

11 March 2025

David Carrigan

Deputy Commissioner, Policy

Inland Revenue Department

Via email [policy.webmaster@ird.govt.nz](mailto:policy.webmaster@ird.govt.nz)

Tēnā koe David,

### **Taxation and the Not-for-Profit Sector**

Community House (Whanganui) Incorporated appreciates the opportunity to submit on Inland Revenue's Official Issues Paper: Taxation and the Not-for-Profit Sector. As a not-for profit organisation providing many services to our community, including those which help build capacity of local not-for-profit organisations and enhance their ability to deliver services, we have a vested interest in ensuring the continued strength of the sector.

The broad benefit of not-for-profits, including their proximity to the communities they support and the cost effectiveness of the impact they affect, are widely recognised. Their absence will have ramifications to the government in terms of both cost of social service provision and political support.

Proposed tax changes could increase financial pressure on charities and not-for-profits, particularly those that rely on business income, reserves, or tax exemptions to fund their work. If these changes proceed, organisations may face higher costs, new compliance burdens, and greater reliance on external funding, making long-term sustainability more difficult.

In terms of social service providers, not-for profit organisations are at the bottom of the food chain, totally reliant on competing for and balancing fixed-term contracts, contestable funding, and community goodwill. Like the majority of their clients, they operate on the breadline, often not knowing from one moment to the next how they are going to get by – despite their best efforts to build reserves and resilience. The sector is fragile, and the communities they support are fragile, particularly in the current sociopolitical and economic climates. Any change, however small, will have a significant impact.

### **Risks for Community Organisations**

If new tax rules are introduced, many charities and community organisations could face reduced financial flexibility, making it harder to plan for the future and deliver services effectively.

- **Loss of Business Income** – Taxing "unrelated" business income could limit self-funding opportunities, forcing greater reliance on limited grants and donations. Funders are already reporting overwhelming demand far exceeding their capacity.

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- **Restrictions on Reserves** – If a minimum spending rule is introduced, organisations may lose the ability to build financial resilience for future needs. When funding is not given, reserves are extremely important to tide organisations over periods such as the current funding climate.
- **Increased Compliance Costs** – More tax reporting and financial oversight could place a disproportionate burden on small and volunteer-led organisations.
- **Reduced Service Delivery** – With fewer financial resources, organisations may be forced to cut back programs, adversely affecting the communities they serve.

Thank you for the opportunity to comment on this consultation paper and for considering our submission.

Yours sincerely,

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s 9(2)(a)

Nerrily Frith

Shelley Loader

Chairperson

Manager

# Submission on the Taxation and the Not-for-Profit Sector Consultation

**Submitted to:** Inland Revenue Department (IRD), New Zealand

**Submitted by:** Nikau Foundation (CC24793)

**Submission Date:** 31 March 2025

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## 1. Introduction

**Organisation Name:** Nikau Foundation

**Legal Status:** Charitable Trust

**Primary Purpose:** Nikau Foundation's purpose is to create thriving, resilient communities strengthened by diversity and generosity.

**Contact Person:** Denisa Calian, cA

**Contact Email:** [s 9\(2\)\(a\)](#)

**Our mission** is to grow generosity to support the people and places of Te Upoko-o-te-Ika-a-Maui, the Greater Wellington region, forever. Nikau Foundation is the guardian of almost \$40 million, which is invested, growing and protected to support the people and places of our region, long-term.

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Thank you for the opportunity to make a submission on this Issues Paper. We welcome the opportunity to have a national conversation about the tax settings for not-for-profits, including whether the benefits are flowing through to the country and what may incentivise greater philanthropic giving. However, along with others in the philanthropic sector we have some concerns about the process. In particular, that:

- This conversation is taking place within the narrow scope of a revenue lens, rather than broader economic, social and environmental benefits that charitable organisations provide to the country and how philanthropy and social enterprise can be incentivised;
- The process is on a fast-track, with a short timeframe for consultation on issues (rather than also allowing consultation on options or detailed proposals) and a weak problem definition. There are significant risks associated with developing tax policy without fully understanding and testing the outcomes and benefits of any proposals;
- There is limited information about regulatory costs, savings, and financial modelling, raising doubts about whether this will have the benefits that the

Government intends or the scope of the cost on the philanthropic and charitable sectors; and

- It is unclear how the proposals and issues raised in the paper align with the Government's stated priorities of reducing regulatory burdens to unlock economic growth

We also have comments on areas of specific interest to the Borrin Foundation, outlined below.

## **2. Key Submission Points**

### **A. 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 undermines charities legislation because it seeks to define a charity based on how revenue is generated rather than how the revenue is spent.

Another key issue appears to be *when* a charity releases funds for their charitable purpose. There are a number of legitimate reasons why a charity may delay release of funds, such as long-term planning projects, or no suitable funding applications.

We make a preliminary point: the Issues Paper does not identify what is meant by "charity business income" or "unrelated business activities". In particular, it is not clear from the paper whether the intended scope of the review extends to activities such as direct investment in property by a charity, or whether it is confined to business activities carried on by separate entities owned and controlled by a charity.

Any changes to the law in relation to taxation of business activities carried on by a charity should not extend to direct investment in assets that require active management, such as commercial properties. There is no suggestion that investment income from a charity's endowment would be taxed, and appropriately so. Tax law should avoid giving rise to artificial distinctions and distorted incentives in relation to investment decisions made by charities.

If the focus of the Issues Paper is on business activities carried on by separate entities owned or controlled by a charity, our concerns are less acute. But against the possibility that the paper is intended to have a broader scope, we make the following submissions.

**We do not support** the proposal to tax charity business income unrelated to charitable purposes on the following grounds:

1. **Non-distribution constraint:** Charities, like Nikau Foundation, already have robust constraints in terms of distributing surpluses for personal gain based on the current law. The trust deed of Nikau Foundation also expressly prohibits private profits. In addition to this, Nikau Foundation exists for exclusively charitable purposes. Therefore, any surplus that Nikau Foundation makes will only be applied or distributed to support our charitable purposes and not be used for personal pecuniary gain.
2. **Nikau's distribution model:** As a community foundation, Nikau is designed to exist in perpetuity to support our communities forever. To achieve this, we protect the real value of all donations over time while making grants to the community every year. To ensure we are building a reliable source of funding and aren't passing on the pressure of low returns and economic volatility to our community we adopted a revised distribution policy in 2020. Modelled on the Stanford/Yale distribution model, this policy means we distribute a percentage of the total fund balance rather than investment income. This contributes to our sustainability as a Foundation and as a funder and allows us to continue to support our communities when times are tough and need for funding is high. This strategy has served us well, especially over the past couple of years when we encountered significant negative returns without a material impact on our distributable amount.

At Nikau, we acknowledge the diversity of Aotearoa New Zealand's for-purpose sector and the wide range of models adopted by charitable entities. Some charitable entities have a spend-down model and are designed to distribute a larger amount of capital over a short time period. Others, like Nikau, are designed to deliver community support over a longer period of time and thus, give out a smaller percentage of funds each year in line with our mission of supporting the people and places of our region, forever. Both models – those designed to offer short and long-term support – deliver a transformative impact and are necessary in effecting positive change.

3. **Nikau's investment model:** We do this via a well-thought-out investment strategy (SIPO), diversified across asset classes, global economies and even investment managers. This means that, at times, Nikau will hold direct assets such as commercial property. The SIPO also allows for other directly held investments in addition to our indirect/passive securities investments. Distinguishing between what is business income and what is not, in certain circumstances, will likely be quite difficult. At times, Nikau receives donated property (commercial or residential). For example, a property could be donated as part of an estate in a bequest. Although it is the Nikau Foundation's Board's strategy to divest property, this cannot always be achieved immediately for

various reasons (e.g. market conditions, available buyers, etc). We submit that tax neutrality is important when it comes to investment selection as well as fundraising purposes and the decisions should not be made based on tax implications but rather on the best outcomes for the Foundation to continue to support Nikau's charitable purpose.

4. **Our role:** Aotearoa New Zealand's for-purpose sector plays a significant role in creating better outcomes for our communities, filling key gaps and supporting grassroots solutions and initiatives. Currently, the sector is facing significant challenges arising from the continued effects of COVID-19, economic downturns and redirected government funding. This has created a significant shortfall with funding demand far outstripping supply. This is the time for the philanthropic sector to be strengthened and supported by the Government so they can fill an important gap in funding and deliver support directly informed by community need. Imposing potentially added costs and taxes, would decrease our ability to deliver key support to our communities. If Nikau Foundation or other philanthropic funders like Nikau Foundation, had their support reduced, this funding shortfall would be exacerbated, the burden would fall back on the Government, or alternatively, the communities would be negatively impacted by reduced funding.
5. **Government and the philanthropic sector:** Nikau believes that the Government and the philanthropic sector needs to work together to achieve better outcomes for our communities. We further believe that the Government needs to continue to recognise the important role that the philanthropic sector plays. The current tax exemption afforded to for-purpose organisations recognises this role. Having a strong philanthropic sector, where individuals contribute to their communities either via donations or volunteering, is essential to a flourishing country; it is the glue that keeps people connected. The philanthropic sector is close to the grassroots and can identify needs and respond much quicker than the Government can.
6. **Efficiencies:** Aotearoa New Zealand's for-purpose sector is efficiently driven by innovation, volunteer hours (1.4 million volunteer hours each week as per the Charities Services Annual Review 2023/24) and employees earning rates well below private and public sector rates. Coupled with our close connections to the grassroots and strong collaboration throughout the sector, funders like Nikau Foundation will always support the for-purpose sector in a more efficient and effective way.
7. **Tax burden/Government benefit:** The consultation paper mentions the tax concessions that IRD is making to the for-purpose sector; however, there is no mention or quantification of the benefit, impact and costs saved to the

Government that the for-purpose sector is generating. We encourage the Government to undertake an exercise to explore these savings before making significant structural tax changes to the for-purpose sector, which can have multiple unintended consequences.

8. **Tax revenue:** On a similar note, there is no quantification in the paper of the tax revenue that these changes would generate for the Government. We submit that this revenue may be significantly lower than anticipated, especially when considering the small to medium charities that rely heavily on volunteers. Labour cost is a significant input expense for any business. The pro bono or semi-pro bono services currently received by such businesses are not valued and recorded as an expense, and hence, the business surplus in these instances can be highly overstated. In some instances, not all costs are allocated to the business activity but rather maintained in a central cost centre because there is no compelling reason to do so currently. However, with the introduction of an income tax for such business income, charities will be incentivised, although at a cost, to properly record all the costs associated with the business activity.

Accordingly, it would be important for charities to be able to claim the true cost of their business in any income tax return. This raises the conundrum for the tax department as to what the appropriate fair labour costs should be.

The very possible outcome is that NFPs exit their charity business operations, impacting negatively on their organisation and mission, and resulting in no, or very minimal, tax revenue to the Government. If IRD is concerned about a small number of entities, potentially working in a tax avoidance way, then a more targeted approach would be better suited, rather than a sector-wide review.

9. **Perceived advantages:** the consultation paper acknowledges there are no competitive advantages that charity businesses have over for-profit businesses<sup>1</sup>. It does however mention “second-order imperfections” such as:

- lower compliance costs by NFPs. Nikau disagrees with this statement. Not only that we have one of the most stringent reporting standards in the world, but we also have the most transparency and accountability through the implementation and maintenance of the Charities Register. Nikau Foundation, and every other charity, must file Performance Reports compliant with financial reporting standards issued by the External Reporting Board (XRB). These not only show the financial performance of

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<sup>1</sup> However, we note that the discussion paper also proffers that a charity could have an advantage “if it were to accumulate its tax-free profits back into the capital structure of its trading activities, enabling it, through a faster accumulation of funds, to expand more rapidly than its competitors” (at 2.14). Of course, this statement does not apply to Nikau Foundation and its model of distribution (described in the submission).

the organisation but also non-financial information to provide more accountability and transparency. Recently, these reporting standards have been strengthened, requiring charities to provide added transparency around their accumulated funds. In Nikau's case, and many other charities as well, we also incur auditing fees (2024: \$13,000) which are not a requirement for most for-profit businesses. These compliance requirements, and the regular changes, add significant costs to charities.

- the charity business can expand more rapidly because it can accumulate its surpluses. However, a counter argument is that for-profit businesses can expand more rapidly because they have access to external capital (investors, banks), which is not an option for most charities.

10. **Charities disadvantages:** the consultation paper does not discuss the tax disadvantages that charities face because they cannot claim any imputation credits attached to dividends earned from for-profit businesses. This is effectively a "tax" paid by for-purpose organisations on their investments in for-profit businesses. This treatment is inconsistent with other tax-paying entities/shareholders, and it disadvantages, and even disincentivises, charities from investing in for-profit businesses in Aotearoa New Zealand. This is quite an important point to make, especially when assessing whether NFPs have lower compliance costs associated with tax obligations.

**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?**

Any new tax law can create expected and unexpected practical outcomes. The **impact** of this change on Nikau Foundation would be:

11. Increased compliance costs, in the form of added tax bills, staff time and resources to ensure compliance, external advisors costs, systems and software changes, and costs associated with potential change in investment strategy and divestment from certain direct investments.
12. A decrease in investment options which could lead to a reduction in investment income and narrowing of our income streams. This would impact Nikau Foundation's ability to work towards our vision and to remain a sustainable source of funding for our community.
13. Potential reduction in Nikau Foundation growth (if Nikau decides to no longer receive commercial property as donations), which will have a detrimental effect on the support and funding we can provide to our communities. This will weaken, rather than strengthen, the charitable sector and ultimately either put more

pressure on the Government to step up and provide more funding or more and more community services will be severely impacted.

**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?**

If the tax exemption was removed for charity business income unrelated to the charitable purpose, we would agree with IRD that a **de minimis threshold** must be applied in order to continue to provide a tax exemption for small-scale charities with business activity. We submit that, if the issue around possible tax avoidance is at the top level of NFPs and their businesses, then a more targeted approach at this level is better suited, rather than involving the remaining 99% of for-purpose organisations

Using the current reporting tier thresholds (Tier 1 to Tier 4) seems to be the best approach as it is already a well-understood and applied model by the NFP sector. Introducing any other thresholds would add complexity to a sector that has already managed multiple changes and compliance requirements, and we would not support that.

We recommend continuing to provide a tax exemption to all NFPs reporting under **Tier 4, Tier 3 and Tier 2** (i.e. expenses under \$33 million). The reason we have also included Tier 2 entities (not only Tier 3 and 4 as suggested by IRD) is because this threshold defined by the XRB includes all expenses, not only unrelated business expenses. Therefore, a charity can incur a significant amount of charitable expenses as part of running their charitable operation. In Nikau's case, this is making grants to the community. If we want to incentivise the philanthropic sector to grow and distribute more in the form of grants then limiting the level of expenses to \$5 million per annum, could have the opposite effect and incentivise charities to remain small. Additionally, if the potential tax issues are with the larger charities, then having a more targeted approach at Tier 1 charities is a better use of IRD resources.

The paper mentions that IRD is concerned with the timing between when the unrelated business income is earned and when it is applied for charitable purposes, with a potential solution to tax this profit it is earned and made available as a tax credit when it's used for charitable purposes (para 2.35). In this case the net effect on the Government revenue is nil; it may collect tax revenue in one year only to have to refund it back in the second year. This will significantly increase compliance and complexity not only for the NFPs but also for IRD for no apparent net tax benefit. We submit that keeping Tier 2 to Tier 4 charities outside of these proposals would keep compliance costs down significantly for these organisations and IRD.

**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?**

In the case that unrelated business income is taxed, **we agree** that an exemption should still apply if this **business profit is distributed for charitable purposes** in the same financial period. Although we are of the view that no business can distribute all of its profits on a regular basis and remain sustainable in the long run, we appreciate the option to receive a tax exemption for the portion of business income that is distributed in a given year. Businesses, and charitable entities alike, need to maintain a certain level of reserves to ensure they can withstand various economic environments, unexpected costs and disasters, and invest in their operations long-term and hence, they cannot distribute 100% of their surpluses every year. However, the opportunity to pay tax only on the retained profit would be advantageous. Additionally, we support the proposed rule (para 2.35) that a special memorandum account could be created for such instances, and tax be refunded in future years when the retained profits are being distributed.

## **B. Impact on Volunteers and Donation Tax Credits**

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

We support reforms to **simplify tax compliance for volunteers**, particularly the honoraria tax treatment.

**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 **do not support the proposed donation tax concessions** (i.e. changes to delink the DTCs from income tax and requiring donee organisations to collect and share more data with IRD). We believe, if these issues exist (i.e. individuals not claiming all of their donations) it could be because the donation amount is too small to warrant the time and effort of an individual submitting these rebate claims. In our experience, most of our donors make large donations and claim their tax refunds at year end. The implications for us changing the current practice will mean additional information being gathered and stored on our donors (e.g. IRD numbers), as well as new systems and processes to share that information with IRD on a regular basis. This would

inadvertently increase our costs but also increase our risks relating to gathering and storing private information.

We submit that any changes aimed at helping donors to claim more tax refunds will bring minimal positive financial benefit for donors. However, the cost to provide these changes would outweigh the benefits and are effectively moving the administrative burden from the donor to the donee organisation.

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### **3. Conclusion and Recommendations**

We appreciate the opportunity to contribute to this consultation. While we acknowledge the need for fair tax policies, we urge the Government to carefully consider the potential unintended consequences on charities and their ability to serve communities. Alongside introducing new regulatory costs for charities that are captured by any proposed arrangements, the discussion document proposals and areas of review would introduce complexity into the system. The simplicity of the Aotearoa New Zealand tax system is one of its most significant features and translates to efficiency. The various proposals in this paper appear to lessen that simplicity.

As the paper is written purely from a tax revenue perspective, it does not adequately canvas or discuss the public good provided by the charitable sector and the need for diverse funding streams - whether connected to their charitable purpose or not. We urge the Government, as part of this exercise, to reassess the immense, and sometimes unquantifiable, benefits that the for-purpose sector delivers to the community. We encourage the Government to implement policies that serve to remove barriers, strengthen capacity and capability throughout the for-purpose sector, support the sector's growth and allow effective, efficient support for our communities. We reiterate that like for-profit organisations, charities must become sustainable and financially resilient in order to deliver their kaupapa and services.

