employees' remuneration will involve significant employee consultation/engagement, changes to remuneration details, and other transitional issues.
23. The overall result would be a reduction of a charity's resources available for other aspects of delivering its education services (because of the effective increase in the cost of maintaining the value of employees' remuneration), or the charity offering remuneration of less value to employees (affecting the charity's ability to attract and retain good staff), or a combination of both of those adverse effects.

24. It is not the case that charities running independent schools can simply increase the school tuition fees paid by parents, and any fee increases would also exacerbate the inequity noted earlier of parents paying both general taxes that fund state education plus school fees that continue to be subject to 15% GST, rather than zero-rated.
25. **ISNZ submits that the FBT exemption for charities should be retained, not removed or “reduced”. It is a limited but important form of practical support provided to charities, lowering charities’ costs in relation to offering remuneration that can attract and retain good employees. It is especially important for charities running independent schools, which receive minimal government funding for staff salaries.**
26. In support of that submission, ISNZ further submits that:
- 26.1 The current FBT exemption is justified, especially for charities that run independent schools, because any tax foregone is far outweighed by the public benefit that flows from the effective lowering of charities’ costs in relation to remunerating their staff in the context of delivering their charitable services. Again, once the public benefit of charities’ services, and especially independent schools’ operations, is properly taken into account, the current FBT exemption is a fiscal gain, not a fiscal cost, to the government and a benefit, not a burden, to taxpayers.
- 26.2 If there is a concern that some charities do not deliver public benefit, because of the nature of their charitable purposes or operations, then that should be the target of any review, not removing or reducing the FBT exemption for charities such as those which run and support independent schools.
- 26.3 The importance of the support provided by this type of employee remuneration exemption for charities is highlighted, for example, by Community Governance Aotearoa’s campaign to not only continue but also enhance concessions for remuneration packaging by New Zealand charities, to help them attract and retain staff. Australia also has generous remuneration packaging and FBT exemption rules to support charities.
- 26.4 In relation to charities running independent schools, the effective lowering of their costs in relation to remunerating their staff is especially important, as it helps to offset, albeit only in part:
- (i) the significantly lower level of government funding that independent schools receive for salaries and other operational expenditure, compared with state and state-integrated schools; and
 - (ii) the inequity noted earlier of parents paying both general taxes that fund state education plus school fees subject to 15% GST for sending their children to independent schools, which takes pressure off the state education sector.
- 26.5 The current FBT exemption is also very limited anyway. It already effectively includes an “unrelated” business exclusion, in relation to

employees mainly employed in business falling outside a charity's charitable purposes, and "short term charge facility" benefits are tightly capped, as noted above.

Separate regulation of "donor-controlled charities"

27. Some ISNZ member schools have raised concerns about the uncertain scope of any prospective "donor-controlled charity" changes and the potential negative impact of any such changes on legitimate, generous philanthropic support from donors, including parents and alumni, who may also wish to contribute at a governance level.
28. They have also queried why any separate regulation of such charities is required when the existing legal regime for all registered charities is already rigorous.
29. **ISNZ submits that trying to separately define and regulate "donor-controlled charities" is neither necessary nor appropriate. Concerns raised in the Issues Paper are not exclusive to such charities, and the existing regime for all registered charities already enables such concerns to be policed.**
30. In relation to that secondary submission, ISNZ notes that:
 - 30.1 Charities, including those that run independent schools, and their boards and officers, are subject to very clear legal duties, including fiduciary duties, to act in the best interest of furthering their charitable purpose, and not for private profit. This includes identifying and managing conflicts of interest.
 - 30.2 All registered charities and their rules must be reviewed and approved for registration purposes under the Charities Act 2005, they are then subject to extensive ongoing compliance obligations, including financial reporting and assurance obligations, and the Act imposes further duties on registered charities and their officers.
 - 30.3 The Charities Act 2005, tax legislation and trust laws enable Charities Services and the Charities Registration Board, Inland Revenue, and also the Attorney-General to monitor and inquire into charities, and to take substantive action if required in relation to a charity, its officers, and its transactions and other arrangements.
 - 30.4 That existing legal regime already enables all of the types of concerns raised in relation to "donor-controlled charities" in the Issues Paper, which are not exclusive to such charities, to be policed, and action taken by the relevant authorities.

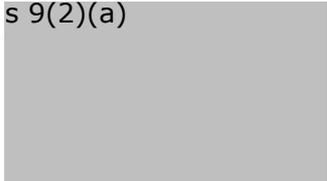
Conclusion

31. ISNZ looks forward to confirmation of Inland Revenue's receipt of this submission, and would be happy to discuss the submission with Inland Revenue officials.
32. The Issues Paper consultation period has been exceedingly short, at a very busy time of the year for many organisations. If any changes to current charity tax concessions are to be looked into following this initial consultation, it is critical that the charitable sector, including ISNZ and its member schools, is properly consulted

and given the opportunity to have its say on the merits and details of any such changes.

33. To do otherwise would create a significant risk of pursuing unwarranted and misdirected tax concession changes that do not take into account the public benefit delivered by charity-run independent schools and other charities, to the net detriment of New Zealand.

s 9(2)(a)

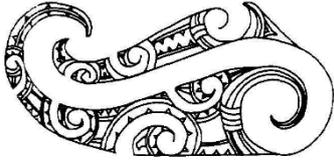


Guy Pascoe | Chief Executive | **Independent Schools of New Zealand** |

Email: s 9(2)(a)

Mobile





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Taxation and the Not-For-Profit Sector
Deputy Commissioner, Policy
Inland Revenue
Wellington

Email: policy.webmaster@ird.govt.nz

31 March 2025

Tēnā koe

Te Rūnaka o Awarua response to the Taxation and the not-for-profit sector Officials' Issues Paper

1. We, Te Rūnaka o Awarua, are one of the eighteen Papatipu Rūnanga Members of Te Rūnanga o Ngāi Tahu, as defined by the Te Rūnanga o Ngāi Tahu Act 1996 and the Te Rūnanga o Ngāi Tahu (declaration of Membership) Order 2001. We uphold the mana whenua of our rohe within the Ngāi Tahu takiwā.
2. We have read the Te Rūnanga o Ngāi Tahu response to the Taxation and the not-for-profit sector Officials' Issues Paper ("the **Issues Paper**") and support it in its entirety.
3. Despite being a Member of Te Rūnanga o Ngāi Tahu, we operate completely independently with our own governance and legal structure. Part of our structure includes charitable entities that would potentially become detrimentally affected should there be changes to the current charities law settings.
4. We emphasise and reiterate that the removal of the tax exemption for charity business income that is unrelated to charitable purposes would:
 - a. Be a tax on the most vulnerable in society;
 - b. Be a tax on economic growth;
 - c. Be a tax on the regions;
 - d. Be an attack on treaty settlements and mean they are no longer full and final; and
 - e. Exponentially increase compliance costs in the charities sector.
5. We believe that more extensive consultation on the issues raised in the Issues Paper is required to fully understand the potential consequences for the charitable sector and accurately assess the true impact of any proposed changes. The timeframe provided to respond to the Issues Paper is insufficient for this to occur properly. Like many other smaller charities, we lack the time and resources to fully evaluate the impacts of the changes outlined in the Issues Paper within such a short period. Our response to the Issues Paper will therefore focus on the important charitable mahi we carry out in our community and our ability to drive regional growth through the utilisation of charitable structures.

Te Rūnaka o Awarua charitable entities and charitable purposes

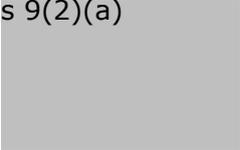
6. Through the utilisation of charitable entities, we carry out important mahi in our region and are enabled to effectively and efficiently deliver services to some of the most vulnerable members of society. Without these services, there would likely be increased demand on the Crown, and undoubtedly the gap of social and economic disparities in the community would be widened.

Closing Comments

7. Our charitable entities play a crucial role in delivering essential services to vulnerable members of our community, reducing the demand on the Crown, and preventing the widening of social and economic disparities. Our intergenerational investment strategy, guided by our Ngāi Tahu tribal whakautakī, ensures sustainable and beneficial returns for future generations, contributing to regional growth and prosperity.
8. We urge the government to consider the significant contributions of charitable entities and the need for a more thorough consultation process to safeguard the vital services we provide and the regional growth we stimulate.

Ngā mihi

s 9(2)(a)



Barry Bragg
Interim Chair
Te Rūnaka o Awarua

Submission from Straterra to Inland Revenue Taxation and the not-for-profit sector March 2025

Introduction

1. Straterra is an industry association representing the New Zealand minerals and mining sector. We are a not-for-profit organisation and membership fees pay for the running of the organisation. Our membership is comprised of mining companies, explorers, researchers, service providers, and support companies.
2. We are grateful for the opportunity to make this brief submission on the Inland Revenue officials' issues paper - [Taxation and the not-for-profit sector](#).
3. We focus our comments on chapter 4 of the issues paper which has significant implications for not-for-profit organisations including business associations.

Submission

4. The chapter throws up some uncertainty for business associations and other mutual associations with regard to the taxation of membership subscription income.
5. It points out a discrepancy between the IRD view that subscriptions income should be tax exempt, and the mutual association rules in the Income Tax Act. The chapter says the IRD has reviewed its position and intends to issue new guidance including that some subscriptions would be considered taxable income.
6. It has clarified in a subsequent [Questions and Answers sheet](#) that this reconsideration is separate from the current policy consultation in the issues paper and stated it is not seeking submissions on this issue.
7. However, we would be concerned if the outcome of this reconsideration is that membership subscriptions of business associations become taxable income so we are making these comments at this stage of the process.

Business associations

8. Business associations such as Straterra are focused on activities that benefit their members and the sectors they represent (policy advocacy, industry research, professional training, health and safety, and engagement).
9. They are typically not-for-profit organisations (NPFs) which rely on member subscriptions as their dominant and often only income source to provide just enough revenue to cover costs and keep operations running.

10. Most expect to break even or make a small annual surplus but the margins between making a surplus or loss can be minimal. Any surplus generated is usually reinvested into the association's mission rather than allocated to owners or shareholders.
11. When a loss is made, the organisation must dip into reserves to make up the financial shortfall. The ability for organisations to build up reserves so that there is a buffer to continue operations would obviously be curtailed by changes to the tax treatment of NFPs.
12. Taxing the income of business associations would undermine their purpose, reduce their ability to serve, and ultimately harm the sectors that they support.

The principle of mutuality

13. Chapter 4 of the issues paper sets out the principle of mutuality, that an association of people does not derive taxable income from transactions within its circle of membership.
14. The position that most membership organisations have been operating under (i.e. that subscriptions are not taxable and expenditure on membership activities is not deductible) has long been an accepted foundation of tax policy and we believe it and the principle of mutuality should continue.
15. If there is a view that the mutual association rules and the Income Tax Act are inconsistent with this, the legislation should be amended to ensure the current tax treatment continues to apply.
16. The proposal to increase the \$1,000 deduction to remove from the tax system small-scale not-for-profits would benefit smaller NFPs but it would not take into account the very nature of what NFPs are set up for and the significant value they provide many New Zealanders.

Other societies

17. The issues paper and subsequent Questions and Answers reassures NFP sports clubs and societies promoting amateur sports that their income tax exemption will continue, but does not give the same assurance to societies such as business associations.
18. There is no reason for sports clubs and societies to be treated differently from business associations. Sports clubs and business associations share key similarities as membership-based organisations with a common mission, often funded through subscriptions. Both are governed by a board or committee, host events to foster engagement, and advocate for their members. They also depend on subscriptions, fees, sponsorships, and fundraising for financial sustainability.
19. What all these associations typically have in common is that they serve their members without a commercial profit motive.
20. From a tax policy perspective, sports clubs and business associations should have equal tax treatment as membership-based, not-for-profit organisations that support their communities.