Small charities cannot be burdened by extra regulation, costs and taxes, and large charities must be empowered to think long-term, to invest in large projects and effect positive change from grassroots to systemic level.

We are happy to discuss this submission further and provide additional input if needed.

**Signed by:**

s 9(2)(a)

Emma Lewis  
Chief Executive Officer  
Nikau Foundation

# Submission on the Taxation and the Not-for-Profit Sector Consultation

**Submitted to:** Inland Revenue Department (IRD), New Zealand

**Submitted by:** Nikau Foundation in its capacity as sole Trustee of the Michael and Suzanne Borrin Foundation (CC53658)

**Submission Date:** 31 March 2025

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## 1. Introduction

**Organisation Name:** Michael and Suzanne Borrin Foundation ('Borrin Foundation')

**Legal Status:** Incorporated Charitable Trust, incorporated under the Charitable Trusts Act 1957. The trust's sole trustee is the Nikau Foundation a separate registered charitable trust, which is completely independent from the original donor, the late Judge Ian Borrin. Accordingly, this is not a donor-controlled charity as defined by IRD.

**Primary Purpose:** We're here to make a difference to the lives of New Zealanders, through the law. We do this by supporting legal research, education and scholarship on a wide area of legal topics, we also provide grants and scholarships for members of the New Zealand legal community.

**Our mission** is to support legal research, education and scholarship that contributes to our vision for Aotearoa New Zealand. We believe law is essential to a flourishing society – one that is just, inclusive, tolerant and free. Our vision is of an Aotearoa New Zealand where everyone understands the role and value of the law, and everyone enjoys the protection and opportunity that it provides.

**Contact Person:** Denisa Calian, CA

**Contact Email:** [s 9\(2\)\(a\)](#)

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Thank you for the opportunity to make a submission on this Issues Paper. We welcome the opportunity to have a national conversation about the tax settings for not-for-profits, including whether the benefits are flowing through to the country and what may incentivise greater philanthropic giving. However, along with others in the philanthropic sector we have some concerns about the process. In particular, that:

- This conversation is taking place within the narrow scope of a revenue lens, rather than broader economic, social and environmental benefits that charitable organisations provide to the country and how philanthropy and social enterprise can be incentivised;

- The process is on a fast-track, with a short timeframe for consultation on issues (rather than also allowing consultation on options or detailed proposals) and a weak problem definition. There are significant risks associated with developing tax policy without fully understanding and testing the outcomes and benefits of any proposals;
- There is limited information about regulatory costs, savings, and financial modelling, raising doubts about whether this will have the benefits that the Government intends or the scope of the cost on the philanthropic and charitable sectors; and
- It is unclear how the proposals and issues raised in the paper align with the Government's stated priorities of reducing regulatory burdens to unlock economic growth.

We also have comments on areas of specific interest to the Borrin Foundation, outlined below.

## 2. Key Submission Points

### A. 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 undermines charities legislation because it seeks to define a charity based on how revenue is generated rather than how the revenue is spent.

Another key issue appears to be *when* a charity releases funds for their charitable purpose. There are a number of legitimate reasons why a charity may delay release of funds, such as long-term planning projects, or no suitable funding applications.

We make a preliminary point: the Issues Paper does not identify what is meant by “charity business income” or “unrelated business activities”. In particular, it is not clear from the paper whether the intended scope of the review extends to activities such as direct investment in property by a charity, or whether it is confined to business activities carried on by separate entities owned and controlled by a charity.

Any changes to the law in relation to taxation of business activities carried on by a charity should not extend to direct investment in assets that require active management, such as commercial properties. There is no suggestion that investment income from a charity's endowment would be taxed, and appropriately so. Tax law should avoid giving rise to artificial distinctions and distorted incentives in relation to investment decisions made by charities.

If the focus of the Issues Paper is on business activities carried on by separate entities owned or controlled by a charity, our concerns are less acute. But against the possibility that the paper is intended to have a broader scope, we make the following submissions.

**We do not support** the proposal to tax charity business income unrelated to charitable purposes on the following grounds:

1. **Non-distribution constraint:** Charities, like the Borrin Foundation, already have robust constraints in terms of distributing surpluses for personal gain based on the current law. The trust deed for the Borrin Foundation also expressly prohibits private benefits.<sup>1</sup> Therefore, any surplus that the Borrin Foundation generates will only be applied or distributed to support our charitable purposes and will not be used for personal pecuniary gain.
2. **Borrin Foundation's distribution model:** Borrin Foundation, as a charitable trust and therefore exempt from the rule against perpetuities is designed to support legal scholarship, research and education forever. In order to achieve this, we need to protect the real (adjusted for inflation) value of the original donation, grow the trust fund, and balance this with making regular charitable distributions. Borrin Foundation has undertaken a thorough research exercise in 2020 which resulted in the foundation adopting the Yale University distribution model as described in our current [Distribution Policy](#). Whilst we acknowledge that there is some concern from IRD, and the public, that charities are not distributing enough and stockpiling charitable funds, the reasons for this for the Borrin Foundation are varied and very nuanced. In our case, due to our model, we do not distribute the real value of capital donated but rather distribute a set percentage annually from our investment returns. The reason for this policy is to be a sustainable grant-maker being able to make grants in every year regardless if markets and returns are up or down. The intention was to buffer the grant recipients from market volatility by smoothing out our distributions. This strategy has served us well especially over the past couple of years when we encountered significant negative returns, without an impact to our distributable amount.
3. **Borrin Foundation's investment model:** We invest in accordance with our Statement of Investment Policy and Objectives (SIPO), diversified across asset classes, global economies and even investment managers. The Borrin Foundation also holds direct assets such a commercial property which was donated by Judge Ian Borrin. The SIPO also allows for other directly held investments in addition to our indirect/passive securities investments.

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<sup>1</sup> Michael and Suzanne Borrin Foundation Trust Deed, clause 12

Distinguishing between what is business income and what is not, in certain circumstances, will likely be quite difficult. To then distinguish between what is related and unrelated will be even more fraught. We submit that tax neutrality is important when it comes to investment selection and the decisions should not be made based on tax implications but rather on the best returns for the Foundation to continue to support our charitable purposes.

4. **Our role:** At the heart of every philanthropist and grant-maker is the desire to make an impact. We know it is a unique privilege to participate in distributing money to make the world a better place and we are eager to create a powerful and effective result through our philanthropy. It is crucial that entities like the Borrin Foundation can contribute to independent legal research and scholarships to build on our legal capability here in Aotearoa New Zealand.
5. **Government and the Philanthropic sector:** We see these as working together, many times in partnership, to support our communities for a thriving New Zealand. The current tax exemption recognises this and the importance that the philanthropic, and not for profit, sector plays in achieving this goal. Having a strong philanthropic sector, where individuals contribute to their communities either via donations or volunteering, is essential to a flourishing country; it is the glue that keeps people connected. The philanthropic sector is grass roots and can identify needs and respond much quicker than the Government can.
6. **Efficiencies:** The not for profit and philanthropic sector will always deliver their impact at a much lower cost than the Government can. This is mainly due to the many volunteers it engages (1.4 million volunteer hours each week as per the Charities Services Annual Review 2023/24) coupled with many employees in the sector earning well below the public and private sector rates. In Borrin Foundation's case, we are governed by a volunteer board of trustees and supported by other volunteers in the Grants and Scholarships Committee. Additionally, the sector is well-known for collaborating with others in the sector and innovating, which also contributes to an efficient and effective delivery of impact.
7. **Tax burden/Government benefit:** The consultation paper mentions the tax concessions that IRD is making to the not-for-profit sector; however, there is no mention or quantification of the benefit, impact and costs saved to the Government that the not for profit sector is generating. We encourage the Government to undertake such an exercise and have all the facts before making significant structural tax changes to the charities sector which can have multiple unintended consequences.

8. **Tax revenue:** on a similar note, there is no quantification in the paper of the tax revenue that any such changes would bring to the Government. We submit that such revenue may be significantly lower than anticipated. Labour cost is a significant input expense for any business. The pro bono or partially pro bono services currently received by such businesses are not valued and recorded as an expense and hence, the business surplus in these instances can be highly overstated. In some instances, not all costs are allocated to the business activity, but rather maintained in a central cost centre, because there is no compelling reason to do so currently. However, with the introduction of an income tax for such business income, charities will be incentivised, although at a cost, to properly record all the costs associated with the business activity.

Accordingly, it would be important for charities to be able to claim the true cost of their business in any income tax return. This raises the conundrum for IRD as to what the appropriate fair labour costs should be.

The very possible outcome is that charities exit their charity business operations, impacting negatively on their organisation and mission, and resulting in no, or very minimal, tax revenue to the Government. If IRD is concerned about a small number of entities, potentially working in a tax avoidance way, then a more targeted approach would be better suited, rather than a sector wide review.

9. **Perceived advantages:** the consultation paper acknowledges there are no competitive advantages that charity businesses have on for-profit businesses<sup>2</sup>. It does however mention “second-order imperfections” such as:

- lower compliance costs by charities. Borrin Foundation disagrees with this statement. Not only do we have one of the most stringent reporting standards in the world, we also have the most transparency and accountability through the implementation and maintenance of the Charities Register. Borrin Foundation, and every other charity, must file Performance Reports compliant with financial reporting standards issued by the XRB; these not only show the financial performance of the organisation, but also non-financial information to provide more accountability and transparency. Recently, these reporting standards have been strengthened to require charities added transparency around their accumulated funds. In Borrin Foundation’s case, and many other charities as well, we also incur auditing fees (2024: \$15,000) which is not

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<sup>2</sup> However, we note that the discussion paper also proffers that a charity could have an advantage “if it were to accumulate its tax-free profits back into the capital structure of its trading activities, enabling it, through a faster accumulation of funds, to expand more rapidly than its competitors” (at 2.14). Of course, this statement does not apply to the Borrin Foundation and its model of distribution (described in the submission).

a requirement for most for-profit businesses. These compliance requirements, and the regular changes, add significant costs to charities.

- the charity business can expand more rapidly because it can accumulate its surpluses, however, a counter argument is that for-profit businesses can expand more rapidly because they have access to external capital (investors, banks), which is not an option for charities.

10. **Charities disadvantages:** the consultation paper does not discuss at all the tax disadvantages that charities face because they cannot claim any imputation credits attached to dividends earned from for-profit businesses. This is effectively a “tax” paid by charities on their investments in for-profit businesses. This treatment is inconsistent with other tax paying entities/ shareholders, and it disadvantages, and even disincentivises, charities investing in for-profit businesses in NZ. This is quite an important point to make especially when assessing whether NFPs have lower compliance costs associated with tax obligations.

**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?**

Any new tax law can create expected and unexpected practical outcomes. The **impact** of this change on our organisation would be:

11. Increased compliance costs, not only in the form of added tax to pay but also in the form of staff time and resource to ensure compliance, external advisors costs, as well as systems and software changes. Also costs associated with potential change in investment strategy and divestment from certain direct investments.
12. Reduction in investment options which could lead to a reduction in investment income and hence impact on the Foundation’s mission.

**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?**

If the tax exemption was removed for charity business income unrelated to the charitable purpose, we would agree with IRD that a **de minimis threshold** must be applied in order to continue to provide a tax exemption for small scale charities with business activity. We submit that, if the issue around possible tax avoidance is at the top level of charities and their businesses, then a more targeted approach at this level is better suited, rather than involving the remaining 99% of charities.

Using the current reporting tier thresholds (Tier 1 to Tier 4) seems to be the best approach as it is already a well understood and applied model by the charities sector.

Introducing any other thresholds would add complexity to a sector that has already managed multiple changes and compliance requirements, and we would not support that.

We recommend continuing to provide a tax exemption to all charities reporting under **Tier 4, Tier 3 and Tier 2** (i.e. expenses under \$33 million). The reason we have also included Tier 2 entities (not only Tier 3 and 4 as suggested by IRD) is because this threshold defined by the XRB includes all expenses, not only unrelated business expenses. Therefore, a charity can incur a significant amount of charitable expenses as part of running their charitable operation; in Borrin Foundation's case making grants. If we want to incentivise the philanthropic sector to grow and distribute more in the form of grants then limiting the level of expenses to \$5 million per annum, could have the opposite effect and incentivise charities to remain small. Additionally, if the potential tax issues are with the larger charities, then having a more targeted approach at Tier 1 charities is a better use of IRD resources.

The paper mentions that IRD is concerned with the timing between when the unrelated business income is earned and when it is applied for charitable purposes, with a potential solution to tax such profit when it is earned and made available as a tax credit when it is used for charitable purposes (para 2.35). In this case the net effect on the Government revenue is nil; it may collect tax revenue in one year only to have to refund it back in the second year. This will significantly increase compliance and complexity not only for charities but also for IRD for no apparent net tax benefit. We submit that keeping Tier 2 to Tier 4 charities outside of these proposals would keep compliance costs down significantly for these organisations and IRD.

**Q.5 If the tax exemption is removed for charity business income that is unrelated to charitable purposes, do you agree that charity business income distributed for charitable purposes should remain tax exempt? If so, what is the most effective way to achieve this? If not, why not?**

In the case that unrelated business income is taxed, **we agree** that an exemption should still apply if this **business profit is distributed for charitable purposes** in the same financial period. If this was not the case for charitable businesses, then it would also be necessary to remove the ability for any company to claim a tax deduction for a donation under s DB 41 of the ITA and also the ability for individuals to obtain donations tax credits. Essentially for the tax system to work, tax relief needs to apply across 'donor' types.

Although we are of the view that no business can distribute all of its profits on a regular basis and remain sustainable in the long run, we appreciate the option to receive a tax exemption for the portion of business income that is distributed in a given year. Businesses, and charitable businesses alike, need to maintain a certain level of

reserves to ensure they can withstand various economic environments, unexpected costs and disasters, long-term maintenance plans, etc. and hence, they cannot distribute 100% of their surpluses every year. However, the opportunity to pay tax only on the retained profit would be advantageous. Additionally, we support the proposed rule (para 2.35) that a special memorandum account could be created for such instances, and tax be refunded in future years when the retained profits are being distributed.

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### **3. Conclusion and Recommendations**

We appreciate the opportunity to contribute to this consultation. While we acknowledge the need for fair tax policies, we urge the Government to carefully consider the potential unintended consequences on charities and their ability to serve communities. Alongside introducing new regulatory costs for charities that are captured by any proposed arrangements, the discussion document proposals and areas of review would introduce complexity into the system. The simplicity of the New Zealand tax system is one of its most significant features and translates to efficiency. The various proposals in this paper appear to lessen that simplicity.

As the paper is written purely from a tax revenue perspective, it does not adequately canvas or discuss the public good provided by the charitable sector and the need for diverse funding streams - whether connected to their charitable purpose or not. We would also like the Government, as part of this exercise, to reassess the immense, and sometimes unquantifiable, benefits that the charities sector brings to the community, sometimes in partnership with the Government, and how the Government can strengthen this sector, especially at such a crucial time when we, as a nation, are focusing on social investment and divesting more power and funding to the communities and grass roots organisations. Charities must become sustainable and financially resilient in order to deliver their kaupapa and services; small charities cannot be burdened by extra regulation, costs and taxes, and large charities must be empowered to think long-term, to invest in large projects and social change.

We are happy to discuss this submission further and provide additional input if needed.

**Signed by:**

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Emma Lewis  
Chief Executive Officer  
Nikau Foundation, Trustee of the Michael and Suzanne Borrin Foundation

# Taxation and the not-for-profit sector

## General Principles – the financial and non-financial value of the charitable sector

**The Discussion document takes a remarkably utilitarian and, ironically, commercial view of the work of charities in our society.**

It seems unclear whether the focus is intended to be on charitable organisations carrying on large scale commercial business that is obviously unrelated to its charitable purpose or a more general review of the work of charities. But it seems to be largely based on the notion of direct benefit to the public. While this should be an important feature of the work of any charity, it's seldom the only societal contribution charities are making.

According to the Department of Internal Affairs, registered charities collectively have an annual total income of more than \$21 billion. The sector is supported by more than 217,000 volunteers. It employs more than 145,000 full-time staff. That's equivalent to about 5% of New Zealand's workforce.<sup>1</sup>

Essentially, charities should operate to fill the gaps in our society's functioning. Otherwise known as externalities, they include things like poverty, environmental harm, social exclusion and animal cruelty. These, contrary to some branches of political ideology, are generally dealt with poorly, if at all, through the currently dominant market systems.

To put it another way, charities often do the work that our society is otherwise unable or unwilling to sufficiently fund through taxation, but is actually still valued by the public. With current widespread cuts in government social and environmental support across the economy, it seems even more important to defend the work of those charities, which are increasingly left to pick up the pieces.

By targeting charities - removing direct government support and now considering removing tax concessions - the government is at risk of exacerbating a range of social and environmental problems.

## Responses to the Discussion document

[Point 1.4 and 2.15 – the cost of tax concessions \(with reference to point 3.13\)](#)

**Point 1.4 states: “Every tax concession has a “cost”, that is, it reduces government revenue and therefore shifts the tax burden to other taxpayers.”**

**Point 2.15 states: “The fiscal cost of not taxing charity business income unrelated to charitable purposes, particularly income that is accumulated, is significant and is likely to increase. Tax concessions for unrelated charity businesses reduce government revenue, and therefore shift the tax burden to other taxpayers.”**

It seems odd then, that this principle has not been applied to Ultra High Net Worth wealth families in New Zealand, corporations, or even capital gains being driven by unproductive property price rises.

Failure to tax the accumulating wealth of the super wealthy, in particular, has been shown to undermine the operations of our economy. However hard they might try, the super wealthy cannot spend a large portion of their passive incomes on personal goods and services, since those incomes are so high. Instead, they tend to monopolise the buying of certain assets classes, in particular real estate. Applied in this way, their excess wealth bids up the prices of housing. It also tends to be used to exert undue influence on social and democratic systems and institutions, largely in order to further bolster their own interests.<sup>2</sup>

In the Discussion document, not-for-profit and charitable structures have been rightly identified as a means by which certain wealthy individuals and groups have minimised tax liabilities. But this is far more widely done through corporate structures, capital investment and inheritance.

With that in mind, it would be good to see this review placed in the wider context of an equitable review of other tax concessions.

For example, New Zealand's corporate tax rate, at 28%, is above the OECD average. But the effective tax rate, the rate of tax that tends to actually be paid, after concessions and various work arounds, ranges from 16-20%.<sup>3</sup>

Multi-billion dollar offshore owned corporations are operating using New Zealand's infrastructure and relying on our education, healthcare, waste and security systems. They're generating many millions in profits for their investors, many of which are overseas. Various estimates suggest that somewhere around a third of the nation's GDP is directly attached to overseas investment, and the current government is prioritising increasing that, stressing the economic impact that makes to the New Zealand economy.<sup>4</sup> But they're paying an effective tax rate similar to Kiwis earning around \$55,000 a year.

This low effective corporate tax rate will, of course, also limit the amount of tax that can be reclaimed by any of the Discussion Documents' proposals. This is, assuming it will be the rate that will be applied following the proposed changes.

It's also well documented that the absence of an effective capital gains tax system is also fuelling an over-emphasis on property as the main investment vehicle in the economy. This is starving innovation of investment. It's pricing the young and old out of the housing market. This form of "tax concession" too, is well overdue for review, as is the recently re-bolstered tax concession for business people to purchase high polluting off road vehicles that they do not need for their job.

The Tax Working Group estimated that broadly taxing more income from capital gains would raise approximately \$8 billion over the first five years.<sup>5</sup> A more modest Treasury assessment, based on a slower transition, put the figure at \$1.9 billion.<sup>6</sup>

(It's interesting that the findings of the Tax Working Group are quoted in this Discussion Document selectively at Point 3.13 in relation to donor-controlled charities, while these other findings aren't mentioned at all.)

A wealth tax proposal considered, and then dropped, by the previous government in 2023 was estimated to have been able to raise up to \$10.6 billion over a four-year forecast period. This tax would have levied a 1.5% tax on wealth over \$5 million.<sup>7</sup>

New Zealand also has no inheritance tax, while 24 of the countries in the OECD do.<sup>8</sup> On average, these taxes account for only about 0.5% of total tax revenues in OECD countries that levy them.<sup>9</sup> In 2024 in New Zealand that would amount to a further \$577 million.<sup>10</sup>

It would be interesting to know if a similar estimate of additional revenue has been made regarding these current proposals. With even the largest institutions likely to be targeted only claiming taxable income in the millions, it seems highly unlikely they will be of a similar magnitude - in the order of \$2.5-\$11 billion in five years.

Which raises an important question. Is the prioritisation of taxation changes in the not-for-profit sector over these other changes judicial or economic in nature, or purely ideological? This is especially true of a government that has placed much of their political capital on the need to 'balance the books', and has instituted a range of austerity measures.

As a rough assessment, this has included:

#### **Environmental Programs:**

- Jobs for Nature programme: \$55.4 million in unused funding cut
- Native Afforestation Programme: \$50.4 million cut over 5 years
- Climate Change Commission: \$15.6 million cut over 4 years, particularly in agricultural emissions pricing
- Woody Biomass Planting programme: \$8 million in unused funds cut over 4 years
- Contaminated Sites Programme: \$8 million cut over 4 years (funding halved)

### **Health Programs:**

- Māori Health Authority: \$35.5 million cut over 4 years (disestablished)
- Health Active Learning sport programme: Portion of \$12.4 million cut over 4 years

### **Social Programs:**

- Emergency Housing Review and Homelessness Action Plan: \$46 million cut over 5 years (expected underspending)
- Regional Skills Leadership Groups: \$45.9 million cut over 4 years (scrapped)
- On Farm Support Services: \$27.2 million cut over 4 years (expansion cancelled)
- Oranga Tamariki office upgrades: \$25.9 million cut
- Te Ringa Hāpai Whenua fund: \$22.9 million cut over 4 years (scrapped)
- Hapori Māori Data Capability programme: \$22.8 million cut over 4 years (scaled down)
- Te Kawa Matakura (mātauranga-a-iwi qualification): \$22 million cut
- Creatives in Schools program: \$12.8 million cut over 4 years
- 20 hours free ECE: \$11.9 million cut over 5 years (cancelled)
- Community Innovation Fund (Ministry of Social Development): \$4 million cut
- Te Pae Roa Ministerial Group: \$4 million cut over 4 years (scrapped)<sup>11</sup>

In all, more than 240 programs have been scaled down or scrapped, accompanied by thousands of redundancies.

The government has stated that these cuts are intended to fund tax relief and redirect resources to other priority areas. But these savings seem to add up to something in the order of \$430 million.

So, at the moment we have these cuts, and the consideration of removing some tax concessions from the not-for-profit sector, which is still trying to fill in the societal gaps left by the cuts. But the amount of revenue that may be saved pales in comparison to what could be gained by more fundamental and blindingly obvious changes to the tax regime. This includes employing these three key means to compel overseas companies and the very wealthy contribute a fairer share into the upkeep of the country they operate in and the infrastructure and services they rely on and profit from.

It's puzzling the lengths our government is going to in order to avoid doing that. It's especially concerning, as the lost revenue from refusing to tax the richest people and corporations appropriately is likely to increase exponentially. More and more wealth will continue to be accumulated by fewer and fewer people and organisations, if only through compound interest and other basic market dynamics.

For example, research in 2022 by the Inland Revenue found that the 311 wealthiest families in New Zealand generally had a net worth in excess of \$50 million. Their average effective tax rate was just 8.9%.<sup>12</sup>

Indeed, as we began writing this submission the International Monetary Fund offered this advice to the New Zealand government. (**our emphasis**).

"New Zealand has an efficient consumption tax system, low labour tax wedge, relatively high corporate income tax, and **uneven capital income taxation**. Tax policy can support a more growth-friendly fiscal consolidation, and reforms aimed at improving the tax mix can help increase the efficiency of the income tax system while reducing the cost of capital to

incentivize investment and foster productivity growth. **Options include a comprehensive capital gains tax, a land value tax, and judicious adjustments to the corporate income tax regime.** The growth implications and distributional effects of these reforms should be carefully considered to inform the design of policies.”<sup>13</sup>

Currently, charitable donations and philanthropy seem to be the only means available to get this wealth cycling back around our economy and society for the benefit of all.

Point 2.6, 2.17 and 2.31 – accumulation of funds and minimum distribution 3.17-3.18

**This refers to the accumulation of funds for “many years”.** We’d be interested to know more about the governments thinking on the parameters of this.

Many charities, including SBN, require a financial ‘buffer’ of some sort to remain operating over time. They have staff to pay and other fixed costs. They may be subject to variations in income and expenditure. This can happen in emergencies like the increasingly prevalent extreme weather events we witnessed in Cyclone Gabrielle in 2023. Or another crisis might be triggered by another zootrophic pandemic, exacerbated by the continuing global encroachment of livestock on wild places and the global extent of biological and genetic experimentation.<sup>14</sup>

In addition, although apolitical, many charities are inevitably subject to a certain amount of political favour from one side of the political spectrum or another. It’s therefore not unusual for them to have to ‘ride out’ periods when unfavourable governments tend to reduce or remove their funding.

For example, many charities will have needed to draw on such reserves to remain in operation when the current government removed funding for a range of initiatives at very short notice – sometimes in the middle of agreed work programmes. Some of these had been supported by what might be called ‘discounted’ consulting work by the not-for-profit sector, where experts who have opted to work in this non-commercial field often work in partnership with or assist government ministries. This includes work on sustainable business, social inclusion, the circular economy and more. Charities that had been receiving funding from the USAid are also currently experiencing similar issues. For example, The Ākina Foundation, recently announced its closure after 17 years, stating: “The current economic and political environment has been extremely challenging for Ākina, and we know it has been for our wider ecosystem too. We do not believe things will improve quickly, and continuing to trade would not be responsible, nor ethical. Therefore, we have elected to close our doors.”

We would of course be opposed to any measures that could precipitate the closure of similarly impactful charitable efforts across the country.

**Point 2.17** refers to “profitable businesses reporting a taxable surplus”, which could mischaracterise this fiscally prudent approach. Taxing any such stored funds, if targeted too broadly, could force some charities to work even more ‘hand to mouth’ than they already do. This may cause more of them to fold in leaner parts of this cycle or due to sudden crises.

This approach may also make a poor fit with foundation and philanthropic funding cycles, which typically run over three or more years, to ensure realisation of real outcomes, and require charities to demonstrate longevity as a precursor to trust and investment.

The notion of: “relief when accumulated surpluses are eventually distributed for charitable purposes” is an interesting one. We would like to know more about how this might be designed and implemented.<sup>15</sup>

We understand the proposal to consider minimum distribution thresholds, which looks like a worthwhile discussion, although the caveats and concerns around long term financial resilience for charities would need to be kept in mind.

#### Point 2.29 – minimum threshold

**This states: “A de minimis threshold that continues to provide tax exemption for Tier 3 and Tier 4 charities would, for example, limit the impact of a policy change to less than 1,300 charities that report annual expenses above \$5 million per annum.”**

We can see how this proposal might at least usefully restrict the discussion, and presumably the development of changes in exemption status, to those areas where most charity-related business is carried on, and therefore where most tax could be retrieved.

However, scale does not seem to us to be the crucial issue to consider. The proposition seems to be that some are using the current charitable exemptions in ways that avoid what would otherwise be legitimate taxation without furthering charitable aims for the public good. If this is true, then this should be pursued at whatever level it is happening. A national discussion and decision on that is healthy. If, on the other hand, the main driver for the proposed changes is to accrue additional tax revenue, then we would again direct attention to the much greater opportunities in taxing the very wealthy, capital gains and inheritance.

Also, should the burden of taxation become onerous once concessions are removed, it's worth considering how this might disincentivise the growth of larger charitable entities. These are often needed to effectively tackle the scale and systemic nature of the issues they're attempting to address.

There is roughly one registered charity for every 180 people in New Zealand. This surpasses the number of per capita charitable institutions in places like the Australia, Canada, United Kingdom or USA.<sup>16</sup> While some of these are doing amazing work, this proliferation of entities can also lead to duplication of effort and administration and unnecessary competition for resources and support.

#### Q7 – Donor controlled charities (with reference to Point 3.14)

**It would seem sensible, in the interest of maintaining trust and avoiding fraud, for additional safeguards to be in place regarding donor-controlled charities, following the definitions described.**

It's important that individuals continue to feel able to pursue charitable goals based on a personal vision. But this should not be done with pecuniary interests in mind. There are also well documented issues related to “founders' syndrome” in the not-for-profit sector, where an over-emphasis on one influential individual inhibits effective operations and development.<sup>17</sup> This can only be exacerbated by consolidated financial control.

We would also suggest that if restrictions on private foundations making “jeopardising investments” are considered, that this should include barring charities from making investments in, or trading in, any form of digital currency like Bitcoin, Ethereum etc, to avoid irresponsible risk taking, fraud and sudden loss of donated funds.

As suggested, it would also seem prudent to restrict single donor investments in donor-controlled charities. This would assist in avoiding their use as tax avoidance methods and also ensure the goals they pursue enjoy wider public support and scrutiny than those of a single individual or family.

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# **Taxing charities: a principled approach**

**A submission to the Inland Revenue Department**

**by Peter Wilson and Julie Fry**

**31 March 2025**

## Authorship

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## Disclaimer

This submission is provided in our personal capacity as independent consulting economists. We are both Associates of the New Zealand Institute of Economic Research (NZIER), which is a registered charity and may therefore be impacted by any change to the tax treatment of charities. To avoid any conflict of interest, this submission has been prepared without any involvement, support, or endorsement from NZIER. The views expressed are our own and do not necessarily reflect the position of NZIER or any other organisation

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## Taxing charities: a principled approach

### Overview

The Inland Revenue Department has released an officials' issues paper on taxation and the not-for-profit sector (Inland Revenue Department 2025).

Among other things, Inland Revenue is seeking to address two separate problems:

- New Zealand's fiscal situation requires additional revenue
- The concern that some charities are engaged in business operations that are not closely connected to their charitable purpose.

One possible solution discussed in chapter 2 of the issues paper is to tax the unrelated business income of charitable organisations. Our analysis indicates that this:

- Would not be a major source of revenue, at least in the medium term, as charities can switch to other forms of untaxed income
- May not apply to some high-profile cases, as their businesses may indeed be related to their charitable purposes
- Would have significant negative consequences for many other charities that use unrelated business income as a source of revenue.

A particular concern is with charities that are supporting the most disadvantaged people in our communities to build better lives. Many of these organisations operate with limited resources, relying heavily on donations and volunteer efforts to maximise their impact. They see small-scale commercial opportunities as an attractive way of supplementing their resources. Our discussions with these organisations have revealed that some of their current and intended operations could come within the scope of "unrelated business" regimes used in other OECD countries. Introducing taxation on unrelated business income would reduce their financial capacity, forcing them to cut services and spend scarce time and resources seeking alternative funding.

We acknowledge the government's objectives in seeking additional revenue and ensuring fairness in the tax system. Taxing a specific sub-set of charitable income is not the most appropriate mechanism to achieve these goals.

Taxing charities is inconsistent with the Government's stated policies of working with the charitable sector and community groups to harness local knowledge to deliver social services. It is also inconsistent with its social investment approach.

Beyond the immediate negative effects on impacted charities, taxing these organisations would likely have broader social and economic repercussions. Many charities contribute

significantly to employment, skills development, and community resilience, complementing government services in cost-effective ways.

Charities that operate businesses often have goals other than profit maximisation. They can use the business to further their charitable goals - for example, by employing staff or providing work experience to people who would otherwise have difficulty finding employment. Thus, the very concept of an unrelated business in this context may be flawed.

If these changes are introduced, we anticipate that charities would respond to the incentives they face and move their investments out of taxed activities into untaxed activities, meaning that any revenue received by the Crown will be short-lived - and will come at a cost of reduced services delivered by charities. In the longer term, the government will need to step in to address any resulting service gaps - and their consequences. The overall fiscal impact of this approach may well be significantly negative.

We do not support these proposals.

There are better ways of achieving the Government's stated objectives. Taxing the unrelated business income of charities will have adverse and perverse impacts, especially on charities working to assist the most disadvantaged members of our communities.

## Introduction

This report contains our independent assessment of the Inland Revenue Department's issues paper on the taxation of charities in New Zealand. We mainly limit our analysis to the issue of taxing the unrelated business income of charities and our focus is on the economic aspects of the proposal.<sup>1</sup> There are, however, some areas of overlap with other parts of the issues paper.<sup>2</sup>

We begin by assessing the intent of the proposals in chapter 2 and consider this alongside established tax policy principles. We then provide a brief overview of the many previous reports and reviews which have addressed the taxation of charitable income, and the tax treatment of charities in other jurisdictions.

In seeking to understand why this issue has repeatedly been considered without resulting in policy change, we examine the common characterisation that there are some "businesses masquerading as charities and potential confusion over charitable purpose.

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<sup>1</sup> Our analysis focuses on the potential effects on efficiency, service provision, and broader economic outcomes. We do not address legal, regulatory, or other non-economic considerations, not because we believe such issues are unimportant, but because they fall outside our specific area of expertise. Other stakeholders may provide valuable insights on these effects and other issues raised in the paper. We encourage a comprehensive assessment of all relevant factors before any policy decisions are made.

<sup>2</sup> In particular, our analysis of the business income of charities is applicable to the issue of donor-led charities raised in Chapter 3 of the issues paper. Most of the issues relating to donor-led charities that officials have raised seem to be matters of the definition and regulation of charities, rather than concerning tax per se. As we discuss in detail below, the tax system should be used to raise revenue, not regulate the economy.

Finally, we consider the incidence of the exemption, how changes to the exemption rules would conflict with other government policies including social investment and building a stronger partnership with charitable organisations, as well as some practical implications for both charities and the government.

## Intent of proposals

In November 2024, the Government announced a tax and social policy work programme that includes reviewing elements of charities and not-for-profits to simplify tax rules, reduce compliance costs, and address integrity risks.

As part of that work, officials from Inland Revenue have published an issues paper on taxation and the not-for-profit sector. The introduction to that paper states:

*New Zealand has long adopted a policy of providing tax concessions to charities and not-for-profits (NFPs) to support organisations that provide public benefit. Today, the support provided to NFPs through the tax system includes income tax deductions and exemptions, tax concessions to some donors for donations made, goods and services tax (GST) concessions, and fringe benefit tax (FBT) concessions for certain employees... Every tax concession has a "cost", that is, it reduces government revenue and therefore shifts the tax burden to other taxpayers. (Inland Revenue Department 2025, 4, paragraph numbers omitted)*

By this logic, any increase in tax is a "benefit" that could allow someone else's tax to be reduced or the government's fiscal position to be improved. But it is, at the same time, a cost to the taxpayers who are paying more tax. Costs and benefits, when it comes to setting tax and spending policy, do not appear in isolation. What is required is a careful assessment of those costs and benefits together.

Under the heading Reason for review, Inland Revenue states:

*The fiscal cost of not taxing charity business income unrelated to charitable purposes, particularly income that is accumulated, is significant and is likely to increase. Tax concessions for unrelated charity businesses reduce government revenue, and **therefore shift the tax burden to other taxpayers**. (Inland Revenue Department 2025, 8, emphasis added and paragraph numbers omitted.)*

There are many reasons cited in the literature for treating charities differently to other entities when it comes to tax.<sup>3</sup> New Zealand ministers gave this summary in 2001:

*Subsidising charities enables governments to further their social objectives, including by means of increasing support to disadvantaged members of society. One of the reasons governments provide subsidies to the private sector rather*

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<sup>3</sup> A frequently cited publication is Hansmann (1981). See Silvia (2024), Brandsen (2025) and Cheng (2025) for recent reviews. Luis Calderón Gómez (2024) provides an alternative explanation, based on a theory of the limits of taxation.

*than simply increasing state provision is that it can result in a better targeting of resources... Subsidising charities also ensures that those members of society who do not donate to charities but who nevertheless benefit indirectly from charities are contributing through their general tax payments. (Cullen, Swain, and Wright 2001, 6)*

If, as officials have suggested, there is a cost associated with current policy, then there are also countervailing benefits, some of which accrue directly to those taxpayers who might be paying more than in a counterfactual situation where charities are taxed. Decision-makers should seek data that quantifies, or at least conceptualises, the balance between these benefits and costs before they could definitively decide whether those costs are worth incurring.