Other countries

21. Many other countries recognise the importance of tax-exempt status for not-for-profit business associations. In the United States, the United Kingdom, and Australia, these organisations are typically exempt from income tax as long as they operate within their defined not-for-profit purposes. The policies in these jurisdictions acknowledge the broader public and economic benefits that business associations provide and reinforce the principle that they should not be taxed like commercial enterprises.

To:

Inland Revenue Department (IRD)

Subject:

Review of Charitable Tax Exemptions, Pecuniary Profit, and Accumulated Reserves – Case of The Church of Jesus Christ of Latter-day Saints Trust Board (CC12345)

Date:

31 March 2025

Submitted by:

Ra Puriri

Introduction

This submission is provided in response to Inland Revenue’s ongoing oversight of charitable tax-exempt organizations in New Zealand. s 9(2)(a)

[Redacted]

The Inland Revenue’s 2025 issues paper on *Taxation and the Not-for-Profit Sector* calls for closer scrutiny of charitable entities, especially in the context of accumulated income and commercial ventures. s 9(2)(a)

[Redacted]

Background

New Zealand’s charitable sector enjoys tax exemptions on the premise that income is used to generate public benefit. Charities are not permitted to accumulate wealth indefinitely without purpose or to allow individuals to receive private financial gain.

Key policy concerns from the IRD consultation include:

- The accumulation of untaxed income with limited public benefit.
 - Charities operating commercially in ways that disadvantage tax-paying businesses.
 - Lack of transparency in fund utilization.
 - The need for stronger governance and enforcement of charitable purpose tests.
-

s 9(2)(a)

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**Te Tari Taiwhenua
Internal Affairs**

2 June 2022

Ra Puriri
s 9(2)(a)

Kia ora Ra,

This letter is to provide you with the outcome of the Case Inquiry conducted by Charities Services, a business unit of the Department of Internal Affairs, into the Church of Jesus Christ of Latter-day Saints Trust Board (the Trust), registration number CC31692.

Charities Services opened a case inquiry following the Manager Regulatory Stephen Reilly's assessment of Charities Services' previous decision not to investigate your complaint of 18 November 2020. Although he found that decision was sound on the basis of the information available at the time, he decided to refer the matter for a fresh review via the case inquiry process as the transaction was private rather than an open market sale.

Our inquiry sought to ascertain if the sale of 504 Tuhikaramea Road to Paul and Julie Coward was conducted at market price and arms-length, and whether there was prima facie evidence that Paul Coward had received private pecuniary profit from the purchase.

Charities Services obtained documentary evidence and investigated the process of the sale, market conditions and nearby property information and found the sale was at market value at the time the agreement was entered into. The sale of the house was agreed in June 2018, at a market value determined by averaging professional valuations obtained by the vendor and buyer. The buyer was to pay substantial subdivision costs on top of the agreed market valuation. The sale was concluded in October 2019, after delays partly related to the subdivision process. This settlement date was approved by the Church Bishopric in the United States.

The terms of sale included a clause giving the Trust first option to buy the property back at the purchase price, should Paul and Julie Coward wish to sell the property within five years. Therefore, Paul and Julie Coward are not able to sell the house for any short-term profit. Your concerns that Paul Coward purchased the house for less than 50% of its market value and could make \$800,000 of personal profit were not substantiated. Charities Services have closed our case inquiry and do not intend to pursue further investigations into the sale of 504 Tuhikaramea Road.

Ngā mihi,

Blair Wotton | Investigator
Charities Services | Ngā Ratonga Kaupapa Atawhai
Freephone 0508 242 748 | compliance@charities.govt.nz
45 Pipitea Street, Wellington | PO Box 12138, Thorndon, Wellington Central 6011
www.charities.govt.nz | Follow us on Facebook

Charities Services is part of the Department of Internal Affairs

5. Request for a Comprehensive Review

- **Audit and Investigation:** IRD should perform a full audit of the Trust's financials, especially the sources and destinations of accumulated funds.
- **Tax Compliance Review:** Evaluate whether the Trust has violated tax exemption principles and whether it should retain charitable tax status.
- **Transaction Review:** Specifically investigate the Coward property transaction and whether it triggered taxable private benefit.
- **Policy Implications:** Consider this case when refining charitable tax policy, particularly for donor-controlled and non-resident charities operating in New Zealand.
-

Conclusion

The LDS Church Trust Board presents a compelling example of the challenges facing New Zealand's tax system in regulating charities. Its practices highlight deficiencies in transparency, the risk of market distortion, and mechanisms that enable pecuniary profit under the guise of religious exemption. I urge Inland Revenue to take serious and immediate action to investigate and reform how such entities are regulated and held accountable.

Submitted by:

Ra Puriri

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s 9(2)(a)



Presbyterian Support
Southland

Response submission

Taxation and the not-for-profit sector
(February 2025 – Official’s Issues Paper)

Submission made by (on behalf of Presbyterian Support Southland):

Matt Russell – CEO s 9(2)(a)

31st March 2025

Background

Presbyterian Support Southland (PSS) is one of seven autonomous regional Presbyterian Support organisations. Collectively we are one of Aotearoa's largest not-for-profit (NFP) health and social service providers. PSS operates in Southland and provides services to support those who are often at the most vulnerable stages of their lives.

Through **Enliven**, PSS provides aged care services by operating 4 aged care homes in Invercargill and Gore that offer various levels of care including, rest home, hospital, and dementia care. We are the only provider in Southland that offers psychogeriatric dementia care. We also operate 3 retirement villages. These villages are in Invercargill, Gore and Frankton and generally provide more affordable options in comparison to our for-profit competitors.

Through **Family Works** we provide social services that support children, young people, families and communities who have experienced trauma, family violence, separation, poverty, stress and anxiety, to have a safer and brighter future.

To operate our range of services we very much rely on the financial provisioning and support from our independent living retirement villages, which effectively subsidise our operating costs for our aged care and social services. We also rely on generous grants and donations from various community organisations and individuals that recognise the critical importance of the services we provide. This has been, and continues to be, a necessity because of the chronic underfunding and significant deficits associated with our aged residential care and social service contracts with the Government. Further, it is important to note that more often than not, we are the go-to residential aged care provider for elderly who cannot afford care at a for-profit provider, where the majority of rooms have a private premium charge.

We consider this IRD Issues Paper on taxation of the not-for-profit sector will significantly, and negatively, impact PSS's operational ability and financial viability. If we, and many not-for-profits like us, are not there to provide the desperately needed care and services (with increasing demand) by people at the most vulnerable times of their lives, then New Zealand will be worse off. As an unintended consequence of this, the Government will either need to step in and provide additional funding, or risk having to take on these issues (at a cost to the taxpayer) that will likely outstrip any financial gains proposed by removing the tax exemption (noting that substantive evidence of the tax gain has not been provided).

As it stands, both the aged care and social services sectors are extremely challenging environments. It is disappointing that at a time when these sectors are already under siege from funding cuts and shortfalls resulting in significant year-on-year deficits, our exemption status is at risk. It is the exemption that has enabled us to continue to offset deficits and maximise the positive impact for our communities over many years. If the proposed changes go ahead, there is a real risk that PSS, and many others will no longer be able to operate.

Response to Discussion Questions

Below are PSS's responses to the specific questions asked, where applicable to us as a not-for-profit provider of aged care and social services.

Chapter 2: Charities business income tax exemption

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?
	<p>PSS is not in favour of removing the tax exemption on charity business income. Our reasoning for this is as follows:</p> <ul style="list-style-type: none"> • Removing the tax exemption will add significant compliance costs and place organisations like ours at risk of becoming insolvent. We already operate on very low overheads due to a lack of funding. If we are forced to reduce or remove our free services to the vulnerable in our society, this work will fall on the Government to provide, likely at a much higher price point. • The scope of determining what will be defined as business income is uncertain and will be difficult to implement. This will add compliance costs and seems counter intuitive to the objective of simplifying the tax system. • We do not believe that removing the “cost” associated with the current tax concession for NFPs would provide any net benefit to taxpayers. This is due to the impact of the increased cost associated with service provision that would likely fall to Government. • Of the 3 objectives identified in 1.6 it is clear that the taxing of business income for NFPs will not be simplifying tax rules, nor reducing compliance costs, therefore by default the intent must be to address integrity risks. If this is the case, a blanket approach to tax charity business income is not the way to address the objective. We would prefer to see a burden of proof of public benefit approach taken where the Government perceives there to be integrity risks.

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?
	<ul style="list-style-type: none"> • The major difficulty with the removal of the tax exemption will be defining what business income is or isn't related to the charitable purpose. This will present significant challenges and compliance costs, understanding where the funds we receive go and how they are utilised for the people being supported. In the aged care sector, we provide for those who cannot afford to pay for care. If this were to become taxable we would be forced to close beds and place the burden of care for our elderly onto the public health system. It is widely known and reported that aged care has been underfunded for many years and we have had reviews of our own organisation completed by Te Whatu Ora that support this and recommend increased funding – unfortunately this has been to no avail. It is only through the business income of our modest retirement villages, significant overhead reduction and the reliance on community funding that we can continue to provide no-cost (private funded premiums / supplements etc..) aged care and social services to our community.

	<ul style="list-style-type: none"> • Charities often must be more innovative and resourceful with funding from external sources and government agencies – staff are often performing multiple roles across workstreams paid from different funding streams. This is not often understood and as a result, there will be unintended consequences on programme delivery if taxation was introduced, as well as compliance complexity and cost. • Many staff working in charities and NFPs are paid at the lower end of the income scale due to pressure on organisational overheads, and further income reductions may lead to staff cuts and being unable to retain employees. • Removing the tax exemption would be catastrophic for our organisation and the 400 staff we employ.
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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?
	<ul style="list-style-type: none"> • There is no simplistic answer to this. The definition of what is ‘unrelated’ will be extremely challenging to define given the complexities in our sector, however it is of utmost importance that this be done properly (if the exemption is removed) and will require further sector consultation. It is very subjective whether business income is for charitable purpose or not and will be open to a large amount of interpretation. The ambiguity around this is likely to work for current charities who are the target of these changes (i.e. Integrity risks) and hurt charities who are not. • We firmly believe that the “destination of income” approach is appropriate where the use of the income is always ultimately for public benefit. Whilst we have made significant operating losses in recent years, there is an urgent need to accumulate surpluses to undertake major maintenance and upgrades in our aged care facilities now and into the future.

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?
	<ul style="list-style-type: none"> • Any threshold should be dependent on the individual charity and the scope of its business and not just the income. There would need to be an assessment of the business and unrelated activities concerned to take account of the associated differences, proportions of total activities and complexities.

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?
	<ul style="list-style-type: none"> • Yes, we believe that if the tax exemption is removed that charity business income distributed for charitable purposes should remain tax exempt and without any additional compliance costs, effectively status quo.

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?
	<ul style="list-style-type: none"> • Increased compliance costs for both government and charities. A reduction in funds available for distribution to charitable purposes will result in reduced services which will ultimately fall on government departments to fill the gaps, at far higher operating costs. The consequences of this will likely outweigh the benefit the government receives in tax revenue from the change. • Impact on our community will be a reduction in services and support that ultimately move the curve away from the door of government provided services. A reduction in our services will mean more work needing to be picked up by government provided services (both directly and indirectly through adjacent ministries) that are operating much higher cost structures. We firmly believe there will be a net cost to the government of removing the tax exemption for our organisation. • The playing field is not currently level in respect of transparency of reporting compared 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.