Any such analysis should examine the full impacts of charities on the government's operations and revenue needs. For example:

- Many charities provide services that would need to be provided by the government if the charity did not exist. This reduces government spending and obviates the need to raise revenue, and with it, attendant deadweight losses.<sup>4</sup>
- At least in the short term, the consumers of government services could experience adverse effects including additional costs or rationing, for example congestion at government facilities if a charity were to cease operating.
- Perhaps most importantly, charities are often able to provide better and more efficient services as they are more connected to local communities and consumers (Fry and Wilson 2023).

The term "unrelated" implies that there is something uncharitable about the action of such businesses and that it is unfair on other taxpayers that the income of such businesses is untaxed. Media coverage of this issue has focussed on this point: see Edmunds (2025), Coughlan (2024; 2025) and Lyth (2025).

More robust analysis, based on the principles underlying the taxation of charities in New Zealand, shows that the way in which charities choose to raise revenue, arrange their operations or pursue their charitable purposes has never been a factor in determining whether they should be taxed.

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<sup>4</sup> Taxes transfer money from taxpayers to the government: this is the 'fiscal burden' of a tax, which reduces the welfare of the taxed party. At a national level, this fiscal burden is matched by the spending financed by taxes, meaning that they generally offset each other. But taxes also take welfare from the economy and transfer it to nobody. This effect is variously called the excess burden, the efficiency cost, or the deadweight loss of taxes. These costs arise because taxes change behaviour. See Auerbach and Hines (2002) for a general review.

New Zealand operates what is called a “destination of income” approach, in which what matters is the use to which funds are put (that is, the charitable purpose that they promote), not how they are earned (which is a “source of income” approach).<sup>5</sup>

Since at least 1967, commentators, officials and Ministers have periodically suggested that the business income of charities should be taxed.

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## **New Zealand Parliaments have consistently declined to tax the business income of charities.**

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We note that within the context of New Zealand fiscal policy, the International Monetary Fund (IMF) recently said:

*Expenditure rationalization should utilize a comprehensive cost-benefit analysis of government programs against persistent spending pressures. This should be aimed at preserving high value spending priorities, protecting the most vulnerable, and carefully managing the implementation risks associated with operating allowance caps. (IMF 2025)*

These principles should be applied to imposing tax or removing exemptions as well. Using a cost-benefit analysis would also be consistent with the Government’s requirements for regulatory impact analysis, which apply to the imposition, change and removal of taxes and tax exemptions.

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<sup>5</sup> Section CW 42 of the Income Tax Act exempts from tax the income of a business carried on by, for, or for the benefit of a society or institution established and maintained exclusively for charitable purposes and not carried on for the private pecuniary profit of any individual. One of the conditions of this exemption is that that entity must be registered under the Charities Act.

Neither the Income Tax Act nor the Charities Act contain a comprehensive definition of charitable purpose. The current definition, which is included in both section YA 1 of the Income Tax Act 2007, and in section 5 of the Charities Act 2005, is:

*charitable purpose includes every charitable purpose, whether it relates to the relief of poverty, the advancement of education or religion, or any other matter beneficial to the community...*

The early British income taxes dating from the late 1700s included an exemption for charities, without any clear definition (Gousmsett 2009, 3). It was not until the late 1800s that the British Courts laid down a clear statement of what a charity was. In the leading case on this issue, Lord Macnaghtan defined the legal sense of a charity as comprising four principal divisions:

*Trusts for the relief of poverty; trusts for the advancement of education; trusts for the advancement of religion; and trusts for other purposes beneficial to the community, not falling under any of the preceding heads. The trusts last referred to are not the less charitable in the eye of the law, because incidentally they benefit the rich as well as the poor, as indeed, every charity that deserves the name must do either directly or indirectly.* Re Commissioners for the Special Purposes of the Income Tax v Pemsel [1891] AC 531

These four divisions were traced back by the British Courts to the preamble to the English Statute of Charitable Uses 1601 (enacted during Queen Elizabeth I's reign). As the New Zealand Supreme Court has noted:

*At common law, charitable status is recognised on a case-by-case basis, by analogy with previous common law authorities falling generally within the “spirit and intendment” of the preamble to the Statute of Charitable Uses 1601.* Re Greenpeace of New Zealand Inc [2014] NZSC 105

The New Zealand courts have continued to follow this approach. See Attorney-General v Family First New Zealand [2022] NZSC 80.

## Principles of good tax policy

The New Zealand tax system has long been regarded as one of most efficient within the OECD.<sup>6</sup>

One area where New Zealand is an outlier compared to the rest of the OECD is that, since 1984, successive governments have not viewed the tax system as an instrument for influencing economic activity. Its role is to raise revenue (and deliver some cash-based social welfare programmes) in a way where taxes apply neutrally between different activities that a taxpayer could choose. Put another way, the tax system itself should not drive economic behaviour. This principle of neutrality has been repeatedly endorsed by international organisations like the IMF and the OECD<sup>7</sup> and the four major independent reviews of the tax system undertaken since it was adopted.<sup>8</sup>

Since the major expansions in the tax base from 1984 to 1993, Governments wishing to change tax revenue have usually altered the rates of income tax and GST, rather than adding or repealing specific taxes.

When it comes to income tax, the analytical starting point for developing tax policy in New Zealand is the definition of income favoured by economists, called the Haig-Simons-Schanz approach, or “comprehensive income”.<sup>9</sup> This concept of income is a normative theory: it seeks to describe how we should be taxed, rather than being a positive statement of what is taxed.<sup>10</sup>

Under this definition, the income of an individual in any period equals consumption plus net change in wealth. At a conceptual level, it includes the income that a person earns via companies and other legal entities (e.g., family trusts).

Successive policy reviews in New Zealand have endorsed using a comprehensive income definition. But they have stressed that this approach should not be followed dogmatically.

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<sup>6</sup> Mourougane (2007).

<sup>7</sup> The OECD undertook two comprehensive reviews of the tax system in the 2000s (OECD 2000; 2007) and successive biennial Economic Surveys of New Zealand by the OECD have also considered tax matters to greater or lesser degree. Reviews since 1975 can be found online at [http://www.oecd-ilibrary.org/economics/oecd-economic-surveys-new-zealand\\_19990162](http://www.oecd-ilibrary.org/economics/oecd-economic-surveys-new-zealand_19990162)

<sup>8</sup> See Committee of Experts on Tax Compliance (1998); Tax Review 2001 (2001); Victoria University of Wellington Tax Working Group (2010) and the Tax Working Group (2019).

<sup>9</sup> This definition was first advocated by German lawyer Georg von Schanz (Schanz 1896) and developed by American economists Robert Haig (Haig 1921) and Henry Simons (Simons 1938). See Atkinson and Stiglitz (2015, 217) for a discussion of the concept. Von Schanz's contribution is often overlooked, with “Haig-Simons income” being the common name for the idea.

<sup>10</sup> As Luís Calderón Gómez has commented:

*The main and most influential theory in taxation - the Haig-Simons definition of income - is indeed a normative theory that, despite not being able to fully account for all or even most of the features of our income tax, remains both the cornerstone and guiding star of academic and policy discussions on the income tax. As the Haig-Simons definition evidences, a normative theory can be of great academic and policy significance to the literature, even if it does not purport to make irrefutable or grand historical claims.* (Calderón Gómez 2024, 279)

There are many examples of departures from comprehensive income in the New Zealand income tax system. The Treasury produces an annual report on some of these departures in its Tax Expenditure Statement (The Treasury 2024).<sup>11</sup>

For reasons largely to do with administrative and compliance costs, legal entities are taxed separately through separate sets of rules. Charities that have a legal structure are therefore included within the scope of the Income Tax Act, but with specific exclusions for some of their activities and those of their supporters. For example:

- Charities are exempt from income tax
- Benefits provided by a charitable organisation to its employees while they are carrying out the charitable purposes of the organisation are exempt from Fringe Benefits Tax
- Donations to most registered charities are eligible for a tax credit.

However, even when there are departures from taxing comprehensive income, New Zealand has usually adopted simple approaches. For example:

- Individuals can claim one third of the value of eligible donations over \$5, up to their taxable income, regardless of their marginal tax rate. Application for this credit has been separated from annual tax returns and can also now happen by payroll giving (subpart LD). This simplification replaced a previous deduction, the value of which varied with the taxpayer's tax rate and had to be claimed via tax returns.
- Fees paid by the Crown to jurors and its witnesses, other than expert witnesses, are exempt income, regardless of the other income of the recipient (section CW 40). This is a departure from the ability-to-pay principle, but reduces compliance and administrative costs, while recognising the civic purpose of jury service.
- Scholarships and bursaries paid to people attending any educational institution are exempt income, regardless of parental or student income (section CW 36). This compares with student allowances and student loans, which are means-tested on both parental and student income.

Removing any one of these tax expenditures would increase revenue. However, governments have taken the view that there is sufficient policy rationale to justify forgoing revenue from maintaining these tax expenditures.

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<sup>11</sup> This statement does not set a normative benchmark like comprehensive income as its basis of classification of a provision as a tax expenditure. Rather, it uses a standard derived from accounting practice, principally Public Benefit Entity International Public Sector Accounting Standards (PBE IPSAS 23). The Treasury defines tax expenditures as "individual features of the tax system that reduce an entity's tax obligation in a way that is designed to give effect to policy other than to raise revenue in the most efficient and economically neutral way" (The Treasury 2024, 2). As a result, major departures from comprehensive income like imputed rental income from owner-occupied housing and the exemption of gains on the sale of assets held on capital account are not included as tax expenditures. The exemption from income tax afforded charities is included, but is not quantified.

## A much-discussed issue

We are aware of at least five instances since 1967 in New Zealand and three in Australia where the issue of the business income of charities has been discussed.<sup>12</sup>

Two of these reviews were undertaken before neutrality became a guiding principle of New Zealand's tax policy in 1984.

### The 1967 Ross Review

The 1967 report of the New Zealand Taxation Review Committee (the Ross Review) recommended that the business profits of charities be taxed (Taxation Review Committee 1967, chap. 55). Its reasoning, which we discuss below, was that such businesses are given a competitive advantage, a view that later reviews both here and overseas have rejected.

### The 1982 McCaw Report

The New Zealand Taskforce on Tax Reform's 1982 report (often referred to as the McCaw report after its chairman) noted the Ross Committee's conclusions and also suggested that the exemption from tax of the business income of charities was "inconsistent with the objectives of equity, neutrality and economic efficiency espoused in this report" (Task Force on Tax Reform 1982, 253). It recommended the adoption of the approach taken by Singapore at the time, where business income would continue to be exempt subject to three conditions: "the business is exercised in carrying out the primary purpose of the charity; the work is mainly carried on by persons for whose benefit the charity was established; and not less than 80% of the net income of the previous year was applied to charitable ends" (Task Force on Tax Reform 1982, 254).

### The 1987 Government Economic Statement

In 1987, as part of major proposed tax and other economic reforms, the New Zealand Government announced the general removal of fiscal privileges for charities. The statement's rationale was that government assistance to charitable organisations could be more efficiently achieved through direct government expenditure. So while the tax exemption would be removed, it was proposed that an equivalent level of funding would be included in direct expenditure programmes (Gousmrett 2013, 168).

A consultative committee was established to consider the tax reforms proposed in the Statement, chaired by Dr Don Brash. While many of those reforms proceeded, those relating to taxing charities did not (*ibid.* 170).

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<sup>12</sup> These are in addition to numerous international studies on the wider issue of what constitutes a charitable purpose. See McGregor-Lowndes (2017) for a review.

## The 1995 Australian Industry Commission review

In 1995, the then Australian Industry Commission<sup>13</sup> was asked to review charitable organisations in Australia. Its terms of reference specifically included the appropriateness of the current tax treatment. The Commission's report included extensive analysis of the many different state and federal taxes to which charities and their supporters were subject or exempt. In relation to whether the exemption to federal income tax raises competitive neutrality concerns, the Commission said:

*Income tax, however, is an after-profit tax imposed on revenue after costs have been taken into account. Being an after-profits tax, an exemption from it should not affect the behaviour of an organisation when deciding how to set its prices and how to minimise its costs. This result holds whether the Community Social Welfare Organisation is engaged in unrelated business income or where the activity is the Community Social Welfare Organisation's core objective. (Industry Commission 1995, 311)*

The Commission recommended that the Federal government should continue the income tax free status of Community Social Welfare Organisations (ibid. 275). The Commission observed that:

*Tax is normally based on gross income less business expenses. However, there are conceptual difficulties in identifying both gross income and business expenses for a charity. For example, does gross income include donations and government grants, and are expenditures related to service provision rather than income generation appropriately classified as business expenses? (ibid. 275)<sup>14</sup>*

## The 2001 Tax and Charities Discussion Document

In 2001, the New Zealand Government issued a discussion document entitled Tax and Charities (Cullen, Swain, and Wright 2001). It concluded that while a tax exemption for business income for charities confers a tax advantage, it does not involve a competitive advantage. The reasoning was that because a charity has other forms of tax-free income available to it, it would not be rational to reduce its prices, as it would be giving up revenue that it could have earned tax-free in its other available investments:

*On this basis, the tax-exempt entity will charge the same price as its competitors. The tax exemption merely translates to higher profits and, hence, higher potential distributions to the relevant charitable purpose. Consequently, funding the charitable activity from trading activities is no more distortionary than sourcing it from "passive" investments, such as interest on bank deposits, or from direct fund raising. (Cullen, Swain, and Wright 2001, 43)*

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<sup>13</sup> The Industry Commission was merged with two other bodies in 1998 to form the Australian Productivity Commission (Productivity Commission 2003).

<sup>14</sup> By using charitable purpose as the determinant of tax treatment, rather than whether an entity has produced net income, the current New Zealand approach eliminates this complexity.

The Government did, however, consider that the ability to retain tax-free income and reinvest it in the untaxed business would allow charities running businesses to grow faster than taxed competitors. It proposed that trading operations owned by charities should be taxed like other businesses but be allowed an unlimited deduction for distributions made for charitable purposes. That is, it proposed to allow charities to earn higher profits, provided they were expended immediately on a charitable purpose. If the charity wished to retain some of its profits, it could do so, provided it paid income tax on them first.

After considering submissions on the discussion document, the government announced in November 2001 the establishment of a working party to design a new registration system for charities (Cullen 2001). The Working Party reported in 2002, recommending the establishment of a charities commission (Working Party on Charities 2002). Proposals to tax the business income of charities did not proceed.

### **The 2009 Australian Tax Review**

The Australian Government conducted a major review of the Australian tax system in 2009 (Henry et al. 2009). It included a detailed discussion of the tax treatment of charities.<sup>15</sup> It too concluded that:

*The income tax and GST concessions generally do not appear to violate the principle of competitive neutrality where NFP organisations operate in commercial markets. (Henry et al. 2009, 205)*

In doing so, it cited a major result from the public finance literature, Samuelson's Invariant Valuation Theorem (Samuelson 1964). Paul Samuelson showed that under certain assumptions different tax rates applied to different taxpayers would not distort the composition or level of investment in an economy.<sup>16</sup>

The review therefore did not recommend that charities in business should be taxed, although it did recommend reforms to the regulation of charities.

### **The 2009 Australian Productivity Commission Research Study**

At the same time the Treasury was examining the whole Australian tax system, the Government asked the Productivity Commission to study “the contributions of the not for profit sector with a focus on improving the measurement of its contributions and on removing obstacles to maximising its contributions to society” (Productivity Commission 2010, iv). Within its wide-ranging terms of reference, the Commission was specifically asked to

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<sup>15</sup> One important context of the Review's discussion of charities was that it was only in 2008 that the High Court of Australia decided that any business could be exempt from tax if its purpose was to provide funding for a charitable purpose (Commissioner of Taxation v Word Investments Ltd [2008] HCA 55). Thus, there had not been a long tradition allowing businesses to be tax exempt if they supported a charitable purpose. However, the Review was aware of this decision and noted that it greatly expanded the scope for charities to engage in business (Henry et al. 2009, 208).

<sup>16</sup> Samuelson's analysis showed that the discounted present value of a stream of cash flows from an asset is independent of the tax rate of its owner, because the taxpayer would use an after-tax discount rate. The practical application of this finding is that a taxed and an untaxed person will pay the same for a given asset.

“examine the extent to which tax exemptions accessed by the commercial operations of not-for-profit organisations may affect the competitive neutrality of the market” (ibid. v).

The Commission came to the same conclusion as the earlier Industry Commission report, namely, that the income tax exemption was unlikely to violate principles of competitive neutrality:

*Most [not-for-profit organisations] are exempt from income tax... Whether or not there is an income tax exemption, the output and pricing decisions to maximise a surplus (or profit) are the same. Thus the income tax exemption does not distort decisions such as how many people to employ, what price to charge and so forth, as long as tax is a fixed share of profit.*

*Put another way, the objective of a for-profit business is to maximise profit by either (or both) increasing revenue or cutting expenditure. For a given profit, the tax on the profit - income tax - does not affect the decision to maximise profit (although a sufficiently high income tax could make the business unviable). This applies similarly to income tax exempt NFPs, which seek to maximise their output for a given cost. (ibid. 203)*

## **The 2018 Tax Working Group**

In 2018, the New Zealand Government convened a Taxation Working Group to undertake a review of the tax system. The Group commissioned officials from Inland Revenue and Treasury to provide advice on the issue of the taxation of charities (Inland Revenue Department and The Treasury 2018). Regarding the issue of the claimed unfair competitive advantage available to charitable businesses, after noting early studies in New Zealand and Australia, officials said:

*Officials note that New Zealand’s review of the tax treatment of charities in 2001 and recent reviews of the tax system in Australia (2009) have not supported this perceived unfairness. In principle, the tax concession does not impart a competitive advantage because a trading operation owned by a charity faces the same incentives as a commercial entity when it comes to setting its prices. Its tax-exempt status alone should not lead to undercutting of rivals. (Inland Revenue Department and The Treasury 2018, 5)*

As with the Australian Review, officials noted that competitive neutrality analysis supports an exemption for active business income if passive income is exempt (ibid. 19).

On the wider question of the rationale for a tax exemption, officials said:

*Income tax exemptions are a departure from the Government’s broad-base, low-rate tax framework and should meet a high threshold before being given. Therefore, as a matter of principle, exemption from income tax is restricted to organisations that are both not-for-profits and operate for the public benefit – the main category being registered charities. (ibid. 10)*

That is, they concluded that coming within the definition of charitable purpose was sufficient of itself to justify an exemption.

The Tax Working Group discussed this issue in both its interim and final reports. In the interim report, it said:

*The principle of competitive neutrality provides a rationale for taxing each taxpayer's active and passive income at the same rate. This, in turn, suggests a case to provide a charitable exemption for business income if the passive income of a charity is exempt. On the other hand, a charitable business that does not distribute its income will be able to accumulate capital faster than an equivalent taxpaying business. (ibid. 120)*

The Working Group therefore turned to the issue of the taxation of retained earnings. It said that it was of the view that the accumulated assets and income of a charitable business should be used for charitable purposes to qualify for an exemption. In doing so, however, it noted that:

*[T]he Group is aware that some charities may have good reasons to accumulate funds (for example, to save for the acquisition or construction of capital assets, to prepare for large crises in the future, or to take an intergenerational view towards the management of assets), so changes to the current exemption should only be made if these charities could be adequately protected. (ibid.)*

In its final report, the Tax Working Group summarised some of the analysis in the Interim Report and concluded:

*The question, then, is whether the broader policy settings for charities are encouraging appropriate levels of distribution. The Group recommends the Government periodically review the charitable sector's use of what would otherwise be tax revenue, to verify that the intended social outcomes are actually being achieved. (ibid. 103)*

We are not aware of any such analysis having been undertaken.

## **Consistent conclusions**

There are two interesting aspects to this historical account.

First, understanding of the effects of the tax exemption has changed. The Ross Review and the McCaw Report both saw the issue as one where the exemption gave charities a competitive advantage. Later reviews in both Australia and New Zealand debunked this view, noting that there is no competitive advantage involved in differential tax rates.

Second, none of these proposals to remove the tax-exempt status from some charities have proceeded, even the two that were announced by the government of the day.

## Overseas treatment

The OECD recently commented:

*There is no single generally accepted rationale for the preferential tax treatment of philanthropy.* (OECD 2020b, 2)

Although most OECD members provide some sort of fiscal assistance to philanthropy, either through the tax treatment of charities themselves or through support for donations to charities, that support is varied. This divergence in the tax treatment of charities is hardly surprising, given the vast differences in tax policy and practice across the OECD.

The wider economic and social context in which a sector operates will always have an impact on how and why it is taxed. Understanding this context is an important part of any comparative analysis of different countries' approach to taxing charities. In the United States, for example, much of the discussion of the taxation of the business income of charities relates to not-for-profit hospitals and private universities which are often substantial providers of commercial services.

The OECD's 2020 report on taxation and philanthropy provides a snap-shot of how charities were taxed in OECD countries (OECD 2020a).

When it comes to the tax treatment of the business income of charities, it is difficult to draw general conclusions without undertaking thorough analysis of each country's treatment.<sup>17</sup>

**Australia, New Zealand and Malta** would appear to have the simplest provisions: entities that come within the definition of charity are always exempt from tax on all their income.

**Canada** likewise exempts all the income of charities from income tax but uses the registration of charities as a gateway. The law provides that an entity that carries on an unrelated business can lose its registration as a charity.<sup>18</sup>

As the legislation provides no definition of unrelated business, the Canada Revenue Agency has issued guidance. It starts by saying:

*Charity law, reinforced by provisions in the Income Tax Act, requires that charities have exclusively charitable purposes. Running a business cannot*

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<sup>17</sup> In the short time available to make submissions, we have not been able to undertake a thorough analysis of all the treatment of business incomes of charities in OECD countries. We have, however, undertaken a selective analysis of some comparable countries.

<sup>18</sup> Paragraph 149.1(2)(a) of the Canadian Income Tax Act simply states:  
"The Minister may ..., revoke the registration of a charitable organization ... where the organization carries on a business that is not a related business of that charity".

*become a purpose in its own right—it must remain subordinated to the organization's charitable purpose. (Canada Revenue Agency 2020)*

As a result of this ruling, the scope for a Canadian charity to remain registered while carrying on a business is limited (Larre 2016, 34). Charities can only operate a business that is linked to the charity's charitable purpose, but subordinate to that purpose. The following are examples:

- a hospital's parking lots, cafeterias, and gift shops for the use of patients, visitors, and staff
- gift shops and food outlets in art galleries or museums for the use of visitors
- bookstores, student residences, and dining halls at universities for the use of students and faculty.

In contrast, a thrift store (op shop) will only be a related business if the store is located in sections of a community inhabited largely by poor people, if it sells donated goods at low prices, and if it operates on a break-even basis (Brouard 2023, 11).

Regarding investment income, the Canada Revenue Agency does recognise that:

*Charities need to invest their capital and any funds not required for their current operations. Charity law dictates that a charity's assets be managed so as to obtain the best return within the bounds of prudent investment principles. As long as a charity manages its investments prudently, this function would generally be regarded as a necessary administrative function and not a business activity. (ibid).*

**Ireland** taxed all the business income of charities until 2024. In that year, a budget initiative was introduced that allows charities to retain the untaxed profits of businesses for five years (Ireland Tax and Customs 2025, 6).

The **United Kingdom** generally exempts charities from all taxes. Charities that engage in trading can be exempt from tax if one of these conditions is met (HM Revenue and Customs and The Charity Commission 2019):

- The trading is related to the primary purpose of the charity
- Trading is under a threshold ("the small business exemption limit")
- The trading is related to the charity's primary purpose and is undertaken by the beneficiaries of the charity, even if they are paid market rates
- Trading is undertaken through a taxed subsidiary.

The **United States**<sup>19</sup> originally operated a similar “destination of income” approach to New Zealand whereby all income of charities was exempt from tax, provided it was applied to its charitable purpose (Joint Committee on Taxation 2005, 100). However, as charities grew, they acquired commercial enterprises to finance their activities.<sup>20</sup> They also allowed their tax-exempt status to be used in tax planning schemes that sheltered other tax-paying companies from tax (Kaplan 1980, 1435). The legislative response was not directed at the exemption from income tax, which remains in place, but the enactment of a totally separate tax on some entities, the Unrelated Business Income Tax (UBIT). The UBIT takes a “source of funds” approach, as it applies on an activity-by-activity basis to the income earned by an otherwise tax-exempt entity.

The stated problem the UBIT was enacted to address was unfair competition.<sup>21</sup>

The UBIT is levied at the same rate as the corporate income tax (currently 21 per cent). Like the income tax, expenses can be deducted. Profits and losses are determined on an activity-by-activity basis, meaning that losses in one part of a charity cannot offset profits in another. This creates a perverse incentive for charities to form a subsidiary company that is taxed under the Income Tax, not the UBIT, because the subsidiary can offset losses on one activity against income on another, so that it pays less tax (Tenenbaum 2021).

At a general level, three conditions must be met before income will be taxed under the UBIT:

- the unrelated business income must be from a trade or business
- that is regularly carried on and
- that is not substantially related to the purposes which form the basis of the organisation’s tax-exempt status.

If any of these tests is not met, then the income is free of tax.

The requirement that the activity must not be substantially related to the entity’s purpose is a core part of the UBIT. The Internal Revenue Service has provided the following guidance on this issue:

*A business activity isn’t substantially related to an organization’s exempt purpose if it doesn’t contribute importantly to accomplishing that purpose (other than*

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<sup>19</sup> We have undertaken a slightly more thorough analysis of treatment in the United States. Because it enacted its tax on the unrelated income of charities in 1950, that regime has been used as a guide by other countries. There is also a substantial literature on the US tax treatment on which we can draw.

<sup>20</sup> One prominent example was New York University’s ownership of the C.F. Mueller Company, a leading macaroni producer. Mueller’s exemption from tax as a charity was confirmed by the US Court of Appeals in 1951, on the ground that that the pasta company’s profits were destined for the University’s tax exempt programs. *C.F. Mueller Co. v. Commissioner* 190 F.2d 120 (3d Cir. 1951). The university also owned a manufacturer of automobile piston rings, a porcelain company and a leather goods manufacturer (Yetman 2024, 86).

<sup>21</sup> The United States Supreme Court has stated that the “undisputed purpose” of the unrelated business income tax is “to prevent tax-exempt organizations from competing unfairly with businesses whose earnings were taxed” (United States v. American Bar Endowment, 477 U.S. 105, 114 (1986)). As we noted above, more recent economic analysis has discounted the effect of differential tax rates on the competitive position of firms.

*through the production of funds). Whether an activity contributes importantly depends in each case on the facts involved.*

*In determining whether activities contribute importantly to the accomplishment of an exempt purpose, the size and extent of the activities involved must be considered in relation to the nature and extent of the exempt function that they intend to serve. For example, to the extent an activity is conducted on a scale larger than is reasonably necessary to perform an exempt purpose, it doesn't contribute importantly to the accomplishment of the exempt purpose. The part of the activity that is more than needed to accomplish the exempt purpose is an unrelated trade or business. (Internal Revenue Service 2021, 4)*

Robert Yetman gives this recent example of one of the distinctions made by the United States tax law:

*For example, consider a nonprofit aquarium [that] operates a gift shop to generate extra funds to support the exempt mission. The gift shop sells sea otter dolls and coffee cups. Sea otter doll sales are not taxable if there is any information attached to the doll informing the purchaser why sea otters should be protected, or if a live sea otter was floating somewhere in a tank in the aquarium. However, the revenues from the sale of coffee cups are taxable as coffee cups are not related to the tax exempt mission of informing the public of the need to protect the oceans. (Yetman 2024, 86)*

Other examples of the fine distinctions made under the UBIT are:

- A halfway house for people undergoing substance abuse rehabilitation operates a furniture shop, in which the residents of the house are employed full time. The income is exempt because aiding residents' transition from treatment to a normal and productive life makes an important contribution to the house's purpose.
- An exempt organisation, whose purpose is the prevention of cruelty to animals, receives unrelated business income from providing pet boarding and grooming services for the general public. These activities don't contribute importantly to its purpose of preventing cruelty to animals, and are therefore taxed.
- An art museum sells greeting cards that display printed reproductions of selected works from other art collections, at its shop at the museum, in bulk to retailers and through a mail-order catalogue. The museum is tax exempt as an educational organisation. The IRS has ruled that the sale of greeting cards contributes importantly to the achievement of the museum's exempt educational purposes by enhancing public awareness, interest, and appreciation of art. It is therefore a related business and exempt from tax.
- The gift shop of another art museum, as well as selling reproductions of works on display and works of other artists, also sold souvenir items of the city where the museum is located. Because the UBIT operates on an activity-by-activity basis, the relationship between the items sold and the museum's purpose matters. The sale of

reproductions of art was related to its purpose, but promoting its location was not. So selling souvenirs was subject to the UBIT.

- Because an athletic program is considered an integral part of the educational process of a university, the sale of rights to broadcast intercollegiate sports events to commercial radio and television networks is related to its purpose (Internal Revenue Service 2021).

As well as these exemptions that come from the interpretation of the relevant law, the US Congress has enacted a long list of activities that are not subject to the UBIT, regardless of the degree of connection to the charity's purpose, including (*ibid.*):

- Dividends, interest, annuities, and other investment income
- Royalties
- Rents from real property
- Income from some research grants or contracts
- Gains and losses from disposition of property.<sup>22</sup>

Over time, the list of activities that are carved out of the UBIT has grown, so that it now excludes (Joint Committee on Taxation 2005, 104):

- qualified public entertainment activities
- qualified convention and trade show activities
- providing certain hospital services
- conducting bingo games
- engaging in telephone pole rentals
- distribution of low-cost articles in soliciting charitable contributions
- certain exchanges or rentals of member or donor mailing lists
- certain corporate sponsorship payments.

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<sup>22</sup> This last exception from the UBIT occurs within the context of the United States operating a general capital gains tax.

## Unnecessary complexity

Outside the countries that exempt all income of charities, a common feature of international practice is complexity. For example, the American Bar Association has described the Unrelated Business Income Tax as “complex and confusing” (Tenenbaum 2021).

Those countries that seek to tax some of the income of some charities have needed to define a boundary between taxed and untaxed income or taxed and untaxed entities. To date, New Zealand has sought to avoid this complexity by taking a neutral approach to imposing tax and allowing exemptions on charities.

## Confusion over charitable purpose

Recent press reporting in New Zealand has called for the taxation of “businesses masquerading as charities” (Coughlan 2024).<sup>23</sup>

The idea that businesses are masquerading as charitable organisations represents a fundamental misunderstanding of the concept of charitable purpose. It also, as we have discussed above, is based on the incorrect notion that the exemption confers a commercial advantage.

The Inland Revenue issues paper refers to “tax-exempt business activities [that] are unrelated to charitable purposes, such as a dairy farm or food and beverage manufacturer”. Media commentary has described these as “pointed examples” and suggests that the tax-exempt status of “breakfast goods manufacturer Sanitarium and dairy and Kiwifruit empire Trinity Lands” might “be under threat” (Lyth 2025).

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<sup>23</sup> Similar reports include Edmunds (2024), Lyth (2025) and Gupta (2025).

### **Box 1: The charitable purpose of health food<sup>24</sup>**

The Sanitarium Health Food Company (Sanitarium) is the trading name of New Zealand Health Association Limited, a food business owned by the New Zealand Conference of the Seventh-day Adventist Church.<sup>25</sup>

Sanitarium was founded in New Zealand in 1901 (before charities were exempt from tax) by the American Adventist Edward Halsey (Wilcox 2025). Sanitarium is a registered charity and its “primary purpose is the promotion of health food products... aligned with the ‘whole person health’ objectives of the Seventh-day Adventist church” (Sanitarium Health Food Company 2025).

As the health director of the church in Australia, Paul Rankin, puts it:

*The healthier we are, the more we can serve God. And so, the church doesn't mandate, but advocates a whole-food, plant-based diet.*

(Quoted in Hegarty 2020)

Sanitarium is also part of the Seventh-day Adventist Church in New Zealand charitable group (Charities Services 2025). That group's charitable purpose is to facilitate the mission of the Seventh-day Adventist Church within New Zealand (Charities Services 2024).

Since Sanitarium's business activities are related to the beliefs of the Seventh-day Adventist Church, they fall within the concept of charitable purpose under the New Zealand system of regulating and taxing charities. Unless the Government is prepared to address the scope of the charitable purpose concept as part of the current review, Sanitarium is likely to remain a charity, given its religious goals. If the Government's intent is to tax Sanitarium's food producing business, then, as the examples from overseas discussed above show, the term “unrelated” would need to be drafted in a way that ensures that making and selling food that meets the ‘whole person health’ objectives of the Seventh-day Adventist Church is not a related purpose.

Concern about charities undertaking activities that do not seem directly related to their charitable purpose is not unique to modern-day New Zealand. Discussing the history of the

<sup>24</sup> We have no connection to Sanitarium or the Seventh-day Adventist Church and do not speak for it. The material in this submission about Sanitarium was collected by us and has not been discussed with Sanitarium or the Seventh-day Adventist Church.

<sup>25</sup> There is a separate company, Australian Health and Nutrition Association Ltd, which operates the Sanitarium brand in Australia. It is a subsidiary of the Seventh-day Adventist Church in Australia (Australian Charities and Not-for-profits Commission 2024).

United States Unrelated Business Income Tax, Ethan Stone noted that after the Second World War, promoters of tax planning in the US developed schemes that allowed otherwise taxable entities to enter into arrangements with a charity to reduce their tax liability. As the size of these activities grew, they came to the attention of the public and legislators:

*The attention, however, did not result from a technical analysis of the new tax shelters, nor did it cause a fundamental rethinking of the policy of subsidizing charities with an income tax exemption. To the contrary, it arose from nonanalytical discomfort with charities' strange new activities - buying commercial real estate and businesses - that challenged public perceptions of the kind of activity the exemption subsidized. In focusing on these uncharity-like activities, policymakers and the press largely ignored the tax shelters. Instead of aiming their anger and legislative efforts at taxable people avoiding taxes, they became incensed at the inappropriate activities of charities and looked for ways to stop those activities. (Stone 2006, 5)*

One of the conditions in New Zealand for an entity to be a charity is that no-one with some control over the business can direct that an amount derived from the business be diverted to the benefit or advantage of a person outside the charitable purpose of the charity. This condition means that the business income of an entity must always be applied to the charitable purpose of the charity.

For this reason, it is a mistake to think of any business as “masquerading as a charity”. To be a charity in New Zealand means being established and maintained exclusively for charitable purposes.

That commentators are basing their analysis on a mistaken understanding of the concept of charitable purpose and the obligations of charities points to a wider issue. While we acknowledge that the tax treatment of charities, and the system of regulation of charities more generally, can be complex matters, the charitable sector makes an irreplaceable contribution to the wellbeing of New Zealand communities. Although many charities are active in drawing attention to their good works, often as part of their fund-raising efforts, they should not be required to spend their scarce resources countering populist misinformation campaigns. This is the role of government, particularly given that charities are often filling gaps in the social safety net.

We also note that the Treasury has not quantified the level of tax expenditure involved in the current income tax exemption for charities, at either a sector-wide level or for the subset of charities that earn income from businesses (The Treasury 2024). This has allowed speculation that there is considerable revenue at stake from the current tax treatment of charities.<sup>26</sup> We therefore recommend that the Government specifically commission work to better quantify both the costs and benefits of the current tax treatment of charities. This work

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<sup>26</sup> See, for example, Edmunds (2024), Gupta (2025) and Coughlan (2025).

should also assess the incidence of these costs and benefits and take a medium-term view so dynamic (flow-on) effects are also considered.

The Government and officials should be taking proactive steps to counter misunderstandings about the effect of the current tax treatment of charities. This should include the practical implications of New Zealand following a destination of income approach when it comes to deciding what is a charitable purpose.

## The incidence of the exemption

So far, we have been discussing the effects of taxation on charities themselves. While it is the legal entity that is exempt from tax in New Zealand, it is the people that a charity serves who benefit from the current tax treatment. This conclusion comes from examining the underlying economic incidence of the tax exemption.

As one of the early contributors to the economic analysis of the incidence of taxes said:

*For in every system of taxation the cardinal point is its influence on the community. Without a correct analysis of its incidence, no proper opinion can be formed as to its justice or its actual effect. (Seligman 1892, 125)*

The legal incidence of a tax is the requirement of someone to remit a tax to the revenue authority. The economic incidence looks further and asks whose economic welfare is affected by a tax (Fullerton and Metcalf 2002, 1791). Economic incidence is usually used to study the effects of imposing taxes, where the effects on welfare are negative. But it can also be used to examine the effects of an exemption from a tax.