Chapter 4: Integrity and simplification

FBT exemption

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?
	<p>The likely implications of removing or reducing the FBT exemption for charities will be marked for some of us to compete for appropriate labour resource vs. the for-profit sector. It will also increase compliance costs in accounting for any fringe benefits that may still be applied.</p> <p>Specifically related to PSS, the following implications will be:</p> <ul style="list-style-type: none">• Inability to afford/recruit staff from the general employment market due to the higher salaries being paid at government agencies including Health New Zealand and Oranga Tamariki where there is a pay parity gap. The FBT exemption provides a mechanism to attempt to overcome this market distortion.• Reduced skills/capabilities - <i>you can only afford what you can afford</i> (i.e. we will end up with lower skilled employees to live within our means – To an extent this is happening today but would be significantly exacerbated.• Compliance costs will undoubtedly increase, but more so, it is the salary increases that will need to be given to retain existing employees. This will result in less money being channelled towards our purpose.• Employees coming to charities do accept a lower salary for 'doing good' which in the current economic environment, is not viable or sustainable for most of the population.• Impact of more tax dollars flowing out of the business and the impact on our already pressured cashflow. While our asset base on paper is good, our buildings need significant investment. Cashflow is one of our major challenges.



31 March 2025

Policy.webmaster@ird.govt.nz

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

Submission on the Issues Paper -
Consultation on taxation and the Not-for-Profit sector

Save Animals from Exploitation (SAFE)

Contact details:

Debra Ashton

Chief Executive Officer

s 9(2)(a)

Lyn Thomas

Head of Fundraising

s 9(2)(a)

Executive Summary

SAFE (Save Animals from Exploitation) is New Zealand's leading animal rights organisation whose mission is to stop the exploitation of animals. We rely on philanthropic giving and grants to provide the much-needed funds to enable us to deliver our work.

Representing both the interests of animals and people, we work closely with key decision makers and from time to time, other not-for-profit organisations, to create positive change.

While SAFE is not a charitable trading entity, we do welcome the opportunity to submit on the Issues Paper - Taxation and the Not-for-Profit sector, because it could have a negative impact on an already stretched sector whose work is highly valued by New Zealanders.

In a climate of increasing costs, increasing demand for services, increasing pressures on volunteers, yet declining revenue streams, this sector has become competitive. Because of this, many have worked to develop their own niche and have diversified their income streams to survive.

Many charities are also reliant on the same philanthropic donors or funders, and for that reason they have expanded into business areas or social enterprises to raise the much-needed funds required to deliver their services.

If these social enterprises are taxed as a business, this could have a direct and significant impact on the whole sector, unless the government is to consider offsetting any shortfall in their income.

SAFE's response:

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?*

Social enterprise has been encouraged for charities to make themselves sustainable and the breadth and depth of these ideas have varied including opportunity shops (SPCA, St John, Hospices, Cancer Society, Habitat for Humanity, IHC, Red Cross, Salvation Army, St Vincent de Paul, in addition to various churches across the country) through to café's like the Heart Foundation and other charities.

Currently there are 654 opportunity shops in New Zealand that could be affected by a possible 28 percent business tax, with future growth plans across the charity sector. SAFE notes our alliance with groups like the s 18(c)(i) who raise around s a year from their



shops, and the impact that taxation could have on their ability to care for animals. In an already tight economic situation, to consider taxing a large percentage of income from the charity sector through taxing opportunity shops and other well-developed social enterprises, will mean it will be much harder for these charities to achieve financial self-sustainability.

Many charities, including SAFE, share many philanthropic donors and grant funders who choose to support both charities, along with many smaller animal rescue charities. Taxation changes would create fierce competition for the donor's support.

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?

There are many family trusts or foundations that have been set up in New Zealand for charitable purposes. However, the concept of a “donor controlled” charity is an oxymoron. Any charity that is not acting in good faith to further its stated charitable purposes in accordance with its rules is acting in breach of fiduciary duty, which already constitutes “serious wrongdoing” as that term is defined in the Charities Act. In other words, any instance of undue hoarding can be more than adequately dealt with under existing rules. Considerable care should be taken before imposing new, blanket rules on an inherently diverse sector and that cut across the underlying law, as such an approach will likely have multiple unintended consequences.

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 lag in donations while investments accumulate (circular arrangements, inflated prices) and their ability to claim tax credit or gift deductions the same as a charity, even though they may not have a specific charitable purpose for the establishment of the charity, are issues that need to be addressed. However, they can be more than adequately addressed by enforcing existing rules. The case for imposing additional requirements has not been made out.

Recommendation:

While it is right to review the effectiveness of certain tax settings, we believe the real concern is any abuse of charitable status under the Charities Act and believe this should be the Government's focus when it comes to taxation of charities.

On behalf of SAFE, thank you for considering our submission.

s 9(2)(a)

Debra Ashton
Chief Executive Officer
SAFE



Response to the Officials' Issue Paper, Taxation and the not-for-profit sector on behalf of the Interchurch Tertiary Chaplaincy Council by Peter Lineham

We thank the IRD for the opportunity to submit this response to the issues raised. The Interchurch Tertiary Chaplaincy Council is a charitable trust created in the 1980s, to enable cooperative discussion and distribution of funds to some eleven regional charitable trusts which appoint chaplains to tertiary educational bodies, both universities and polytechnics. It seeks to find sources of funds from church denominations and charities, and to provide focused and general funding to keep tertiary chaplaincies operating. This is a challenging task at a time when most churches are facing massive increases of costs, and have little to spare for what is not their core business, and therefore we often look to other sources of income, and seek to support our regional boards that face the struggle of funding their chaplains.

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?

This submission identifies compelling reasons not to tax charity business income.

The assumptions made by the Official Paper are in our opinion misconstrued. The history of charities running businesses is a fraught one. Many a church has run a charity shop, and then discovered that the costs and the need to store goods outweigh the benefits. Consequently charities tend to operate niche businesses which are rarely in direct competition with commercial operations.

Furthermore, it is by no means clear that untaxed charities will be aiming to maximise profits for income-generating operations. They will typically seek to model best-practice for example in their payment to staff of a living wage, or by making their specialist knowledge in the business area available to others, through investing in public-good research in the area.

We are aware of other charitable bodies (for example Trinity Farms, which has provided assistance to our chaplains through the Longview Trust) and Foundation North established with specific reasons to create funds to which other charities like our own could apply on a competitive basis for support for specific projects. We are currently hoping to work with Lichfield Lands, a branch of Trinity Farms, to coordinate applications from our regional boards for funding. Since the *raison d'être* of such bodies is specifically not to do business but to support charities through applying profits from investments or income generating operations, we argue that profits of this kind are not

taxable. We note the acknowledgement in the paper (2.10) that the effect of charities operating a business is not to drive up prices. And as the paper goes on to argue, there is no evidence of predatory competition undertaken by charities, and indeed if this is a concern, then it should be addressed in the rules of Charities New Zealand not in the IRD rules. The arguments of 2.13 of second-order advantages are weak in our opinion, since charities are severely restricted in their potential to raise equity capital. In relation to the statement made in most of the following questions of “If the tax exemption is removed for charity business income that is unrelated to charitable purposes”, the term “unrelated” is rather loaded and misconstrued. All income of a charity has a relationship to charitable purposes, regardless of how it is gained. It is about the availability and use of that money. Any form of taxation reduces the money available to be used for charitable purposes and will ultimately weaken the charitable sector.

We are unsympathetic to the argument about the impact on government income (2.15-2.16). The New Zealand charitable sector is significantly smaller than it is in many other countries. The charities that exist make a very substantial contribution to the well-being of New Zealanders, in both measurable and intangible ways. The charitable outcomes are reported to Charities New Zealand in annual reports. The work being undertaken by various agencies by Dr Juliet Chevalier-Watts of Waikato University, Charities Law Reform ANZ, the Grant Thornton report on “Doing Good and Doing it Well?”, and the Were Report all demonstrate that the best policy of government is to strengthen, not weaken the sector. Weakening this sector will come at a high cost to the government and to civic wellbeing.

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 consequence of the taxation of charitable bodies which provide us with grants, is that grant money would be significantly reduced. Since chaplaincy is mostly funded by church bodies or other charities giving us grants, the scale of the charitable work would be reduced, as we would have to reduce outgoings, probably by cutting the hours of chaplains. (This is the challenge every year for our branch chaplaincies.)

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?

We think that the presuppositions of this question reveal the double talk involved in this officials’ issues paper. Any business which contributes to the ability of the charity even if its objective is separate from the charity should be regarded as charitable. The definitions provided in this area are far from clear and will occasion significant confusion.

It is also the case that some of the largest bodies which operate as businesses raising money for charities were developed for more than business reasons. For example, the

Sanitarium business was set up specifically because Seventh-day Adventists were believers in food reform, reasoning that a healthy body was a spiritual goal. Similarly, Trinity Lands has its origin in a group of farmers deeply committed to Christian mission, and farmers freely gave their labour to support the missionary objectives of the trust.

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 question appears to be loaded with assumptions, but we would note that the energies in which each business venture would need to maintain its own profit and loss account with expenditure would greatly increase the accounting support required for many charities, and would be particularly severe at the lower tiers of charities where much of the work is undertaken on a voluntary basis.

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?

Certainly, it should remain tax exempt, on the same logic that charitable donations by individuals are exempt from taxation.

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?

We would note that in ordinary businesses, setting aside money for research and for business development rather than for distribution to shareholders is regarded as good business practice. We also consider that

Chapter 3: Donor-controlled charities

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?

We have little knowledge of the private trusts described in this section of the white paper, and tend to support a requirement that they should operate under separate rules. We presume you mean by donor-controlled charities the structure of incorporated societies. In the context a simple trust structure has operated best for chaplaincy organisations, but the constitution does make them responsible to the churches, which have a right to a seat on the trust. So the distinction between incorporated societies and Trust boards seems to us not quite clear as between donor-controlled charities and others/

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?

There appear to be assumptions in this framework. There could be rules of not benefiting the employees, but this becomes complex when one considers volunteers. Often volunteers are putting many hours for free into the trust, and this is certainly the case in our tertiary chaplaincies, and perhaps it is inevitable that a certain amount of benefits distributed by the trust will provide benefits generally including to the volunteers.

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?

It seems to us that charities cannot always be measured by an annual payout. We are aware of circumstances when such bodies in the face of a significant loss from a business investment are forced to curtail distribution of figures, and that probably a five year cycle would be more appropriate.

Chapter 4: Integrity and simplification

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.*

This is outside of our experience, and we have no comment to make.

Q11. What are the implications of removing the current tax concessions for friendly societies and credit unions?

We have no comment to make on these issues, but would note that the number of such bodies seems to be in decline.

Income tax exemptions

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?*

We agree that non-resident charity tax exemption is capable of abuse, and if the body wishes to gain donors in New Zealand, then it should establish a branch under New Zealand law, and are aware of this occurring in many aid and development agencies. We note that New Zealand based charities are able to donate a limited proportion of their charitable income to overseas agencies, but that this level is limited.

One of our member organisations has suggested that volunteers might be able to claim an income tax rebate for volunteering where this has been properly audited. This might well increase the willingness of volunteers to lend their expertise to the cause which the NFP stands for.

FBT exemption

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?

Compliance costs are high for Fringe Benefit tax, and we are loathe to see this disappear without genuine evidence that it would be less costly to administer. However, we accept that FBT rules are not entirely logical at the moment.

Tax simplification

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?

It is certainly the experience of the author of these responses that honoraria create tax complexities which are very difficult to calculate. It should also be borne in mind that honoraria may be intended not just as a voluntary contribution but also to meet costs incurred in providing the services undertaken (e.g. travel costs). This makes the whole area very fraught for volunteers. Sometimes the honoraria are not worth the trouble incurred. This is an unfortunate situation.

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?

This would be a significant piece of work, with immense pressures on the IRD and on donor organisations which would probably have to collect IRD numbers from donors. But it might enhance the willingness of donors, and would also make it possible to

follow other tax regimes in Britain for example, where the donor can choose to donate the tax refund back to the charity. This would be welcome.