In the case of charities earning business income, the legal incidence of the current exemption is on the organisation: it does not have to pay income tax. The people who could potentially benefit from the exemption are:

- The governors of the charity, who can pay themselves higher directors' fees or other pecuniary benefits (to the extent that this is allowable legally)
- staff of the charity, in terms of being able to receive higher wages or other remuneration
- suppliers of other inputs to the charity
- the people the charity serves.

The ability of governors to benefit from an exemption depends on the degree of transparency of the operation and the regulatory systems in place. In New Zealand, charities must be registered to receive the income tax exemption. Registration comes with detailed reporting obligations, which include the identity of directors and their remuneration. This transparency reduces the ability of governors to benefit from the tax exemption. There is also a legal requirement (section 13 of the Charities Act 2005) that a charity that is a society or an institution not be carried on for the private pecuniary profit of an individual.

If a charity recruits from a competitive labour market and is motivated to maximise its operating surplus, being the resources that it can spend on its charitable purposes, then we would expect that staff would not receive excessive remuneration due to the tax-exempt status of their employer. That people work for a charity out of a sense of service to its charitable purpose will also diminish the likelihood that the incidence of the exemption would fall on employees. However, there are many charities that provide employment to people who may struggle to find positions in a competitive labour market, such as those recovering from addictions. If part of the higher profits tax-exempt charitable businesses earn is directed at employing such people, then the incidence of the tax exemption can fall on them.

Likewise, competitive pressures and a desire to avoid unnecessary costs would limit the willingness of a charity to pay its suppliers above market prices for inputs.

That leaves those whom a charity serves as the people on whom the incidence of the exemption falls. That is, the greatest effect of the tax exemption is that it can increase the wellbeing of those the charity is established to serve, now and in the future.

While removing or reducing the tax exemption will, in Inland Revenue's framing of the issue, remove a cost to the government, our incidence analysis suggests that the resulting revenue will, in many instances, be paid for by some of the most disadvantaged people in our society.

## **Conflict with other policies**

Taxing the business profits of charities would be inconsistent with the Government's stated policies of working with the charitable sector and community groups to harness local knowledge to deliver social services. It is also inconsistent with its social investment approach.

### **Undermining a partnership approach**

The Government's stated commitment is to partner with the charitable sector and community groups to improve social service delivery.

Many charities play a critical role in providing targeted support to vulnerable communities, often leveraging deep local knowledge and trusted relationships to deliver more effective and culturally appropriate services than central agencies can achieve alone (Fry 2022, 18–22).

The Government wants to work alongside charitable organisations to maximise social impact. Describing its desired goal of better outcomes for vulnerable people, the Social Investment Agency said in its Strategic Intentions 2024/25 - 2028/29 statement:

*The way we deliver, commission and scale up successful social services allows us to achieve outcomes, invest better and drive greater impact. There is a focus on new approaches and innovation, including co-investment and collation of contracts with non-government organisations (NGOs). (Social Investment Agency 2024, 13)*

Imposing a tax burden on some charities would undermine their ability to fulfil this role, diverting resources away from frontline services and forcing organisations to focus more on compliance and fundraising instead of the people and communities they serve.

It would also run counter to recent government initiatives aimed at strengthening collaboration with the charitable sector, particularly when it comes to developing community-led solutions to complex social issues such as persistent disadvantage, homelessness, mental health, and child poverty. Taxing charities would weaken their financial sustainability, making it harder for them to co-invest in joint initiatives with the government and reducing their capacity to deliver essential services. This policy shift risks creating an uneven playing field where government-funded agencies are once more favoured over community-driven solutions, despite the latter often being more efficient and responsive to local needs.

## **What about social investment?**

The proposal to tax charities is also fundamentally inconsistent with the Government's social investment approach, which emphasises targeted, data-driven interventions to improve long-term social outcomes.

The Minister for Social Investment, the Hon Nicola Willis recently said:

*I want to see locally-led innovation: a government funding model that gives non-government organisations, communities and iwi more power to do what works and more accountability for really changing people's lives. (Willis 2024)*

A core principle of social investment is allocating resources efficiently to reduce future fiscal and social costs by addressing issues early. Charities can play a critical role in this framework by delivering specialised services to at-risk populations, often at a lower cost than government agencies. Taxing some of their operations would reduce their financial capacity to invest in early intervention programs, potentially leading to worse social outcomes and higher long-term costs for the Government in areas such as healthcare, housing, and social welfare.

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## **This policy inconsistency could disrupt service continuity and undermine existing partnerships between charities and the Government.**

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Many charities work closely with government agencies, using a combination of public funding, private donations, and self-generated income to sustain long-term programmes. If commercial activities are taxed, charities may need to scale back or eliminate some of these initiatives, creating service gaps that will ultimately need to be filled by the Government. This could lead to inefficiencies, as government agencies may lack the local expertise, trust, and community connections that charities have spent years developing. The result would be a less effective social service system, running counter to the objectives of the social investment model.

A well-functioning social investment model encourages innovation and flexibility, allowing charities to tailor services to community needs rather than being constrained by rigid government contracts (Fry and Wilson 2023). Taxing charities risks pushing them into a more bureaucratic funding model, limiting their ability to respond dynamically to emerging social challenges. In the longer term, this misalignment of policy approaches could lead to higher government expenditure, reduced social innovation, and diminished outcomes for the communities that social investment strategies are intended to support. By reducing the financial independence of charities, taxation of business activities could increase their reliance on direct government funding, which contradicts the social investment approach's goal of leveraging diverse funding sources to achieve better outcomes.

## Practical implications for charities

The issues paper Inland Revenue has released raises the idea of introducing a fine distinction between different sources of income. It outlines several policy design issues that point to the likely complexity of definitions and rules required to implement such a change.

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### This will burden charities with additional costs to comply with complex laws.

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Complexity is inevitable, because most charities are not simple operations pursuing just one objective.

Consider, as an example, how this change would impact charities working with the most disadvantaged families in New Zealand by adopting highly personalised approaches. Adding additional compliance costs, as well as the possibility of losing income to tax, will require them to rethink how they operate.

Many charities engage in limited commercial operations to support their core mission and reduce reliance on external funding. These activities, such as museum gift shops, city mission cafés, or charity-run second-hand stores, provide supplementary income that helps fund operational costs and essential services.<sup>27</sup>

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<sup>27</sup> We note that officials have suggested that any tax on unrelated businesses could be limited to larger charities (Inland Revenue Department 2025, 9). They provide no details of how such a de minimis threshold would apply. A simple threshold would create a "cliff-edge" problem: a charity with income of one dollar over the threshold would become taxable, thus having to file a return and pay tax on all its income, while a charity with income one dollar below would be exempt and not be required to file. To avoid this, all charities could be required to file tax returns, but be granted a zero marginal rate on the first portion of their income. This would greatly increase the tax compliance costs of most charities for no revenue gain. There are currently no other instances of zero marginal rates of tax for companies (see Schedule 1 of the Income Tax Act). Introducing such a rate for small charities would inevitably lead to pressure for a similar rate for small businesses that are not charities. We would also caution against using the reporting thresholds for charities in setting tax rates. The reporting rules are set by a specialist accounting body - the External Reporting Board (XRB) - and are set having regard to regulatory and accounting principles. If they were used for tax purposes, we would expect the charitable sector would be asking the XRB to add additional tax criteria to its considerations. If a de minimis threshold is to be introduced, it should be set by Parliament, based on tax principles.

Unlike traditional businesses, these commercial ventures exist primarily to further a charitable purpose rather than to maximise profits. Surpluses generated are reinvested into the organisation's social programmes, allowing charities to maintain financial stability and continue delivering public benefits without relying entirely on government grants or private donations.

Taxing the business income of charities will, as with any tax, reduce their income, which will likely change the ways in which charities operate. In the short term, charities will be less viable, potentially leading to closures or downsizing (see Box 2). But even before any tax is collected, the uncertainty surrounding what will and will not constitute "unrelated business income" could undermine confidence and disrupt planning to the point where continuing operations no longer seem feasible.

### **Box 2: The Auckland City Mission**

The Auckland City Mission is a registered charity that supports people in Tāmaki Makaurau who are experiencing food and housing insecurity and need help accessing healthcare to live well. The ongoing cost of living crisis in New Zealand has substantially increased demand for their services.

The Mission receives funding from government, donations and related business operations. These operations serve multiple purposes in addition to fundraising.

For example, the Mission's low-cost healthy food shop reduces stigma around food insecurity, and increases access to nutritious kai. Its op shops provide work opportunities for people who might struggle to obtain conventional employment, and low-cost clothing and household items for families who are struggling financially.

These businesses operate on very tight margins. If they were taxed at 28 per cent, they would no longer be financially viable. However, as City Missioner Helen Robinson told us, the uncertainty that other countries have experienced when determining whether certain charitable business activities are included or excluded from taxation could in itself be enough to cause them to cease these operations.

*If we can't be certain they would be exempt, it would be rational for us to close them down. We would be forced to seek an exemption, which may not be given, wasting time, energy and money. A closure would be devastating for the many families who rely on these services. (Robinson 2025)*

Many charitable enterprises operate on extremely thin margins, and even when relying on volunteer labour or discounted goods and services, struggle to achieve financial viability. Despite this, there is a longstanding pattern of charitable organisations maintaining businesses, particularly in the social sector, given the additional benefits they can generate (see Box 3).

### **Box 3: Family Works Op Shop in Gisborne**

The Family Works Op Shop run by Presbyterian Support East Coast in Gisborne never broke even and always cost the organisation money after rent, power and other overheads were accounted for. It closed 15 years ago, but Leslynne Jackson, Area Manager at that time, informed us that she begged the organisation to keep it open even though it was ineffective at generating income, because the value of the social good it created was significant for the community:

*The volunteers, who were mostly elderly, disabled and unable to find paid employment, created a support network for each other. Their new connections, sense of purpose in life and friendships reduced the social isolation which is a key determinant of health for older people.*

*The Op Shop was also used as a 'storehouse', where our social workers were able to source goods for families who were in dire need. We had a process for recording any donated goods that were directly redistributed to client families, who were mostly women with children leaving violent relationships setting up a home in a new place. Now reduced to a single income, many had no kitchen utensils, linen/bedding or clothing/school uniforms for their children once they moved (maybe to a new school area).*

*Redistribution of goods is a mission critical function of most charity operated second hand stores. The enterprise had multiple purposes: to generate income, to raise awareness of the services, and also to achieve the charitable purpose through its operational delivery. (Jackson 2025)*

Taxation could make it more difficult for charities to justify running these operations, particularly if the compliance burden and administrative costs outweigh any financial benefits. The result is likely to be a reduction in funding for core charitable programmes, forcing organisations to scale back services or seek alternative, less stable sources of revenue.

Beyond the direct financial impact, taxing these activities will also alter the incentives for charities to innovate and develop sustainable funding models. Currently, many organisations

use commercial ventures as a way to build resilience against economic downturns and donor fatigue (see Box 4). If taxation discourages this approach, charities may become more dependent on government assistance and traditional fundraising, which can be unpredictable. Additionally, increased costs for charity-operated businesses may lead to higher prices for consumers, reducing accessibility to the essential goods and services that these enterprises provide, particularly for low-income communities.

#### **Box 4: SuperGrans Tairāwhiti**

SuperGrans Tairāwhiti is a registered charity that enables whānau with the skills and knowledge to take greater control of their own futures, live well and flourish. They respond to people in crises and emergencies, provide a safe space for people to get the help they need, and support intergenerational knowledge sharing and the development of food security for people living in hardship.

SuperGrans works directly with whānau through cooking and kai literacy workshops, life skills workshops (making homemade cleaners, upcycling, gardening for food, healthy homes and parenting), employment preparation (making a CV, interview prep and job searching), peer support work, food parcels, re-purposing and preserving rescued kai, financial mentoring, advocating and navigating social service systems, and supporting those in crisis with basic needs.

Faced with ongoing funding pressures, SuperGrans has developed a number of innovative ways to strengthen their financial sustainability and support vulnerable communities. Their draft strategic plan is exploring the idea of building a social enterprise based on making pickles, preserves and chutneys from rescued kai. These are currently included in hardship packages through their foodbank, and in time, could be sold both locally and nationally to raise funds to cover operational costs.

General Manager Sarah Elliott described to us the fear and uncertainty that the idea of taxing unrelated business income has created:

*This is not in my wheelhouse, not my skillset and not why I'm here. We do great work, with excellent outcomes for our community, but we have no idea what side of the line our preserving operation would be on.*

*We are now asking ourselves if we should continue with this mahi. It would be a real shame if we have to step away from a plan that aligns so well with our kaupapa and creates opportunities to collaborate with volunteers, workshop participants, SuperGrans around the motu and other charitable organisations. (Elliott 2025)*

In the short run, taxation of some charitable activities is likely to lead to a combination of a reduction in the resources available for charitable purposes and greater calls on those who support charities at a time when living costs and community needs are already high.

In the longer run, imposing taxes on charities' commercial activities could weaken the sector's ability to deliver public benefits and increase pressure on government social services.

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**Any Crown revenue will be short-lived – and will come at a cost of reduced services delivered by charities.**

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## People respond to incentives

If their commercial activities become subject to taxation, many charities will naturally shift their investments and efforts toward untaxed activities to preserve their financial sustainability.

Economic theory suggests that organisations, like individuals, respond to tax incentives by reallocating resources to minimise their liabilities. Rather than continuing to operate ventures that are now taxed, charities will likely focus on expanding donation-based fundraising, applying for more grants, or increasing reliance on volunteer-driven services. This shift would significantly limit the expected revenue gains for the Crown, as the tax base for these activities would shrink over time. If New Zealand follows overseas practices and taxes the unrelated business income of charities while continuing to exempt related business income, then charities will have an incentive to alter their portfolios away from unrelated and into related business activities. In Canada, the UK and the USA, income from interest, dividends and royalties earned by charities are exempt. Thomas Omer and Robert Yetman showed that the boundary between untaxed and taxed income in the US was exploited by many charities to continue to pay minimal tax (Omer and Yetman 2003).

## Conclusion

Removing or reducing the tax exemption available to charities is an ad hoc approach to raising additional revenue.

Moreover, the concern that some charities are engaged in business operations that are unrelated to their charitable purpose is misplaced when it comes to tax. The real underlying issue is the definition of charitable purpose, not the tax exemption that flows from it. The Government's proposed solution – taxing unrelated business income – will not solve this problem and will have unintended negative consequences.

In the short term, given current funding constraints, some charities will respond to a reduction in available funding by reducing their charitable activities. Where those activities

include supporting disadvantaged people and their communities, the implications are particularly troubling. Faced with funding shortfalls, providers will focus on immediate needs, skewing activity away from early interventions. Beyond the direct loss of services, trusted relationships and staff capability will also be damaged. These take time to develop and cannot easily or quickly be rebuilt.

In the longer term, the government will need to step in to cover any resulting service shortfalls, and to address the consequences of unmet needs. Since many charitable organisations use volunteer labour, replacing their services with those provided by government agencies will cost more – and since opportunities for early intervention will have been missed, the scale of the response needed will be greater as well. The long-term fiscal impact of these proposals is unlikely to be positive and, depending on the cost of rebuilding staff and organisational capability, may well be significantly negative.

## Recommendations

We recommend that the government look elsewhere in the tax system and its spending to find other ways to reduce the budget deficit. Tax expenditures and spending programmes that are not designed to support the most disadvantaged members of our community are a more sensible target.

If there are concerns about the legitimacy of current charitable business activities, these should be addressed directly, by focusing on clarifying the definition and scope of “charitable purpose”.

The Government and officials from both Inland Revenue and Charities Services should work with the charitable sector to enhance public understanding of the destination of income approach and why it remains the appropriate method for determining whether an organisation is charitable. This should include quantification of the social benefits charities provide and the costs of the current tax treatment.

Other issues that should be addressed include the reasons charities need to build up reserves, how the legal prohibitions against private pecuniary gain minimise the risk of the incidence of the current exemption accruing to governors and managers of a charity and how transparency can boost community confidence that charities are working to exclusively achieve their charitable purposes.

If the government is determined to pursue the taxation of unrelated charitable businesses, we recommend taking care to determine the boundaries that will apply ahead of time, to minimise the disruption to services that any uncertainty will create. The charitable sector and the people it benefits and serves should be deeply involved in the analysis of any proposals. Given the already severe time and resource pressures that charities and the people they assist are facing, they should not be expected to contribute to this process out of their own resources.

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# Methodist Alliance

## Submission on

### Taxation of

### Charitable Entities



### **Ko wai tātou | Who we are**

The Methodist Alliance is a formal alliance of Methodist Missions, parishes and community based social services and trusts, including cooperating ventures.

The Methodist Alliance brings together a number of large and medium social service providers such as Lifewise in Auckland, Methodist City Action in Hamilton, Palmerston North Methodist Social Services, Wesley Community Action in Wellington, Christchurch Methodist Mission, Methodist Mission Southern in Dunedin, as well as local community services provided by individual parishes. It includes new social service organisations, such as Siaola Vahefonua Tongan Methodist Mission; Puna’Oa - the Samoan Methodist Mission that operates within the Samoan Synod of the Methodist Church; and Te Taha Māori.

**Ka whakahōnore mātou i tō mātou whakahoatanga Tiriti** – we honour our Tiriti partnership. Te Tiriti o Waitangi is the covenant establishing our nation on the basis of a power-sharing relationship. It is the foundation for social, economic and political equality in Aotearoa New Zealand.

The Methodist Alliance is grounded in our commitment to Te Tiriti o Waitangi and the bi-cultural journey of the Methodist Church of New Zealand - Te Hāhi Weteriana o Aotearoa, where Te Taha Māori and Tauiwi work in partnership. We claim the right bestowed by Article Four of Te Tiriti o Waitangi:

“E mea ana te Kawana ko ngā whakapono katoa o Ingangari, o ngā Weteriana, o Roma, me te ritenga Māori hoki e tiakina ngatahitia e ia.”

“The Governor says the several faiths of England, of the Wesleyans, of Rome, and also the Māori custom shall alike be protected by him.”

The Methodist Alliance and our member organisations work collaboratively to achieve our vision of a just and inclusive society in which all people flourish, through our commitment to our faith and Te Tiriti o Waitangi.