Submitted on behalf of the Inter-church Tertiary Chaplaincy Council, with the authorisation of its executive at a meeting on 28 March 2025.

Peter Lineham

Secretary ITCC s 9(2)(a)

The registered office of the ITCC is the Methodist Church Offices, Weteriana House, 50 Langdons Road, Papanui, and PO Box 931, Christchurch 8140.

Kia Ora,

My name is s 9(2)(a) and I volunteer/worship] with The Salvation Army at Hastings Corps. I have been at this Corps for around five years and was previously part of the Napier Corps for four years. 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.

I previously held a role as a s 9(2)(a) in a partly government funded organisation, where I regularly referred clients to Salvation Army Hastings for food parcels, clothing and financial support. Without this service our clients would have suffered more in what was already a very difficult time in their lives.

While worshipping and volunteering with Salvation Army Hastings Corps, I have witnessed many instances of people who have come to our Corps for support with food/financial struggles/housing. Some find their way to our worship meetings on Sunday mornings directly due to this, giving them social interaction and a sense of belonging. One mum, new to our Corps, came to church with her six children. She introduced herself and reminded me I had brought her here 6 years ago, in my advocate role, for support with food and clothing. Due to her ability to access support from Salvation Army Hastings, she has been able to rebuild her life. 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.

I am available for further discussion but prefer to keep my name and role private.

Ngā mihi,

s 9(2)(a)

[Redacted]

[Redacted]

[Redacted]

To:

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

From:

Community Foundations Aotearoa New Zealand
Arron Perriam
Executive Director

26 February 2025

RE: INLAND REVENUE CHARITIES TAXATION REVIEW SUBMISSION

Community Foundations Background

Community Foundations of Aotearoa New Zealand (CFANZ) is the national body representing 18 regional community foundations across Aotearoa NZ. Our members are not private foundations or corporate foundations, we are place based local community foundations building regional wealth across Aotearoa NZ, lead by local volunteer trustees, and for the sole charitable purposes to benefit local communities including funding local charities.

Collectively our community foundations hold investments in perpetuity of circa \$300million and make grants of up to \$20million annually to charities and growing.

Alongside our 18 community foundation members we have 12 regional community trusts, The Gift Trust, and other philanthropic foundations, who together are cornerstone funders for the NZ charities sector.

Our CFANZ community foundation network infrastructure is incredibly young in comparison to the community foundations contexts of North American and Australia, so any comparison, or taxation instrument alignment, needs to be treated with caution. Most community foundations in NZ are only a dozen years old, are growing steadily, employing just 60 staff across NZ, averaging just 2 FTE per community foundation, and governed by 150 volunteer board trustees. Our entire community foundation movement works extremely hard to grow regional wealth through capturing and growing local generosity and being the trusted custodians of donor bequests and endowment funds through to community.

Our charitable purposes are clear, our ability to grow philanthropic giving is second to none in NZ, our tax exemption is justified, and our value to community is immense. Any direct change to, or unintended consequential change to, our tax exemption, to our grant's distributions, or fringe benefit tax could seriously undermine years of future value to communities.

General Comment

The debate over taxing charity business, or often referred to as social enterprise, income involves weighing the potential benefits of fairness and IR tax revenue generation against the risks of undermining the charitable sector's ability to control its revenues to serve the public good. Each argument presents important considerations that policymakers must carefully analysed to strike a balance that supports both the charitable missions and the broader economy. Taxing business income of charities, will stifle innovation, further destabilise financial sustainability and lead to, we believe, many unintended consequences including being grossly detrimental to community wellbeing.

The charities sector plays a critical role in our NZ society, contributing to social wellbeing, community development, the arts, culture, recreation, the environment, and economic stability. It provides a crucial safety net for society and acts to address issues that the government is not easily able to address.

In short, charities run business practices to diversify and provide sustainable income streams to carry out their mission. The 'profits' from these income streams are reinvested back into their charitable purpose and so into NZ society. The "destination of income" approach works appropriately.

We believe that outliers running commercial businesses of significantly large scale – such as Sanitarium – could be managed by the regulator more specifically and not influence widespread tax policy changes that prove to be a blunt taxation instrument negatively impacting community foundations, or other charities. There has been little meaningful widespread early collaboration, or any clear problem definition shared with the charities sector on this matter to inform policy making. This is objectionable, shortsighted, and irresponsible in our view.

In Australia in 2010 as part of a previous inquiry, the Productivity Commission concluded that there are no competitive neutrality issues raised by the tax exemption in Australia¹.

That said, the two-sector sessions facilitated between Philanthropy NZ and IR were of value and appreciated. I specifically note the written response to my questions I received from the IR stating, *"I can confirm that the Issues Paper is not intended to capture community foundations. The donor-controlled charities chapter specifically targets what are referred to in other jurisdictions as private foundations (or private ancillary funds in Australia)". "Our goal is to align the treatment of private foundations with other countries, such as Australia and Canada, regarding allowable activities/investment restrictions and minimum distributions. We do not intend to align the treatment of community foundations with international counterparts.*

Accepting this at face value we are heartened there will be no change to the taxation framework applied to community foundations in NZ. However, we do make the following submission noting the following;

Submission Points

1. Discouragement of Philanthropy

Changes to taxation rules may discourage donations from individuals and businesses. Tax incentives for charitable giving are vital for encouraging philanthropy, which fuels the not-for-profit sector. If donors perceive that their contributions are less impactful due to increased taxation, they may choose to withhold support, resulting in a significant funding gap. Further, the negative narratives currently in play around charities and income streams are likely to affect the level of philanthropy flowing through to the charity sector.

2. Tax Systems Should Encourage Philanthropy

Retain the 33.3% tax credit on donations and make investment imputation credits available to the charity as a tax credit. This is a tax change which would encourage more philanthropy, thereby enhancing a charities financial sustainability, and maximizing their impact on society. Charities often rely on investment income to fund their work and allowing them to claim back imputation credits could significantly increase their available resources.

A tax policy shift on imputation credits is an example of a positive tax change yet it is not being discussed. By allowing a refund of imputation credits to charities where they would otherwise be lost (and so not in the spirit of New Zealand imputation system) the charity could allocate a greater portion of their funds toward their core missions, ultimately benefiting the communities they serve.

Enhancing the financial viability of charities through the refund of imputation credits encourages greater philanthropic investment. Donors are more likely to contribute to organisations that demonstrate fiscal

¹ <https://www.pc.gov.au/inquiries/completed/not-for-profit/report>

responsibility and sustainability. This not only supports existing charities but also fosters innovation and the growth of giving and new initiatives.

3. Impact on Service Delivery

The charities sector provides essential services to vulnerable populations. Changes in taxation could lead to reduced funding and resources for these organisations, jeopardising their ability to deliver critical services. This would adversely affect those who rely on these services, exacerbating social inequalities.

4. Increased Administrative Burden

Implementing a new taxation framework could increase the administrative workload for charitable organisations. Many organisations, including community foundations, operate with limited resources and staff. Additional compliance requirements become overweighted against their value and divert time and funds away from core mission, undermining their effectiveness and efficiency.

5. Economic Contributions

The charities sector is a significant contributor to the New Zealand economy, providing jobs and fostering community development. Altering taxation rules could lead to job losses within this sector, negatively impacting local economies. Supporting the charities sector benefits the broader economy through job creation and community engagement, bridging gaps where others will not or cannot.

6. Equity and Fairness

The charities sector operates on principles of equity and fairness, often serving marginalised communities. Changes in taxation that disproportionately affect these organisations could lead to greater disparities in access to services and support. It is crucial that any taxation policies reflect the values of inclusivity and equity that underpin the not-for-profit sector.

7. Fiscal Agency and Impact

Charities need to have fiscal agency to deliver scaled community impact. Changes to charitable tax framework including, the requirement for minimum capital distributions, or fringe benefit tax could weaken a charities balance sheet. Specifically applying a de minimis threshold on Tier 1 and 2 charities such as a large community foundation or The Salvation Army for example, could weaken the strength of a balance sheet which avails charities the ability to deliver scaled impact, or indeed partner with government e.g. for provision of capital for social housing development, buildings and people for provision of government contracted social services, or set aside funds for larger capital works within community.

Alternative Solutions

Rather than changing the taxation framework for charities, the government could consider growth alternatives, including;

- a) Refunding imputation credits for philanthropic charities;
- b) Government invests in growing philanthropy with a matched giving programme over an agreed time frame and to an agreed value. This has successfully been undertaken in the UK and with a similar initiative in Australia with a vision to doubling giving;
- c) Providing better support and resources to charitable organisations, extend tenure of contracts, enhanced collaboration between sectors, and increased funding for social initiatives;
- d) Support evidence-based bequest and giving campaigns to lift NZ's understanding of the opportunities and benefits of structured giving; these campaigns have been shown to be extremely effective internationally to enable a country's philanthropic culture to thrive.

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?

There needs to be a clear definition of ‘donor-controlled charities.’ There could be a case for donor control charities to be assessed differently than those entities which are acting for the wider public good.

Within the context of community foundations, which are community based and led, and donor resourced, we don’t believe that there should be any distinction. Donor funded and community informed philanthropy through a structured giving vehicle such as community foundations, is critical on growing giving and supporting other charities in the NFP sector and the work they undertake.

This distinction is essential to ensure that tax benefits are appropriately allocated to organisations like community foundations that genuinely serve public interests rather than fulfilling the preferences of individual donors.

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?

Transactions between donor-controlled charities and their associates should be required to be on an arm’s length basis.

Appropriate accountabilities which are already in place, may need strengthened including:

- a) Mandatory transparency by way of disclosures, annual charitable returns, statement of service performance, statement of investment policy objectives (SIPO), and annual audits of financial statements already exist and are reported.
- b) Governance oversight and accountability.

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?

Our member community foundations are not donor-controlled. Community foundations are place-based and locally led community funders. Community foundations work with donors and community to create positive community impact.

If donor-controlled charities (family donors, key donors, or their associates) are avoiding tax liabilities, then yes, their charitable purpose and obligations could be fortified through a change in taxation treatment requiring minimum distributions or introducing restriction on type of investments and increasing transparency.

The existing law requires that all funds are ultimately applied for charitable purposes. The timing of distributions can be impacted by all sorts of factors. The governors of the charity, who should understand all these factors, should be left to make these decisions.

Conclusion

In conclusion, Community Foundations of Aotearoa NZ urges the IR to reconsider any proposed changes to the taxation framework for the charities sector in NZ, noting the potential for direct negative implications, or unintended consequences, for our 18 community foundations members. The potential negative consequences on service delivery, administrative burden, growing philanthropy, economic contributions, fiscal agency, and equity far outweigh any benefits that may arise from such tax changes. It is imperative that we support and strengthen community foundations and the charities sector to ensure it continues to thrive and serve our communities effectively.

Thank you for considering our submission.


Arron Perriam

s 9(2)(a)

Executive Director

Community Foundations of Aotearoa NZ,

[Website](#)

s 9(2)(a)

On behalf of 18 regional community foundations across NZ

1. Acorn Foundation
2. Advance Ashburton Community Foundation
3. Aoraki Foundation
4. Auckland Foundation
5. Christchurch Foundation
6. Clutha Foundation
7. Eastern Bay Community Foundation
8. Geysers Foundation
9. Hawkes Bay Foundation
10. Momentum Waikato
11. Nikau Foundation
12. Northland Community Foundation
13. Southland Foundation
14. Sunrise Foundation
15. Wakatipu Community Foundation
16. Taranaki Foundation
17. Te Awa Community Foundation
18. Top of the South Community Foundation

Arron also serves on the following charitable boards across NZ; Philanthropy New Zealand; The Salvation Army New Zealand, Fiji, Tonga, and Samoa; Mentoring Foundation of New Zealand; Kidsfirst Kindergartens South Island

From: Jim Crunkhorn s 9(2)(a)
Sent: Monday, 31 March 2025 10:55 am
To: Policy Webmaster
Subject: "Taxation and the not-forprofit sector"

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

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?