## Overview | Tiro Whānui

The Methodist Alliance welcomes the opportunity to provide feedback on the potential changes to taxation of charitable entities. While we welcome the potential to make the rules in this space fairer and more representative of the needs of Aotearoa, we believe that the proposed changes will not have the intended impact and will in fact disincentivise some of the positive aspects of the charity sector.

Taxation of the charity sector is intended to balance the promotion of social good provided by the sector with the interests of society as a whole – including closing loopholes and areas where tax policy is not having the intended impact. We do not believe, however, that tax change is necessary in this instance.

## Main Points

- 1. Charities Services should take the lead in regulating the charity sector.**
- 2. More information is needed about the current system to make an informed case for reform.**
- 3. Charities making money through business activities are a net positive.**
- 4. The impact on the finances of charities will dampen innovation and worsen outcomes for Māori and Pacific people.**
- 5. The definition of 'unrelated business activity' is unclear and will be difficult to refine.**
- 6. Removal of fringe benefits will further disincentivise people from working for charities.**
- 7. Accumulation of funds is currently managed adequately.**

## Recommendations

**Point 1:** Charities Services should take the lead in regulating the charity sector.

Charities Services is the government department within Internal Affairs which is tasked with regulating the charity sector. The department handles charity registration and reporting, as well as an ongoing relationship with the Inland Revenue Department (IRD), allowing it to be well placed to identify potential abuse of the system.

We ask that instead of a broad-brush taxation law change, which would impact many charitable organisations and their mahi, a more targeted approach be taken through further funding and empowerment of Charities Services.

**Recommendation 1:** That Charities Services be empowered and funded to enforce rules on the use and accrual of funds by charitable organisations.



**Point 2:** More information is needed about the current system.

The discussion document released by IRD mentions abuse of the current taxation system in its reasoning for assessing the current settings. It is essential that more information be found and publicised about this abuse, so that policymakers and stakeholders can make informed decisions about whether legislation and regulations need to be changed and how.

**Recommendation 2:** We ask that more in-depth data be used to inform these decisions.

**Point 3:** Charities making money through business activities are a net positive.

Charitable entities raise funds through multiple avenues, including through business activities. The ability to raise money for charitable purposes without reliance upon government and donor support provides a net benefit for Aotearoa.

Having a separate income source allows for innovation – funding which has no explicit contractual obligations from either government or private backers gives a charity freedom to innovate and create new solutions to problems in society.

Business incomes also reduce competition for already scarce funding from government and elsewhere. In many cases, despite overwhelming need in communities, government contracts do not fund all the essential programmes and staff to address these needs. As government priorities shift, charities which focus on Māori and Pacific communities are taking on these challenges without government contracts – requiring input from either business or donations.

Charities engaging in business activities to support their communities should be incentivised rather than punished through taxation.

**Recommendation 3:** Tax status of business activities run by charities should remain unchanged.

**Point 4:** The impact on the finances of charities will dampen innovation and worsen outcomes for Māori and Pacific people.

As discussed above, the business activities of charities serve a significant role in allowing them to innovate and solve problems in an agile way. Any changes to the tax status of charities should take this into account, with government prepared to provide significant amounts of funding to continue this work in the community.



Full-scale tax overhaul will fail to target bad actors as it is a broad-brush solution to a nuanced issue. It will ultimately reduce the capacity of charities across the board, especially those without the ability to manage their finances to comply in an efficient manner.

If charities are forced to reduce their activities due to higher taxation, the burden of addressing societal issues such as poverty, hunger and all forms of deprivation will fall upon government, further draining resources and not targeting these issues as effectively as grass-roots, specialised charity services are able to. Outcomes for Māori and Pacific people will fall significantly, as services targeted to understand and address their needs will be reduced and not picked up by government.

**Recommendation 4:** Regulation of the finances of the charity sector should be kept to a minimum, with Charities Services further empowered to take targeted action where necessary.

**Point 5:** The definition of 'unrelated business activity' is unclear and will be difficult to refine.

The discussion paper itself recognises the difficulty of defining 'unrelated business activity', and more thought must be given to this prior to any decisions being made.

**Recommendation 5:** The definition of 'unrelated business activity' be defined concretely before decisions are made.

**Point 6:** Removal of fringe benefits will further disincentivise people from working for charities.

Many charitable organisations are unable to pay workers at the same rate as equivalent roles in other organisations, and as such it is difficult to recruit for these roles. Fringe benefits are one way in which charities can bridge this gap and make these roles attractive. To remove these will make it even harder to fill roles in the community sector and reduce the capability of charities further.

**Recommendation 6:** That fringe benefits for charities be retained.

**Point 7:** Accumulation of funds is currently managed adequately.

Charitable organisations accumulate funds for reasons too numerous to list here, but this does not equate to 'cash on hand' accumulation of money. Funds are set aside for housing projects, future work programmes and discretionary funds among other things



which require multi-year capital building workplans. Some accumulations will be revaluation reserves or restricted reserves, meaning that no cash will be available to pay proposed taxes.

As is current practice, charities are required to report annually on their financial performance and holdings, which gives Charities Services an overview of income and accumulation. This differs from a financial statement which would be required by IRD to make tax decisions, making taxation of these funds a time and labour-intensive operation both for IRD and charities.

**Recommendation 7:** That taxation of accumulated funds remain unchanged.

For further information or questions regarding this submission, please contact:

Hamish Jarvie

*National Coordinator*

s 9(2)(a)



28 March 2025

Deputy Commissioner, Policy  
Inland Revenue Department  
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Email: [policy.webmaster@ird.govt.nz](mailto:policy.webmaster@ird.govt.nz)

To Whom It May Concern

#### **Taxation and the not-for-profit Sector**

This submission is made by Unity Credit Union on the Inland Revenue officials' issues paper "Taxation and the not-for-profit sector" dated 24 February 2025 (Issues Paper).

#### **About Unity**

Unity Credit Union (Unity) is one of only three credit unions still operating in New Zealand – the other two being the Police Credit Union and First Credit Union. Unity was founded in 1971 as the Whakatu Freezing Works Employee's Credit Union. At the time, New Zealand had well over 100 credit unions. However, as credit unions have struggled to be economic at small scale there have been many mergers with Unity being the continuing credit union. Unity primarily operates in the Hawke's Bay, central North Island and the lower South Island.

Unity has approximately 40,000 members who have a total of just over \$320M deposited with us. We provide a full range of banking services to our members including transaction accounts and loans. We are regulated as a non-bank deposit taker by the Reserve Bank of New Zealand (RBNZ), are supervised by a statutory supervisor under a Trust Deed required by the Financial Markets Conduct Act 2013 (FMCA), have a conduct licence from the Financial Markets Authority (FMA) also under the FMCA, and are supervised by the Registrar of Friendly Societies and Credit Unions (Registrar).

As a credit union, Unity's objective is to be profit making so that we can retain some capital to prudently grow the business for the benefit of our members, as opposed to profit maximising which is typical of most other financial institutions. This is reflected in the pricing of services for our members who benefit through favourable pricing. We are a not-for-profit, so any profit that is made above that required to be retained as capital goes back to the community through different community projects, such as those aiming to lift financial literacy.

#### **Tax Status**

As a credit union, Unity is specifically exempt from tax on income (with some exceptions) as specified at section CW 44 of the Income Tax Act 2007.

Unity is particularly concerned by the implied proposal in the Issues Paper to remove that tax exemption for credit unions.

### **The Consultation Process**

Our main concern is with chapter 4 of the Issues Paper titled "Integrity and Simplification" and in particular, we respond to Question 11 – "what are the implications of removing the current tax concessions for friendly societies and credit unions?".

First, credit unions are grouped into the same category as friendly societies and other mutual associations without any attempt to understand the unique legal and market structure within which credit unions operate and how it differs from friendly societies and mutual associations. The obligations and requirements of credit unions differ from that of friendly societies, and hence they serve very different purposes in society.

Given there are only three credit unions operating in New Zealand, early targeted stakeholder engagement would have been welcomed, especially as the impact of any potential tax changes, as queried in the Issues Paper, would be significant. An analysis of why credit unions have a tax exemption would have been a valuable inclusion in the Issues Paper.

Furthermore, there seems to be no evidence that officials have consulted with other regulators. In particular, we would have expected officials to consult with the RBNZ as our prudential regulator on the impact of the proposed changes on our prudential soundness and on other key roles we play in the financial system relating to financial inclusion and financial literacy. We would also have expected officials to have consulted with the FMA as well as the Registrar and our statutory supervisor. Tax cannot and should not be viewed in isolation from our broader roles.

We are also concerned that no attempt was made by officials to notify credit unions that the Issues Paper was being published and there was only a five-week consultation process. Given there are only three credit unions we do not believe this would have been difficult. We only became aware of the Issues Paper when approached by a reporter for comment. Unity receives well in excess of 1,000 pages a year in consultation from its other regulators and officials responsible for the legislative regime in which it operates and could not reasonably have been expected to have identified this Issues Paper as relevant to it.

### **The Arguments used do not apply to Unity**

Unity does not believe the arguments set out in chapter 4 "Integrity and Simplification" for taxing mutuals are relevant to it.

Under section 101 of the Friendly Societies and Credit Unions Act 1982 (**FSCU Act**), Unity is required to have the following objectives:

- (a) *the promotion of thrift amongst its members by the accumulation of their savings; and*
- (b) *the use and control of members' savings for their mutual benefit including:*
  - (i) *by making loans to members; and*
  - (ii) *if authorised by the Credit Union Rules for making loans under section 110(1)(b); and*

- (c) *if authorised by and accordance with the Credit Union's Rules, the provision of products or services under section 110(2); and*
- (d) *the training and education of members in the wise use of money and in the management of their financial affairs; and*
- (e) *at the discretion of the credit union and as a minor adjunct to other objects set out in this subsection, the welfare of its members and the making of donations for charitable, cultural, benevolent or philanthropic purposes.*

Credit unions have been established under a legislative regime designed to promote certain social and charitable purposes. It would be wrong to remove the tax exemption which is the "quid pro quo" for the statutory requirement that they pursue these objects.

Furthermore, the FSCU Act also limits who can become members of a credit union to individuals, charitable entities and incorporated societies. Members must also have a common bond to be eligible – which can be based on locality, occupation or common employer. This constrains credit unions' ability to compete with others in the banking sector and it is only reasonable it is compensated for that with a tax exemption. You cannot remove one part of the credit union regime without a review of the whole, including the restrictions credit unions operate under.

Finally, schedule 4 to the FSCU Act requires a credit union's rules to contain a provision that any assets remaining after the payment of debts, repayment of share capital and discharge of other liabilities must be transferred either to another credit union or applied for charitable purposes. Unlike other concerns evident in the Issues Paper, there is no ability to manipulate the credit union regime for the benefit of individuals or in any way that undermines the purposes of the charitable exemptions' regime.

Furthermore, unlike the other entities referred to in the Issues Paper, credit unions are heavily regulated with multiple licences required to be held and so subject to close ongoing close scrutiny.

### **Impacts on Banking in New Zealand**

The whole credit union regime has been created to enable an entity to be set up as a credit union in order to promote financial inclusion and financial literacy outside of mainstream banking. Removal of the tax exemption, which is a key enabler of this, is a significant policy decision which should not be made by officials at Inland Revenue alone.

Based on submissions and feedback from the Finance and Expenditure Committee's Banking Inquiry, there seems to be support for more locally owned, regional financial institutions – not fewer of them. Credit unions are often the entities that provide banking services to those who cannot get accounts with the big banks and have been debanked. Credit unions continue to have a presence in regions that the big banks are abandoning and have the capacity to support critical vocations through easier access to finance and things like shared equity lending. There seems to be strong political support for more community banks in New Zealand. Credit unions can play a key role in that.

Changing the tax status of the three credit unions is unlikely to have any material fiscal benefit while driving higher costs for all parties involved. The three credit unions will always aim to make a small profit to increase capital reserves but will always moderate that profit outcome through lower pricing to members and/or investment in community initiatives. There appears to be no consideration given to the additional compliance costs required to manage tax obligations which are likely to be significantly disproportionate to any fiscal benefit gained.

In addition, any decision on whether to remove the tax exemption for credit unions is not a decision that should be made by Inland Revenue officials alone. Any small fiscal benefit in removing the current tax exemption needs to be considered in light of the current concern about financial inclusion, financial literacy and banking competition.

#### **Leave the Tax Exemption in Place**

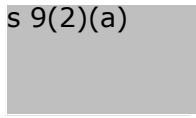
We believe there is no plausible case for removing the tax exemption for credit unions contained in the Issues Paper. Any suggestion that tax concessions for credit unions be removed should be abandoned.

We ask for your careful consideration of the points raised in this submission and would be happy for officials from Inland Revenue to contact us for any further discussions. Indeed, we actively encourage you to do so.

Should you require publication of this submission under the Official Information Act 1982, please let us know prior to publication.

Kind regards

**s 9(2)(a)**



Kevin Hughes  
Chief Executive



31<sup>st</sup> March 2025

Submitted to: Deputy Commissioner, Policy – Inland Revenue Department  
[policy.webmaster@ird.govt.nz](mailto:policy.webmaster@ird.govt.nz)

## Submission: Taxation and the Not-for-Profit Sector Consultation

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### Introduction

The Brain Injury Association Auckland Incorporated is an Incorporated Society and a Tier 3 Charity trading as Headway.

Established in 1981, Headway operates in the community and disability sector doing vital work to support the brain injury community. We focus on supporting people impacted by brain injury to live their best possible lives through support and education. Brain injury is a leading cause of long-term disability and due to its prevalence and complexity its impact extends past the individual to whānau, communities, our healthcare system, and the economy.

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### Overview of Submission

Headway appreciates the opportunity to respond to Inland Revenue's consultation on taxation in the NFP sector.

The proposed changes around income tax for charities, if applied across all charities, have the potential to negatively impact the ability of Headway to sustainably deliver necessary community services, support and education.

Compliance costs related to identifying “related” vs “unrelated” income will disproportionately impact smaller charities such as Headway. Furthermore, taxing charitable business will discourage innovative thinking and reduce the sustainability and self-sufficiency of charities with negligible benefits to government tax revenue.

Charities are vital to a healthy society, addressing social challenges without generating private wealth. Taxing their business income won't resolve concerns about eligibility but will undermine smaller organisations' effectiveness. The real issue lies in ensuring charities meet their purpose through better definition and enforcement, not broad tax measures that weaken their impact.

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### Charities and Tax Exemption Section

#### Headway's submission relating to questions 1-6

Many charities, including Headway, engage in business activities as a necessary means to supplement donations and grant funding. These revenue streams are not pursued for profit but to ensure financial sustainability and enable service delivery within the community. Taxing this income would have detrimental effects on Headway and the brain injury community, including:

## 1. Diversified Revenue Streams Are Essential

Small charities like Headway operate in an unpredictable funding environment where donations and grants fluctuate due to economic cycles and donor priorities. Business income can serve as a vital financial buffer, helping charities maintain stability and continue delivering essential services even when traditional funding sources decline. While Headway does not currently generate significant business income, many charities rely on diversified revenue streams to ensure long-term sustainability. Imposing taxes on these earnings would discourage innovation and limit the ability of charities such as ours to adapt and secure a financial future.

## 2. Increased Financial Insecurity for Charities

Imposing tax on business income would reduce the net funds available for charitable purposes. Unlike large charities with significant reserves, small charities operate on lean budgets. Any reduction in revenue would force difficult decisions, such as cutting services or reducing staff, directly impacting vulnerable communities.

## 3. Administrative Burden and Compliance Costs

Small charities often lack the resources to manage complex tax compliance. The distinction between 'related' and 'unrelated' business income will be challenging in practice. Additional administrative burdens would divert already limited staff time away from service delivery. Instead of focusing on supporting individuals with brain injuries, we would be forced to allocate resources to tax compliance and financial restructuring. The greatest impact will be on the legal and accounting professions who will be required to manage this distinction.

## 4. Impact on Service Delivery and Community Well-being

Headway provides vital services such as support, community reintegration programs, and education. Any reduction in funding could compromise these services and negatively affect the well-being of those who rely on us.

## 5. Contradiction with the Government's Commitment to the Charitable Sector

The government has consistently acknowledged the essential role charities play in strengthening communities. Taxing unrelated business income contradicts this recognition and creates additional financial hurdles for organisations striving to meet critical social needs.

## Alternative Approaches

Rather than imposing tax on unrelated business income, we encourage the government to consider alternative solutions, such as:

- Strengthening transparency and accountability measures for all charities to ensure business income is used for charitable purposes.
- Ensure that the monitoring agency has the funds to effectively enforce the current charity rules rather than bringing in new legislation.
- Providing incentives for charities to diversify income streams without facing additional financial penalties.



- Encouraging partnerships between government and charities to enhance service delivery without increasing tax burdens.

### Fringe benefit tax settings

#### Headway's submission to Question 13:

Headway does not support the removal of the FBT exemption for Tier 3 and 4/small charities such as Headway.

While larger charities may have the capacity to absorb FBT costs, small charities like Headway rely on every dollar to sustain services. Applying FBT could disproportionately harm organisations that already face financial constraints, making it harder to support individuals with brain injuries.

A more balanced approach might be to target large-scale benefit abuses rather than impose a blanket FBT policy on all charities.

### Reducing tax compliance for volunteers

#### Headway's submission to question 14:

Headway supports measures to reduce tax compliance burdens for volunteers and volunteer-driven organisations. As a small charity, volunteers support our mission of assisting individuals and families affected by brain injury and raising awareness. Simplifying tax and reporting requirements for volunteer reimbursements would enable us to focus more on service delivery rather than administrative compliance.

We recommend:

1. Extending the Fire and Emergency New Zealand (FENZ) tax simplification approach to other not-for-profit (NFP) organisations to ensure consistency and fairness across the sector.
2. Clarifying tax rules for volunteer reimbursements to reduce ambiguity and administrative burden, ensuring volunteers are not discouraged from participating due to complex reporting requirements.
3. Introducing a clear tax-free threshold for volunteer expenses to streamline compliance, allowing charities to reimburse volunteers for costs such as transport, meals, and essential materials without unnecessary regulatory complexity.

Thank you for the opportunity to provide feedback. We appreciate your consideration of the critical role small charities play in New Zealand and urge you to protect our ability to serve our communities effectively.