A1. All charities should be treated equally and taxed where their activities compete with the private sector. The issues in Q2.13 & 2.14 do warrant taxing all charitable activity.

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?

A2. This "may also create a preference for some charities to invest in passive (non-business) investments if income from these investments remains untaxed".

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?

A3. An unrelated business should be defined as an activity intended to generate a profit.

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?

A4. An appropriate threshold for an exemption would be a sales turnover less than the average NZ adult wage.

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?

A5. All profit from business income should be taxed. Government can decide to provide financial support for activities it feels are worthy of support in a separate manner.

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?

A6. All charities should be treated equally.

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?

A7. See answer to Q6.

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?

A8. Not if all profit from business income has been taxed.

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?

A9. No. If a charity is taxed like any other business, the government has no role in determining how the after-tax income is used.

Q10. What policy changes, if any, should be considered to reduce the impact of the Commissioner's updated view on NFPs, particularly smaller NFPs?

A10. See answer to A4.

Q11. What are the implications of removing the current tax concessions for friendly societies and credit unions?

A11. The implications are they no longer have any advantage over the private sector.

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?

FBT exemption

A12. See answer to Q11.

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?

A13. Their obligations become the same as the private sector.

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?

A14. (a) None. (b) No.

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?

A15. DTC should be abolished. A simplified system should be developed to allow charities to apply for the equivalent tax paid by donors to be refunded to the charity by IRD.

For your consideration:

All Charities should be considered and treated equally. Religious affiliations should not have any bearing on how an organisation is treated for tax purposes.

Questions can be directed to my email address.

Jim Crunkhorn



SERVICE • RESPECT • VALUE • SCIENCE

PO Box 10, BULLS 4863, New Zealand



To whom it may concern,

I am writing a personal submission relating to removing the non-taxable status of not-for-profits, specifically focusing on veterinary vet clubs in New Zealand.

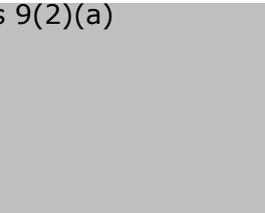
I have been a veterinarian in New Zealand for just over 12 years and have worked for a privately owned business my entire career. With the financial aspect of being a business owner challenging at the moment, it is disheartening to see club practices in New Zealand still provide services with the exemption of having to pay tax.

As a privately owned business we contribute to the economy of this country by paying our tax, providing a high quality service to our clients with competitive prices aimed at being affordable to everyone. We are sadly unable to compete with other practices that are able to undercut prices and devalue the profession by offering prices privately owned businesses can't offer.

The club practice initiative was first introduced to provide veterinary services to all of New Zealand but with how different the market and landscape of the country is now the club practice is now redundant. I would like to see the removal of the non-taxable status of veterinary clubs in New Zealand to be removed so that all veterinary businesses can provide services in a fair trading environment.

Regards,

s 9(2)(a)



Jordan Vlassoff

SOUTHERN RANGITIKEI VETERINARY SERVICES LTD

233 State Hwy 1, PO BOX 10, BULLS 4863 | 420 Wellington Rd, MARTON 4710
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Des Vize

s 9(2)(a)

Taxation and the not-for-profit sector
C/- Deputy Commissioner,
Policy Inland Revenue Department
PO Box 2198
Wellington 6140
Email: policy.webmaster@ird.govt.nz

30 March 2025

Tēnā koutou,

Subject: Taxation and the not-for profit sector

While I acknowledge the valuable role charities play in fostering community and supporting public welfare, I believe the existing framework, particularly the "advancing religion" criterion, requires revision to ensure fairness, inclusivity, and alignment with modern societal values. I recommend that tax exemption eligibility for religious organisations be restricted solely to activities or parts of the organisation that deliver measurable public benefit.

Key Points:

1. Advancing Religion Should Not Be Sufficient for Tax Exemption

- a. Tax exemptions should not automatically be granted to organisations solely on the basis of advancing religion. Religious organisations often engage in activities that support communities, such as providing food banks, education, counselling services, or disaster relief. These are clear examples of public benefit and should qualify for tax exemption.

- b. While religious groups may contribute positively to society, their eligibility for tax relief should depend on demonstrating measurable public benefit, similar to organisations in secular fields.

2. Insights from Research

- a. General practices related solely to religious worship or faith promotion—without demonstrated societal impact—may not provide a measurable benefit to the broader public and should not automatically qualify.
- b. Jeff Biddle’s 1992 analysis in *Who Benefits from the Nonprofit Sector* highlights that American congregations allocate approximately 71% of their income to activities that primarily benefit their own members. This aligns them more closely with mutual benefit organisations, such as country clubs, rather than entities focused on broader public benefit.
- c. Biddle’s application of the economic theory of clubs provides a useful framework for understanding how religious organisations allocate resources and raises questions about their eligibility for tax exemptions when their activities primarily serve their own members.

3. Lessons from International Jurisdictions

- a. In Australia, the UK, and Canada, advancing religion is recognised as a charitable purpose; however, these jurisdictions emphasise the need for religious charities to show tangible benefits to the broader community. For example:
 - i. In the UK, the Charities Act 2011 requires all organisations, including religious ones, to prove their activities serve the public good.
 - ii. In Australia, religious charities must demonstrate how they contribute to societal welfare to qualify for tax exemptions.

4. Recent Developments in the Economics of Religion

- a. Recent research, such as Sriya Iyer’s work on the economics of religion, explores how religious organisations function as providers of public goods and how their activities impact societal well-being. Iyer’s studies emphasise the importance of transparency and measurable outcomes in assessing the contributions of religious organisations.
- b. The growing field of the economics of religion also examines the role of religious organisations in education, health, and social services, providing a framework for evaluating their public benefit.

5. Promoting Equity and Neutrality

- a. Tax exemptions should reflect a neutral approach that does not favour religious organisations over secular or non-religious perspectives. This would ensure compliance with the **Human Rights Act 1993** and consistency with the **Bill of Rights Act 1990**, both of which protect against discrimination on the basis of religion or ethical belief. The Charities Act 2005 discriminates on one of the prohibited grounds of discrimination, namely religious or ethical belief.
- b. This amounts to a subsidy by the Government that gives an advantage to organisations that promote religious and supernatural beliefs over those organisations which are secular or which are actually opposed to the promotion of religion and superstition. This discrimination runs contrary to NZ Human Rights legislation and is inconsistent with the NZ Bill of Rights. It compels taxpayers with no religion to be ‘vicarious donors’ to religious organisations they do not support.

6. Revised Criteria for Charitable Status

- a. I propose that charitable status (and associated tax benefits) be granted based on the following:
 - i. Clear definition of the specific activities or parts of their organisation seeking tax relief.
 - ii. Evidence that these activities or parts of their organisation provide measurable public benefits, such as social services, education, or community support programs.
 - iii. Transparency and accountability in demonstrating the outcomes of charitable activities through regular reporting.
 - iv. Equal application of these criteria across all organisations, regardless of religious or secular affiliation.

Conclusion:

By adopting a public benefit test similar to the approaches seen in jurisdictions like the UK, New Zealand can establish a more equitable and inclusive framework for tax exemptions. Incorporating insights from both foundational research, such as Jeff Biddle’s work, and recent developments in the economics of religion, this revised framework would ensure that charitable organisations truly serve the common good and uphold principles of fairness and non-discrimination enshrined in our laws.

Nga mihi,

Des Vize

From: Rochelle Reddish s 9(2)(a)
Sent: Monday, 31 March 2025 11:00 am
To: Policy Webmaster
Subject: Taxation and the not-for profit sector

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

“What are the most compelling reasons to tax, or not to tax, charity business income?”

In a small country and economy such as New Zealand charities step into a lot of gaps that the Government cannot do or do within their own infrastructure.

If charity business income is taxed, it can be said with certainty that local communities and New Zealand collectively would suffer, and our standard of living would lower comparable to other OECD countries.

Changes to taxation mean less money to fund key programmes and support. The flow on effects would be seen in housing, food security, wellbeing and health and education among other areas. This would see the most vulnerable in communities affected the most as they are the ones often supported by charities.

Can the Government fill the gaps that will be left behind by charities due to these potential changes? Will the benefit of the potential increase in income to the Government outweigh the loss of charities in our communities? It does not look like it in the current climate.

Rochelle Reddish
Corps Officer (Pastor) | The Salvation Army Miramar

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Submission on the Taxation and the Not-for-Profit Sector Consultation

Submitted to: Inland Revenue Department, New Zealand

Via email at: policy.webmaster@ird.govt.nz

Submitted by: Maree Laurent

Postal address: s 9(2)(a)

31 March 2025

1. Introduction

I have over thirteen years of experience working in and with organisations in the Not-For-Profit sector, collaborating with institutions and venues in arts, culture, cultural heritage, sports and recreation that provide a wide variety of benefits to the community and charitable outcomes.

I am also a Chartered Accountant, member of the Institute of Directors, and a committee member of the Chartered Accountants Australia and New Zealand (CA ANZ) For Purpose Auckland Committee, which develops and delivers continuous professional development opportunities.

2. Summary Views

The charitable sector delivers impactful work despite many resourcing challenges. I am concerned and disagree with the proposals in the Officials Issue Paper, which suggests reduced Government support for this sector.

A charity's purpose must benefit the public, the organisations I have collaborated with deliver through education, sports, community connection, science and technology, culture, and the arts. They were all large, strategically operated entities facing resourcing challenges,

and needing to innovate, and consider all opportunities to generate revenue as part of their organisations sustainability.

A thriving community needs strong and sustainable charities that proactively meet community needs, not just reactively. Eroding tax concessions creates uncertainty and would weaken an already resource-poor sector. Charities reduce the burden on Central and Local Government by securing funding from other sources. Changes in Government investment will impact on the benefits they provide and have a significant impact on broader systems.

The paper focuses on "costs" but ignores the benefits of volunteering and community engagement, which come at a low cost to the Government. The current tax system is easy for charities, funders and donors to understand. Making it more complex would raise compliance costs for charities and lower income having a compounding effect and will impact charities that already struggle with obtaining consistent funding from philanthropic contributions or grants.

3. Summary of key points

Conceptual Reframing Required: Tax concessions to charities should be viewed as investments that generate significant social returns and reduce government expenditure, not as costs to taxpayers. This is evident in the approach charities must take to sustainability, which includes developing multiple opportunities to supplement donations, funding, sponsorship, and philanthropy.

Practical Implementation Concerns: The definition of "unrelated business income" would be extremely difficult to implement consistently and would create substantial compliance costs for both charities and the IRD. The organisations I worked with were large and complex, with infrastructure assets to maintain, they would struggle to remain sustainable, without the ability to generate cashflow outside of funders and continue to operate in the challenging sponsorship and funding environment.

Community impact on arts, culture, education, and sport: Any reduction in tax concessions would directly impact on an organisation's ability to deliver a wide range of programs that support a thriving community, arts, cultural heritage, sport and recreation infrastructure, and educational programs, at a time when capacity in some areas is already under significant pressure¹.

Compliance Burden: An implication of the proposals would cause an increase in compliance burden across the sector. Additional tax compliance, and resources needed to understand a complex compliance taxation framework would divert resources away from existing services and charitable purposes.

Cost vs Benefit Analysis: There appears in the paper no evidence-based analysis of the cost benefit analysis of these proposals, or case studies to understand the implication to Government or charities of these changes. It is important that this be understood.

¹ [Harbour Basketball faces court shortage, kids play late games - NZ Herald](#)

4. Responses to Specific 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?

I fundamentally disagree with the conceptual framework used in the Issues Paper. Paragraph 1.4 states:

"Every tax concession has a 'cost', that is, it reduces government revenue and therefore shifts the tax burden to other taxpayers."

This framing fails to recognise the significant social and economic benefits generated by charities, and the reduction of burden on Government. A more accurate framing would be:

"Every tax concession has a 'benefit', that is, it reduces government expenditure by empowering charities to have more impact at lower cost than the government providing an equivalent service and therefore reduces the tax burden to other taxpayers."

In some cases, charities receive little other assistance from the Government, apart from the current tax concessions. In addition, the removal of these concessions could create an additional funding burden on local government, whose existing support for charitable entities might have to be reconsidered. The tax-exempt status enables them to:

- 1) Delivering services more efficiently and with greater community connection
- 2) Leverage volunteer contributions, and other forms of sponsorship and funding
- 3) Reinvest surpluses into maintaining existing assets or responding to a growing population and a greater call for provision.

The factors in 2.13 and 2.14 do not warrant taxing charity business income because:

- The alleged competitive advantage is minimal when considering the constraints charities face in accessing capital and maintaining cashflow.
- Accumulation of capital is essential when dealing with infrastructure, and large complex projects over multiple years, as well as sensible reserves to support unexpected events when they do occur, such as Covid 19, and climate impacts. When reserves are accessed, they are directed toward charitable purposes as intended in charitable trust deeds or legislation, not private benefit.
- Governments own legislation requires in some cases charitable entities to carry out functions, which could be considered by some as business income to support operations; *"(i) greater financial self-sufficiency through the prudent operation of compatible revenue-producing and fund-raising activities which supplement public funding:"*²

² Clause 11 (i) Auckland War Memorial Museum Act 2000, Clause 10 the board is established for charitable purposes

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?

It will depend on how clearly the definitions of unrelated business activity are drafted, and charities may need to invest unproductive time and money in explanations to the IRD of what they do and how it relates to a charities purpose. This is in addition to the multiplicity of government audits which are already required as part of the existing charities regime. Some practical implications could be;

- 1) **Increased Compliance Costs:** An additional investment in additional accounting and legal expertise to navigate complex or unclearly drafted determinations of what constitutes "related" versus "unrelated" business activities. This would also lead to a flow on increase in financial audit, and tax return provision costs.
- 2) **Resource Diversion:** Staff time and financial resources could be diverted from the delivery of charitable purpose to tax compliance activities. Every dollar spent on compliance is a dollar not applied to a charitable purpose, remembering that charities are already subject to the Charities Act.
- 3) **Reduced Innovation:** Lack of funding to explore innovative solutions, and organisations becoming more risk-averse about developing new revenue sources, or social enterprises that support their purpose.
- 4) **Financial Uncertainty:** The ambiguity in defining "unrelated" business would create significant uncertainty in financial planning and potentially expose charities to unexpected tax liabilities.
- 5) **Reduced Service Capacity:** Any reduction in financial resources, staff time and financial sustainability would directly impact delivery.

A practical example of the complexity in defining unrelated business activity involves museums, art galleries, and performing arts charities that have cafés, bars, conference centers, tours, and other onsite facilities.

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 believe any attempt to define "unrelated business" would be problematic and create significant uncertainty. All business that a charity enters ultimately supports the charities' charitable purpose and is not expended outside that purpose. For large organisations that have infrastructure needs, the ways they gather revenue or funds for major projects, is multifaceted, and in some cases limited i.e loan financing.

Rather than attempting to create complex definitional criteria, I suggest:

- 1) Maintaining the current exemption for all registered charity business income.
- 2) Addressing any concerns about charitable status through the existing Charities Services regulatory framework and increasing the ability for the regulator to investigate specific concerns.

If changes are deemed necessary, it is advisable to adopt a principles-based approach that acknowledges the interconnected nature of how many charities deliver their activities.

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?

I believe the government needs to undertake a comprehensive need, and risk analysis before considering any tax exemption threshold, as charities are complex, and the activities they run as part of their social enterprise model vary.

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?

I strongly agree that income distributed for charitable purposes should remain tax exempt, and if that is the case, there is no case for tax reform, as revenue generated by charities is utilised for their charitable purpose and not dispersed for private use.

This also recognises that accumulation of funds may be necessary for capital projects, service expansion in response to growth, or supporting financial resilience.

If the objective is to ensure funds are used for charitable purposes, this is already addressed through Charities Services reporting requirements and governance obligations.

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?

Several critical issues require consideration:

- 1) **Impact on organisations of size and scale;** that support a wide range of community outcomes, this includes museums, art galleries and arenas.
- 2) **Timing and Transition:** Any changes would require a substantial transition period (minimum 3 years) to allow charities to adapt.
- 3) **Transparency Imbalance:** Charities already face higher transparency requirements than for-profit businesses. This already creates an uneven playing field.
- 4) **Regulatory Duplication:** Concerns about charitable status should be addressed through Charities Services rather than creating a parallel assessment system through tax rules. Maintaining multiple regulatory processes is not straightforward and can create uncertainty.
- 5) **Sector Consultation:** Any significant changes should involve comprehensive consultation with the charitable sector, for a reasonable amount of time and include impact assessments.

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?

I would support the proposed improvements to the Donation Tax Credit (DTC) system, particularly:

- 1) Streamlining the claim process to reduce administrative burden
- 2) Exploring digital solutions for donation receipting and claiming
- 3) Improving education and awareness about the DTC system

Additional suggestions include:

- 1) Increasing the DTC rate to incentivise greater charitable giving
- 2) Extending DTC eligibility to include gifts of services and volunteer time
- 3) Implementing a payroll giving system that provides immediate tax benefits

Conclusion

I appreciate the opportunity to contribute to this consultation, and urge the Government to:

- 1) Maintain the current tax exemptions for registered charities
- 2) Address any concerns about charitable status through the existing Charities Services framework
- 3) Consider the significant social and economic benefits generated by the charitable sector
- 4) Recognise the critical role charities have in supporting thriving communities, and vulnerable New Zealanders

Any changes to the tax treatment of charities should be approached with extreme caution, with comprehensive impact assessments and meaningful sector consultation. The primary consideration should be ensuring that essential charitable services can continue to operate effectively and sustainably. Also noting that in some cases, charitable bequests may be established as special reserves by charities, due to the nature of the bequest and restrictions that a donor has placed on the charity as to the use of funds or resources.

I would welcome the opportunity to discuss my submission further and to provide additional information about any practical implications from proposed changes.

Ngā mihi nui (kind regards)

s 9(2)(a)

Maree Laurent CA, MInstD

31 March 2025

Inland Revenue

Via email: policy.webmaster@ird.govt.nz

To whom it may concern,

Re: Taxation and the not-for-profit sector

Te Taumata Toi-a-Iwi – Background

In 2001, the city councils of Auckland and Manukau established the Arts Regional Trust to support Tāmaki Makaurau Auckland’s arts, culture and creative sector.

In 2019, the trust took the te reo Māori name, Te Taumata Toi-a-Iwi. This name was gifted by Sir Hugh Kāwharu in 2000 when the trust was in early formation.

Our current strategic priorities are:

- Ngā Toi Māori development and centering te ao Māori
- Visioning, tactical leadership and advocacy
- Funding equity and access
- Regional creative sector development infrastructure.

Submission

With specific consideration to the arts, culture and creative sector, Te Taumata Toi-a-Iwi submits this submission as an overall response to the *Taxation and the not-for-profit sector* Officials’ Issues Paper.

1. The existence and continued operation of countless not-for-profit organisations that specialise in serving the community through arts, culture and creative activities and outcomes is significant.
2. These organisations have positive impacts on society in a number of ways including community wellbeing, education, career pathways, diversity, sector development and archiving and displaying art.
3. These organisations engage in business and revenue-gathering activities in numerous ways as a key component of their operations to serve their community purpose.
4. In many cases these organisations have limited budget and revenue, along with limited people and time resource and generally are already stretched operationally.
5. Our observations with regard to this sector and the Issues Paper are:

Overall, Definitions and Characterisations

- The characterisation of tax concessions as “a “cost”, that is, it reduces government revenue and therefore shifts the tax burden to other taxpayers.” (pt 1.4, page 4) is a purely financial position and does not take into consideration the positive impacts that these tax concessions enable through the activity of not-for-profit organisations. This raises a question of whether an impact or cost-benefit analysis was completed to inform this Issues Paper?
- The concept that ‘Passive’ revenue (pt 2.18m page 8) possibly becoming a preference in gaining revenue undermines the social positive impacts an organisation’s business activity

has in the community within the implementation of the activity such as creating jobs & employment, and procuring through a generally local supply & service chain.

- The limited consultation in terms of time and direct consultation with affected parties in relation to this Issues Paper is noted.

Risks

- A broad generalist approach across all not-for-profits will result in high compliance costs for organisations that cannot afford this.
- Many not-for-profit organisations rely on diversified revenue streams to survive.
- Central and local government both rely on many charities to provide essential services which they don't ever fully fund.
- A probable increase in compliance will likely cause more cost for not-for-profit organisations.
- The outcome may well be a decline in services and outcomes for communities due to a reduction in operational funds.
- Increased taxation will likely create even more pressure for non-for-profits and probably not generate justifiable new tax revenue for government that offsets the potential costs for the IRD to manage a more complex compliance framework.

Recommendations

- Definitions are much clearer about what is purpose-related business activity.
- A more nuanced approach is taken to understand how this sector operates, especially in the area of business activity that is fundamental to the raising of revenue that ultimately serves the not-for-profit purpose, even if that business activity does not initially overtly appear so.
- A practical and productive systemic framework is in place to not seriously impact the majority of not-for-profits with limited operating budgets, and focus on non-for-profits who do need attention in terms of their activity, market advantages and significant revenues.
- That case studies are produced that allow for organisations to better understand the impacts of changes so they respond with more clarity on how change will affect them.
- Additional work is undertaken to understand the needs of Toi Māori and organisations working within that compass, including Te Ao Māori values and IRD obligations under Te Tiriti o Waitangi.

It is imperative that arts, culture and creative sector organisations are consulted and considered in this process. Te Taumata Toi-a-Iwi strongly expresses our preference for being involved in further stages of consultation.

Ngā mihi nui,
s 9(2)(a)

Alison Taylor
CEO | Te Taumata Toi-a-Iwi

Submission to Inland Revenue:

Taxation Changes for Taxation and the not-for-profit sector

Submitted by: Connexu 2020 Trust

Date: 28 March 2025

Introduction

Connexu 2020 Trust is a Tier Two not-for-profit (NFP) disability provider in New Zealand, committed to supporting disabled people through high-quality services and community engagement. As an NFP, all revenue is reinvested into our core mission—enhancing the lives of disabled individuals through care, advocacy, and empowerment.

We appreciate the opportunity to provide feedback on the proposed taxation changes and wish to highlight the potential impacts of these changes on our organisation and the broader sector. We strongly recommend that the proposals in the issues paper do not proceed. When the approach taken by other jurisdictions is properly examined, it becomes clear they are a cautionary tale rather than a precedent to be followed. The proposals would act as an unnecessary barrier to much-needed charitable work, especially at a time when the charitable sector is already struggling with increasing costs, rising demand for services, and diminishing revenue streams.

Response to Consultation Points

Taxation of Surplus Revenue

We strongly advocate for the continuation of tax exemptions on surpluses generated by Tier Two NFP disability providers. These surpluses are not distributed but are reinvested into the core mission of the organisation. They are vital for sustaining and improving disability services, covering operational costs, workforce development, and ensuring future-proof service delivery. Imposing taxes on surplus revenue would reduce the resources available to support disabled individuals directly, weakening the long-term sustainability of services.

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?

We believe the compelling reason not to tax charity business income is that the primary purpose of the organisation is charitable, not profit-driven. Any revenue generated is reinvested into the services that directly benefit disabled individuals, rather than distributed to shareholders or owners. The factors mentioned in 2.13 and 2.14 do not warrant taxing charity business income, as the activities of NFP disability providers are primarily designed to serve the public benefit.

In addition, the concept of an “unrelated business income tax” (UBIT), as proposed in other jurisdictions, has been widely rejected due to its complexity and lack of material benefit. Attempts to distinguish “related” from “unrelated” business activities have proven ineffective and ultimately result in increased legal and accounting costs without generating meaningful revenue. This only creates unnecessary work for charities and diverts resources from the charitable mission.

Definition of Charitable Purpose and Public Benefit

It is essential that the proposed changes preserve the eligibility of NFP disability providers for tax exemptions under the principle that their primary function is charitable and serves the public benefit. Our organisation operates solely for the benefit of disabled individuals, delivering essential services that are often beyond the capacity of the government to fully provide. Taxing our revenue would place undue financial strain on our ability to meet the needs of the communities we serve, potentially reducing the quality and scope of services available to those in need.

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 for defining an "unrelated business" should be based on whether the activity primarily serves the charitable purpose or is incidental to that purpose. For example, if we had revenue-generating activities like training or consultancy, these would be directly tied to our core mission of providing disability services and should not be considered unrelated businesses. Any attempt to classify these as unrelated would undermine the sustainability of vital services.

Furthermore, we oppose the concept of a "donor-controlled charity." This idea was strongly rejected during the review of the Charities Act and should not proceed. The notion of creating arbitrary categories of charity to circumvent minimum distribution requirements undermines the integrity of the sector.

Differentiation Between Commercial and Charitable Activities

While we understand the intent behind distinguishing commercial activities from charitable ones, it is crucial to recognise that many NFP disability providers engage in revenue-generating activities solely to sustain their charitable mission. These activities—such as providing training, consultancy, or community programs—are not driven by profit but by the need to support our broader service delivery. Imposing taxation on these activities would undermine our financial sustainability, making it more difficult for us to maintain and expand vital services.

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?

We recommend that a clear and fair threshold be set to exempt small-scale business activities that are directly aligned with the charity's mission. As a Tier Two disability provider, we operate with limited resources, and any increase in tax obligations would significantly impact our ability to provide services. A revenue threshold that allows small NFPs to continue their operations without the additional burden of taxes would be beneficial.

The proposals would also introduce unnecessary complexity by distinguishing between “related” and “unrelated” business income, a concept that has failed in other jurisdictions. Such distinctions create unnecessary administrative burdens for charities without resulting in any significant revenue gain.

Compliance and Administrative Burden

Additional taxation requirements would significantly increase compliance costs and administrative burdens, diverting valuable resources away from frontline services. Many Tier 2 disability providers operate with limited financial and administrative staff, and any increase in tax-related obligations would disproportionately impact our ability to serve disabled individuals. A clear and streamlined approach to compliance is necessary to ensure that the focus remains on delivering high-quality, person-centred services without the distraction of excessive administrative requirements.

Q10. What policy changes, if any, should be considered to reduce the impact of the Commissioner’s updated view on NFPs, particularly smaller NFPs?

We recommend redesigning the \$1,000 deduction to remove small-scale NFPs from the tax system. This would alleviate the administrative burden on small organisations like ours, enabling us to focus on service delivery rather than on compliance. Modifying the income tax return filing requirements and simplifying the resident withholding tax exemption rules would also help reduce unnecessary complexity for smaller NFPs.

We also strongly recommend that the FBT exclusion for charities be maintained. Requiring charities to file FBT returns would not reduce compliance costs and would instead impose unnecessary administrative burdens on organisations that are already stretched thin. Section CX 25, which provides the FBT exclusion, is an important support for charities and should remain in place for as long as the FBT regime itself remains.

Impact on Service Sustainability and Future Growth

Introducing taxation on NFP disability providers would have long-term negative effects on our ability to maintain and expand services. The current funding models already present challenges, and any new tax liabilities would reduce our capacity to invest in staff, infrastructure, and innovative service models. This would directly impact the quality and availability of services for disabled individuals across New Zealand, jeopardising the future growth and sustainability of the sector.

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, we agree that charity business income distributed for charitable purposes should remain tax-exempt. Any income used for charitable purposes should not be taxed, as it directly supports the broader mission of helping disabled individuals. The most effective way to achieve this would be to ensure that all funds generated by NFPs that are reinvested into services for the disabled community continue to be exempt from taxation.

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?

We believe the financial sustainability of NFP disability providers should be a central consideration. Any tax changes should account for the unique challenges faced by organisations in this sector, such as the reliance on limited funding sources, the need for ongoing workforce development, and the critical services provided to vulnerable populations. It is essential that the tax system does not create additional barriers to these essential services.

In addition, the assumptions underlying the issues paper need to be critically examined. The treatment of charities as receiving “concessions” and the idea that charities’ tax-free profits allow them to “expand more rapidly than their competitors” do not reflect the reality. Charities face significant disadvantages in accessing capital and rely on their tax privileges to offset these challenges. The tax treatment of charities provides essential public benefits that far outweigh any perceived costs to the government.

Conclusion

Connexu 2020 Trust strongly urges Inland Revenue to recognise that all revenue generated by Tier Two NFP disability providers is directed towards the achievement of their charitable purpose—supporting disabled people. Introducing taxation on surplus revenue would severely impact service delivery, sustainability, and community outcomes. We recommend that any policy changes maintain the tax-exempt status of NFP disability providers to ensure continued, effective support for disabled individuals.

Furthermore, we strongly recommend a review of the Charities Act and other fundamental issues before proceeding with any changes to the tax settings. Charities should not be treated as instruments of the state; they provide critical services and must remain independent. We welcome further discussion on how to safeguard the financial sustainability of the disability sector while maintaining fair and equitable taxation policies.

We appreciate the opportunity to contribute to this consultation and look forward to future discussions.



Sharon Naylor

BMS, CA

General Manager Corporate Services

s 9(2)(a)

P 07 871 8847 s 9(2)(a)

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Submission on the officials' issues paper – Taxation and the not-for-profit sector

March 2025

Introduction

The Aggregate and Quarry Association (AQA) is the industry body representing construction material companies which produce an estimated 48 million tonnes of aggregate and quarried materials consumed in New Zealand each year.

Funded by its members, the AQA has a mandate to increase understanding of the need for aggregates to New Zealanders, improve our industry and users' technical knowledge of aggregates, and assist in developing a highly skilled workforce within a safe and sustainable work environment.

Key points of our submission

- The principle of mutuality should continue to apply to the not-for-profit (NFP) sector, based on the current law, noting that this has been the position for decades.
- Taxing the subscription income of industry associations would undermine our purpose, reduce the capacity to serve, and ultimately harm the sector that we support.
- Sports clubs and business associations should have equal tax treatment as membership-based, not-for-profit organisations that support their communities.

We make the following submission in relation to the officials' issues paper – Taxation and the not-for-profit sector.

General comments

This consultation document is an officials' issues paper, which we understand means it sets out Inland Revenue's initial views on how the relevant tax laws apply, and requests feedback from interested parties. It is intended to stimulate discussion and allows Inland Revenue to gain a better understanding of the issues, including practical concerns affecting taxpayers.

There would be significant flow-on effects from some of the recommended changes, which do not appear to be based on any evidence of a problem that needs to be solved, beyond a general view that tax changes are needed in the charity and NFP sector.

AQA is a small industry association with 2.5 fulltime equivalent staff. Our predominant funding mechanism is member subscriptions, which typically provide just enough revenue to keep our operations running from year to year.

This means the margins between making a profit or loss can be minimal. AQA strives to make an annual surplus, but the reality for our association is that the subscriptions and other member funds received are typically enough for only a small surplus if everything goes according to plan, with little room for unexpected costs.

There are also many instances where a loss is made, either for a single year or over multiple years. This means we must dip into any reserves that have built up to make up the financial shortfall. The ability for us to build up reserves during more favourable economic times and/or membership increases so that there is a buffer to continue operations would obviously be curtailed by changes to the tax treatment of NFPs.

Principle of mutuality

The principle of mutuality should continue to apply, based on the current law, noting that this has been the position for decades. If Inland Revenue has formed a view that the principle of mutuality should not apply, then we would expect law change is warranted to reinstate the position that most membership organisations have been operating under (i.e. that subs are not taxable and expenditure on membership activities are not deductible).

AQA's focus is on reinvesting any surplus revenue into future options that directly benefit our members. These include, but are not limited to, professional training, industry research, policy advocacy, and engagement. Any surplus funds generated by AQA is always reinvested into the association's mission rather than allocated to members or stakeholders. Therefore, we believe taxing these funds would be counterproductive, as it would reduce the resources available for the very initiatives that benefit our member businesses and the broader economy.

Chapter 4 – Integrity and simplification

The issues paper notes one of the key changes in Inland Revenue's draft guidance is that trading and other normally non-taxable transactions with members, including some subscriptions, should be taxable income regardless of whether the common law principle of mutuality would apply.

The issues outlined in chapter 4 would impact the very nature of AQA's operations. We are deeply concerned that taxing the subscription income of industry associations would undermine our purpose, reduce the capacity to serve, and ultimately harm the sector that we support.

Inconsistent treatment of NFPs

The issues paper suggests that over 20,000 sports clubs and societies currently have an income tax exemption because they have been set up to promote an amateur game or sport.

We question why sports clubs and societies promoting amateur sports are treated differently from special interest clubs and societies that promote other pursuits. Sports clubs and business associations share key similarities as membership-based organisations with a common mission, often funded through subscriptions. Both are governed by a board or committee, host events to foster engagement, and advocate for their members. They also depend on subscriptions, fees, sponsorships, and fundraising for financial sustainability.

From a tax policy perspective, sports clubs and business associations should have equal tax treatment as membership-based, not-for-profit organisations that support their communities.

Wayne Scott

Chief Executive Officer

[Aggregate and Quarry Association](#)

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Taxation and the not-for-profit sector

Student Residence Trust Aotearoa

SUBMISSION OVERVIEW

Our charitable purpose is to provide student-focused accommodation with pastoral care for the vocational education sector.

Being a registered charitable entity allows the Trust to operate in both areas and ways that commercial operators do not.

We currently provide high-quality accommodation and care at the lowest cost to tertiary students anywhere in New Zealand.

Student accommodation of this type provides the best opportunity for academic success and personal development, while building community-mindedness with the flow-on benefit to regional development and as a positive contribution to New Zealand society.

Being the most affordable student accommodation provides access to education and vocational training for a poorer societal demographic that would otherwise not have the opportunity to do so. We know that two-thirds of our residents attend the associated tertiary institution because of the accommodation that we are able to provide as a charity. This is a key contributor towards eradicating poverty.

In order to provide this benefit to society we require additional funding to support our organisation, which includes rental income and passive sources of income, such as interest. Those funding sources are directed back to our charitable purpose.

Being taxed on income sources that our operation relies on will harm the benefit to society that we currently provide.

Submission detail follows...

Taxation and the not-for-profit sector

The Student Residence Trust Aotearoa (SRTA) is submitting on the consultation paper dated 24 February 2025 regarding change to tax legislation for the charitable sector. Most relevant to SRTA is Chapter 2 (Charity business income tax exemption) but Chapter 4 (Integrity and Simplification) is also relevant. When reviewing the data provided by Inland Revenue there is a Q&A sheet provided which speaks specifically to rental income (see below) – this, in particular, provides a challenge for SRTA whose charitable purpose is to provide accommodation services.

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

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

For the purposes of submission SRTA will focus on the provision of accommodation/rental income and also focus on the following questions from the consultation paper: Q1, Q2, Q3, Q4, Q5, and Q6. Our views around integrity and simplicity are that the system should not increase compliance burden on charitable organisations, the tax system should remain uncomplicated, tax concessions for NFPs (ie removing FBT) are welcomed – and that there should be more rigour at the registration process for ensuring charitable purpose rather than requiring charities with limited resources to focus their operational resources on compliance.

Charity Business Income – Rental income

The purpose of the SRTA is to provide care and support for students through accommodation – we know that when students have safe, supportive and secure accommodation success will come for our residents studying for their tertiary qualifications. Our charitable purpose is to provide, maintain and administer accommodation options for students. Our activities are the provision of buildings and facilities to support educational/training/research outcomes and our beneficiaries are children/young people. The cost to administer and maintain these facilities is significant, we do not pass on the full operational cost of administration and maintenance onto the students – if we were to do so the cost of accommodation would be untenable. We are currently the lowest cost providers of accommodation in the country and feedback from students is the costs of accommodation are still too high – an inability to have accommodation means students will not have access to education, it is that simple. We therefore require additional funding to support our organisation – and this does not come largely from government grants or community funders (although we do access a proportion of community funding) but rather from passive forms of income such as interest and also from 1) utilising the facilities to rent during holiday

periods; and 2) our social enterprise. Based on the interpretation of rental income being more likely than not to be business income our funding sources are at risk. This is unreasonable as those funding sources are directed back to the charitable purpose, are aligned with our organisational skills and capabilities and support individuals to access short term or lower cost accommodation. It should be noted that the demand for accommodation services in NZ outstrips supply and our services are provided to a key demographic (and support further education which is a key contribution to eradicating poverty) which is underserved in the charitable sector. An inability to utilise our assets (particularly building assets) to provide further income sources means we would require community funding support (again, of which there is not enough) and this would contribute to the rising cost of student living – leading to more students living in poverty, inaccessibility for those from less privileged backgrounds, lower achievement grades in areas of study, increased pressure to provide resources in the tertiary sector and students being vulnerable to tenancies which may exploit them. We have also been looking at supporting other charitable organisations who have an overflow of beneficiaries requiring accommodation – being taxed on rental income (whether that be physical charges or deemed rental income) is a disincentive to collaborate and reduce costs across the charitable sector.

We believe rental income should not be taxed for charitable organisations – whilst directly affecting our service provision for other charitable organisations it is a low touch source of funding, uses organisational resources in a meaningful way (ie excess building space) and the removal of the ability to generate funds through rental income would have a ripple effect.

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

It is the view of SRTA that charity business income should not be taxed. The unintended consequences of taxing are:

- Increased reliance on government funds or community funders – both of which increasingly do not have enough funds to meet the needs of charitable organisations (it is an incredibly competitive space);
- This gives a short term view rather than a sustainable view on funding due to the nature of non business charity income (it is often annual funding grants or one off donations which means planning on outcome delivery becomes very difficult for the sector);
- Reduces the ability of a charitable organisation to meet unseen needs in the community identified by them as they serve their beneficiaries. A charitable organisation needs to be agile and sometimes when meeting the need charging

for services that support outcomes results in greater benefit, a sense of accountability for the organisation and the beneficiary and delivers a sustainable funding model for a holistic provision of services;

- Sources of charity business income may be perceived as unrelated but can be the fence at the top of cliff, reduce other social challenges or support the outcomes of the charitable organisation (or another charitable organisation – in which case is this still business income);
- It will be difficult to identify business income from charitable funding sources, user pay services, deemed income and donor income introducing complexity (and therefore cost) into the system;
- This introduces cost into a system which is already resource constrained (as demonstrated by the number of volunteer hours and donations required to prop up the sector);
- It disincentivises NFPs from being innovative in their approaches to funding

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

Practical implications identified are as follows:

- Perception of unrelated – as above the income may be related to prevention, to holistic service provision or support of another charitable organisation as opposed to being truly unrelated;
- Defining this is difficult – using SRTA as an example how would we define unrelated rental income?
- Would a company not be able to be formed to give a donation to these organisations? Work arounds could become a significant issue leading to more and more related organisations, complexity and less transparency
- Disincentivised to look for sustainable outcomes that benefit in more ways than just the organisations/s purpose – may also disincentivise collaboration if partnership income was deemed unrelated

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?

We do not believe this should be removed. We would have the following questions:

- How do you accurately define unrelated? And how does passive income fit into being related or unrelated?

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?

We did consider whether the thresholds around Charitable Reporting (Tiers 1-4) would provide sufficient thresholds; we are concerned that a number of smaller charities to work around the system might ‘pop up’ resulting in more competition for funding, more duplication of services and defeat the purpose.

However, using these thresholds does seem the easiest approach and we suggest that Tier 3 and 4 charities should remain exempt at a minimum. It should also be noted that the compliance burden on the charitable sector puts pressure on professional service providers (lawyers, accountants) making it harder for resource pressured organisations (charities) to deliver on their compliance obligations – increasing this compliance burden will also increase this pressure on charitable support services.

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?

We agree that business income distributed to charities should be exempt from income tax. However, the question is perplexing to us as donations to charitable organisations are currently allowable tax deductions – by changing the above would this not remove the ability for businesses to provide funding and therefore put more pressure on the charitable sector which typically in turn places more pressure on the public sector.

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?

We believe consideration will need to be given to the following areas:

- Deemed income and pro bono services deductions (the true cost of operations for a charitable organisation must be considered deductible);
- Group structures
- Corporate giving – how will this impact on the ability of company to provide financial support;
- Compliance cost and burden reducing resources to deliver on charitable outcomes

Submission Opposing Proposed Taxation Changes for Charities

From: Te Taihū Community Development Agency (TTCDA)

Date: 31 March 2025

To: Inland Revenue Department (IRD), Policy and Regulatory Stewardship



TE TAIHU
COMMUNITY
DEVELOPMENT
AGENCY

1. Introduction

Te Taihū Community Development Agency (TTCDA) is a regional, iwi-mandated, community-led “for-purpose” organisation supporting over 1,400 for-purpose organisations (FPOs) across Te Taihū—the Nelson, Tasman, and Marlborough regions. Our mission is to “make doing the work of an FPO easier” by enabling connection, collaboration, and capability-building across the sector.

TTCDA was established in response to a documented, community-led call for change—affirmed through sector research, multiple hui, and co-design of a foundational Kawenata with Ngā Iwi o Te Taihū. Working alongside iwi, local government, central government, and the charitable sector, we aim to strengthen the region’s social infrastructure by providing system-level support and collective voice.

We write to express our strong opposition to the proposed changes to the charitable tax regime. We note a lack of convincing evidence to justify these reforms, as well as the heavy compliance burden they would place on smaller charities with limited resources.

2. Why We Oppose the Proposed Changes

A. Undermining Sector Sustainability

The proposed tax changes would threaten the financial viability of many charities, especially those that have developed diverse or income-generating models to augment and/or replace uncertain grant funding. Specifically, these changes:

- **Disincentivise trading income and social enterprise** models that foster long-term self-reliance.
- **Erode donor confidence** if tax-deductible giving is restricted or more complex.
- **Compound funding instability** by discouraging the very innovation needed to address community needs.

Imposing additional tax burdens could lead to fewer resources for charities, which already operate on limited budgets yet deliver essential services that often complement or stand in for direct government provision.

B. Failing to Reflect Regional Realities

TTCDA exists because the current funding system does not adequately support small

and mid-sized community organisations. Many FPOs experience isolation, piecemeal funding, and limited capacity to adapt to emerging challenges.

- The proposed rules impose **business-style tests** on organisations that are inherently community-led, volunteer enabled and place-based.
- They overlook the reality that many regional and iwi-based charities “do more with less,” piecing together resources from multiple sources to meet critical needs.

This signals a missed opportunity to leverage the existing charity regulator, which already oversees compliance and ensures most charities operate with integrity.

C. Increasing Compliance Burdens on the Least Resourced

Additional administrative and classification requirements, particularly around revenue and governance, would disproportionately affect smaller charities.

- **Complex reporting** requirements can overwhelm volunteer-driven or small-staff organisations.
- **Legal and accounting costs** divert funds away from front-line services.
- Every hour spent on compliance is an hour not spent on supporting and strengthening local communities.

Existing promises to reduce compliance for charities have not been fully realised. Instead, these proposals risk pushing charities further into administrative duties and away from their core missions.

3. TTCDA’s Specific Concerns and Expected Impacts

A. A Constrained Funding Environment

In our first year, TTCDA budgeted \$264,000 to fulfil a regional “backbone” function, yet has secured only \$110,000. Several grant applications have been declined or reduced.

- Our operations depend on **one part-time staff member and one project-based contractor**, tasked with supporting hundreds of FPOs across three districts.
- New tax restrictions would further limit our already precarious funding base and hamper our ability to deliver critical services.

Limiting or taxing income from social enterprise activity will only exacerbate the fragile fiscal landscape for many regional charities.

B. Strains on Underpaid, Volunteer-Based Workforces

Throughout Te Taihū, many FPOs are volunteer-run or employ a small number of part-time staff who earn significantly less than counterparts in other sectors.

- Staff and volunteers are motivated by **mahi aroha**—they do not expect large salaries, but they do rely on an environment that supports their commitment, especially in terms of innovative fundraising.
- Burdensome regulations would dissuade new volunteers and drain the limited energy of existing staff, resulting in less community impact.

In an environment where government pay scales are often higher, charities have few tools left to attract and retain competent professionals and committed volunteers.

C. Administrative and Legal Burdens Beyond Our Capacity

For TTCDA, the proposals could require:

- **Reclassification of income** around trading and potential social enterprises.
- Engagement of **legal and accounting services** that we currently cannot afford.
- Increased efforts to reassure donors and funders amid doubts over tax-deductibility and compliance obligations.

Vague distinctions (e.g., what is considered “unrelated business income”) would create additional confusion. If smaller charities believe they might be penalised for innovative funding initiatives, they may simply avoid them altogether, reducing potential to enable their own sustainability.

D. What Might Be Lost

Should these changes proceed, the region risks losing:

- **Regional food resilience initiatives** (like the Nelson Kai Network), which coordinate community kai distribution and help foodbanks build more sustainable strategies.
- **Youth leadership programmes** that empower rangatahi Māori and foster future governance talent.
- **Digital and collaborative infrastructure** through which smaller organisations can access training, shared resources, and collective advocacy.

This ecosystem is fragile. Without clear regulatory support for charities’ core functions—and for the creative ways they fund them—these critical services could be jeopardised.

4. Conclusion and Recommendations

We urge IRD and the Government to:

1. **Withdraw or substantially revise** the proposed tax changes, particularly those penalising income-generating charitable activities without clear evidence of systemic abuse.

2. Recognise the **lived realities** of smaller, regional charities—most operate with volunteer or low-paid staff, minimal funding, and a need for flexible income sources. One size does not fit all.
3. **Protect tax deductibility and exempt income** for charities whose missions clearly serve the public good, including intermediaries like TTCDA that offer crucial backbone support.
4. **Co-design any reforms** with iwi, grassroots charities, regional umbrella bodies, and funders, ensuring the legislation accurately reflects the not-for-profit sector's complexity and needs.

In their current form, these proposals threaten to destabilise the charitable infrastructure that underpins social cohesion—particularly in regions where government services are limited. We advocate a pause, genuine consultation, and a more nuanced, flexible framework that recognises and respects the sector's unique challenges, diversity and contributions.

Nāku iti noa, nā

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Leigh Manson
Strategic Lead
on behalf of

Te Taihū Community Development Agency (TTCDA)

www.tetaihucommunity.org