Ngā mihi,

s 9(2)(a)

Ruth Hamilton  
Chairperson, Headway Board

s 9(2)(a)

Stacey Mowbray  
CEO, Headway



## **Submission to Inland Revenue on the Issues Paper: Taxation and the Not-for-Profit Sector**

### **From:**

Melissa Gibson  
Chief Executive Officer  
Len Reynolds Trust  
Email: s 9(2)(a)

Tēnā koutou,

Thank you for the opportunity to make a submission on the Taxation and the Not-for-Profit Sector Issues Paper. We acknowledge the complex nature of this mahi and appreciate the chance to participate in this important discussion.

As a philanthropic funder rooted in the wider Waikato region, our submission is grounded in our founding values – Mahi-a-Ngākau – working from the heart. Our legacy is one of generosity, education, and commitment to rural communities, inspired by Len and Ada Reynolds. Our purpose today is to support a future where all tamariki and rangatahi are secure, resilient, and thriving, and where te taiao is protected for generations to come.

We operate from a place of high trust, with strong relationships across the charitable sector, and a clear focus on equity, community wellbeing, and environmental sustainability. We are a perpetual funder investing in long-term impact, and our voice is shaped by deep relationships with the communities we serve.

### **1. Our Position in Summary**

- We fully endorse the submission made by Philanthropy New Zealand (PNZ) and support the technical responses, concerns, and recommendations it contains.
- We believe the current process is:
  - Too narrowly focused on revenue collection rather than the broader economic, social, and environmental contributions of the sector.
  - Likely to cause unintended harm to the very communities and kaupapa that charities exist to serve.
  - Misaligned with the Government's commitment to reducing regulation and unlocking economic growth.

- We urge Inland Revenue and the Government to **pause and reconsider the approach**, and to work in genuine partnership with the charitable and philanthropic sectors to co-design tax policy settings that support generosity, intergenerational wellbeing, and community resilience.

## 2. A Sector Already Under Pressure

Charities and not-for-profits in Aotearoa are already experiencing significant pressure. Government funding has, in many cases, remained static or declined in real terms. Community organisations have responded to this by innovating – building social enterprises, pursuing sustainability, and developing hybrid funding models that include trading income and property investments.

This evolution was encouraged – by both government and philanthropy – as a way to future-proof the sector and reduce dependency. Now, this same ingenuity is at risk of being penalised.

Should unrelated business income become taxable, many of these organisations may become more reliant on grants – just as philanthropic funders like ourselves could face reduced capacity to respond, due to taxation on our own investment income.

We see a clear risk of the sector being squeezed from both ends – less funding available, and greater need.

## 3. Impact on the Len Reynolds Trust

As a perpetual funder, we are mandated to preserve capital while generating income for charitable purposes. We currently own one commercial property that generates approximately \$250,000 annually – 25% of our total granting budget. This income is used to support charitable work in the Waikato.

If this rental income is deemed unrelated business income and taxed, our ability to distribute funding will reduce significantly. The consequences will be real and immediate – fewer grants for organisations working with Māori communities, rural youth, those experiencing inequality, and mental distress.

This is not an isolated scenario. Many philanthropic trusts, community foundations, and iwi organisations use property or investment income to fund their giving. These models were designed for long-term sustainability. Taxing them would fundamentally undermine their purpose.

## 4. Key Concerns with the Proposed Changes

### 4.1 Taxing Charitable Business Income

We believe there is no compelling case to change the current destination-based model of income tax exemption for charities. Income generated through trading is not for private gain—it is to advance a charitable mission.



These income streams:

- Provide financial resilience and reduce reliance on fluctuating donations or contracts.
- Are transparent and already reported through Charities Services.
- Have been widely encouraged as a sustainability strategy.

Officials have noted that while the tax exemption provides a tax advantage, it does *not* confer a competitive advantage. We echo PNZ's conclusion that taxing unrelated income may have negative side effects:

- Reduced innovation.
- Disincentivised enterprise.
- Increased compliance burdens.
- Disproportionate harm to rural, kaupapa Māori, and grassroots organisations.

If implemented, we urge:

- A generous de minimis threshold, at minimum excluding Tier 3 and 4 charities.
- Simple and automatic relief mechanisms (e.g. special memorandum accounts or refundable credits).
- No forced restructuring or administrative burdens that will overwhelm small organisations.

We also advocate for broader definitions of "related business activity" that recognise Māori worldviews and the interconnectedness of social, environmental, and economic purposes.

## **4.2 Passive vs Active Income**

We strongly support retaining the exemption for passive investment income (e.g., commercial property, dividends, interest), where those funds are ultimately used for charitable purposes.

These are not tax avoidance schemes – they are long-standing models of sustainable, values-aligned philanthropy. Taxing them would represent a form of government borrowing from the charitable sector, jeopardising future benefit for short-term fiscal gain.

## **4.3 Donor-Controlled Charities and Minimum Distributions**

While the Len Reynolds Trust is not a donor-controlled charity, we appreciate the integrity concerns that prompted these proposals. However, we caution against blanket rules that:



- Disincentivise long-term planning.
- Undermine legacy gifts or intergenerational funds, especially in rural communities.
- Blur the lines between closely held donor vehicles and perpetual philanthropic trusts with independent governance.

We recommend:

- Clear and distinct definitions.
- Strengthened governance frameworks and enforcement of existing rules.
- Exemptions for perpetual trusts where minimum distributions would contradict their charitable mandate.

If minimum distribution rules are introduced, they must not apply to perpetual funders whose model depends on long-term capital preservation.

#### **4.4 Mutual Associations and Exemptions (Chapter 4)**

We caution against the removal of tax exemptions for certain entities (e.g. local promotion bodies, mutual associations) without robust sector consultation and impact modelling.

Many of these groups are:

- Volunteer-led.
- Serving rural, environmental, or youth-focused purposes.
- Closely tied to community identity and wellbeing.

Removing their exemptions could significantly reduce their viability—and increase demand on philanthropic funders like us.

We recommend:

- Retaining exemptions unless demonstrable harm can be shown.
- Introducing a transition period and sector capacity-building support for any affected groups.
- A review of *all* exemptions (including tertiary education and sport), if consistency is a genuine goal.



## 5. Recommendations: A Better Way Forward

We support PNZ's call for a more strategic and collaborative approach. We believe this is an opportunity to grow generosity in Aotearoa, not constrain it.

We recommend Inland Revenue:

- Maintain destination-based income tax exemption for charitable entities.
- Protect passive income used for charitable purposes from taxation.
- Provide clear guidance and exemptions for perpetual trusts.
- Develop a modern social enterprise incentives framework that enables hybrid models.
- Reform donation tax credit mechanisms to increase access and uptake.
- Ensure imputation credits are equitable for charitable investors.
- Reduce compliance burdens through real-time donation credits, pre-filled returns, and simplified processes.
- Invest in research and international comparisons to understand long-term impacts.
- Engage meaningfully with Māori-led organisations, rural communities, and grassroots charities in the design of any reforms.

## 6. Conclusion

The Len Reynolds Trust remains committed to intergenerational giving, equity, environmental sustainability, and community-led transformation.

We urge the Government to:

- Rethink the proposed taxation of unrelated business income.
- Preserve the integrity and sustainability of philanthropic models.
- Avoid reforms that would reduce the capacity of the charitable sector.
- Centre Māori perspectives and rural voices in decision-making.

We welcome further dialogue and are happy to engage directly with Inland Revenue or policymakers to ensure that any changes serve the broader good of Aotearoa.

Ngā mihi nui,

Melissa Gibson  
Chief Executive Officer  
Len Reynolds Trust



# Feedback on Discussion Paper ‘Taxation and the Not-for-profit Sector’

## 1. ABOUT COMMUNITY CAPACITY ACCOUNTING

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Community Capacity Accounting (CCA) is a Christchurch-based Charitable Trust and registered Charity, providing accounting, assurance and financial education services to the not-for-profit sector exclusively.

In an average year we perform between 500 and 600 compilation or assurance jobs for mostly small not-for-profits with income of under \$1m. In addition to that we provide all manner of support and training on matters of financial management, governance, bookkeeping, administration, tax issues, external financial reporting and others.

Our clients are predominantly based in Christchurch, North Canterbury, Nelson/Tasman and Marlborough, although about 5% of our clients are based in other parts of New Zealand. CCA is governed by a Board of Trustees and employs 9 staff. This feedback is based on internal discussions and consultations.

## 2. FEEDBACK SUMMARY

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1. For equal treatment in public discourse, and to avoid the impression that there is undue privilege for charities in the present system, we believe a tax on charity business income should have its own name, as is the case with Capital Gains Tax. We propose Charities Business Tax.
2. We disagree that taxing charity income is an issue of equitable treatment compared to private businesses. Charity surpluses are not directly comparable to private profit, as charity assets have no ‘owner’.
3. Imposing a tax on profits generated from the provision of goods and services by large charities may be a reasonable measure to help increase the overall tax take, if this is a goal.
4. The discussion paper references ‘related’ and ‘unrelated’ business income throughout section 2, the intention being to not tax charities for income generated from a charitable activity. This distinction is not workable in practice, because:
  - a) The definition of charitable purpose overall in the Charities Act is very wide and not clearly defined, allowing a charity in many cases to extend its stated mission to include the business activity to avoid the tax.

- b) It may lead to the same type of income being treated differently between charities, as it may be related to the purpose of one charity but not the other.
- c) It will invite costly legal disputes where Inland Revenue and the charity disagree on whether an activity is 'related'.
- d) It will make Charities Business Tax too complex for tax agents to want to deal with, and its practical application may be unintentionally conservative as a result (i.e. taxing more income than was intended).

5. Instead, if a tax on charities is unavoidable, we propose to align any Charity Business Tax with existing financial reporting rules for Tier 1 and 2 public benefit entities, which includes charities, which already require distinction between 'exchange' income from the supply of goods and services, and non-exchange income. This would mean:

- a) Only charities with consolidated expenditure of \$5million or more will be taxable.
- b) This captures any controlled entities and any loopholes arising from multiple legal entities are avoided. Charities below the \$5m threshold will be exempt.
- c) All exchange income will be taxable, and all expenses, regardless of whether used to generate business income or for the provision of services, would be deductible.
- d) A high level of compliance and accuracy as this type of entity is subject to annual audits.
- e) Imposing a Charities Business Tax on small entities would impose an unreasonable compliance burden due to non-alignment of tax rules with mandatory financial reporting rules as well as non-alignment of financial years in many cases.

6. Where donors that control the charities they donate to enter into transactions for the sole reason of gaining a tax advantage we believe they are already in breach of the prohibition on pecuniary gain in the Charities Act, and the sanctions in that Act are sufficient. Any regulation about the legalities of transactions of registered charities should be dealt with through reforms of the Charities Act, not taxation.

7. The \$1,000 deduction is in urgent need of being adjusted to inflation. However, in general we believe that a separate tax framework is needed for not-for-profits (and charities) rather than provisions, exemptions and other 'tweaks' of the Income Tax Act, which is overall designed with private income in mind.

### **3. DETAILED FEEDBACK**

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This submission aims to address the questions asked in the Inland Revenue consultation paper 'taxation and the not-for-profit sector'.

#### **a. LANGUAGE AROUND TAXING CHARITIES**

The discussion paper refers to the taxation of charity business income as the removal of an exemption, framing it as the (partial) withdrawal of a privilege. On the other hand, discussions around the removal of the exemption of capital gain from Income Tax is referred to as a new tax, Capital Gains Tax, inferring a higher emphasis on government revenue as the primary goal. Whether deliberate or not, this difference in terminology undermines equitable discussion and treatment on taxation issues. In the case of charities, the issue is discussed as the removal of a privilege (which it is not), whereas in the case of capital gain it is discussed as a new tax, even though it is the removal of an exemption.

Income Tax is a tax on private earnings for the benefit of individuals. Businesses also exist for the financial benefit of private individuals, and taxing business income together with individual private earnings is therefore consistent, especially since mechanisms exist to avoid double-taxation of the same income. Earnings of charities are not available to private individuals, as charities do not have 'owners' in the sense of control over the entity's equity. Taxing such earnings is therefore fundamentally different from other applications of Income Tax, certainly more different than taxing capital gains, and should be consistently referred to as a new tax. In this submission we will use Charities Business Tax.

## **b. REASONS FOR AND AGAINST TAXING CHARITY BUSINESS INCOME**

The discussion paper appears to come to the conclusion that any competitive advantage of charity business activities compared to private ones is minor, if it exists at all. In the case of compliance costs, it should be noted that registered charities are subject to the NZ Financial Reporting Framework, and the compilation of financial statements compliant with this framework is rather more complex than the filing of an income tax return. There is also a heavy compliance burden on registered charities with respect to governance matters, aimed at reducing the possibility of illegal pecuniary gain, that businesses do not have. Charities operate in a much stricter compliance environment than businesses of similar size, with respectively higher costs.

We would also argue that if there was a competitive advantage, we would see far more businesses trying to register as charities. The prohibition of private pecuniary gain on charities as well as the publicizing of financial position and performance data of charities appear to be effective deterrents, however, and we believe that the growth and competitiveness of the NZ economy is in no danger of being hampered by registered charities' tax-exempt business activities.

Taxation is the government's main way of raising funds to pay for activities that as a country we decide to do together, a 'common pot' under the control of an elected parliament. We believe there is a broad public consensus that everyone's level of Income Tax should be based on an individual's or entity's relative ability to pay it, hence the progressive income tax scale for individuals. Company income tax as a net additional revenue stream for the government only applies where profits are not fully being transferred to individuals, i.e. larger entities. We believe that public acceptance of a Charity Business Tax therefore would be low if it captures smaller entities, regardless of the type of income generated.

A point could be made that charities with large amounts of business income could be asked to contribute some of their profits to the 'common pot', especially as there is a growing consensus amongst economists that New Zealand's tax take is overall much too low considering the challenges of the future. We believe this is reasonable.

The public discussion appears to center around equity issues, however, most notably the tax-exempt status of Sanitarium Health Foods Ltd. It appears 'unfair' that Sanitarium does not pay income tax where its competitors would. For reasons already mentioned, we do not believe that charities registration offers NZ businesses a viable way of avoiding income tax and gaining a competitive advantage. Incidentally, as discussed below, if only non-related income becomes liable for tax, Sanitarium would still remain exempt.

### **c. IMPLEMENTATION OF A CHARITIES BUSINESS TAX**

In point 2.21 the discussion paper points out some difficulties with the implementation of a Charities Business Tax, and there are three key issues:

1. Very little may actually change to the government's tax take. As your paper points out, charities that generate significant unrelated business surpluses can still mostly avoid tax by creating a separate company for the business activity that donates any profits to the charity. To be consistent in taxing charity business income, the tax deductibility of donations to charity would have to be removed at least for businesses controlled by charities to make this a revenue-earner.
2. The distinction between 'related' and 'unrelated' business income may be impossible to make in practice. After changes made to charity financial reporting rules which become mandatory this year, this distinction already has to be made in some cases, and we start seeing problems with this approach in practice, and we would advise against it.

For example, many churches have rental property that generate a surplus and are not generally part of their core faith-based mission. However, they can argue that providing affordable housing is a part of their generally charitable social activities. On the other hand, there may be other entities that have rental property offered below market rent. Depending on how the argument is made, you could end up with some rental property income that is taxed, and some that isn't.

Further, the definition of what is 'charitable' is held rather widely in the Charities Act. Section 5 states:

"In this Act, unless the context otherwise requires, *charitable purpose* includes every charitable purpose, whether it relates to the relief of poverty, the advancement of education or religion, or **any other matter beneficial to the community.**" [our highlight]

Case history around charity registration suggests that NZ Courts have generally struck down any attempts to narrow this definition in any way. We find it difficult to think of any charity business activity in our practice where it could not be argued that it also has a charitable purpose. This may well become a legal minefield if IRD were to try to enforce a different interpretation.

We can illustrate the issue with Sanitarium, the 'poster boy' of the case for a Charity Business Tax. Their charitable status derives from being controlled by a faith-based organisation but also, according to their constitution, from a commitment to health education and food range/quality through research. Unless it can be argued that Sanitarium's business activities are not related to the clearly charitable purposes of health education and good food quality, a tax on 'unrelated' activities only would likely not capture Sanitarium.

Where this decision then falls to accountants and tax agents to make, we believe they will act conservatively, and there is a high risk of income being taxed as a result that was not intended to be taxed. There is also a high risk of inequitable treatment of charities as a result.

3. Our practice as assurance practitioners for charities and other not-for-profits indicates that there is a general capability and knowledge gap amongst accountants and lawyers when it comes to not-for-profits. This is probably due to the proportionally small number of not-for-profit entities relative to business entities, meaning it often does not warrant expenditure for professional development in this field for a small practice. New rules around taxation for charities would create an additional need for training, research and professional development time, which historically accountants have been reluctant to invest. This narrows the market, creating a 'specialist' field, adding further to cost, and compromises fair and equitable treatment of charities. We predict that the introduction of any complex Charities Business Tax will simply see more accountants opting out of taking charities clients at all and increase costs even for charities that are not subject to this tax.

We believe that for a Charities Business Tax to work, it must have rules that are simple to implement and cannot involve complicated judgment calls. It can only capture large charities, as public acceptance of taxing smaller ones will be low. It must be equitable, meaning that situations where charities with large amounts of business income are still not liable for this tax while others are, must be avoided.

#### **D. ALTERNATIVE PROPOSAL**

To simplify the issue of liability for Charities Business Tax, we propose that the tax, if implemented, aligns with reporting rules for Tier 1 and 2 charities (charities with operating expenditure of \$5m or over). Tier 1 and 2 charities already have to make the distinction between 'exchange' and 'non-exchange' transactions for financial reporting purposes, where 'exchange' transactions mean the provision of goods and services in return for money. While exchange transactions will often involve charges for services provided as part of a charity's mission, we believe that taxing profits on such charges is still acceptable, as the charity has made a conscious decision to generate a surplus from user charges (it always has the alternative of providing such services at cost). Treating all exchange transactions the same also creates equity between charities with respect to tax, as the same types of income will always be treated the same, regardless of whether it is part of a charity's mission or not. Further, the distinction between 'exchange' and 'non-exchange' transactions does not generally involve complex judgment calls.

All expenses should be tax-deductible under this regime for simplicity. This means that expenses that were not incurred to generate business income will also be deductible. These expenses essentially represent funds that the charity applied to its charitable purpose in that year and are therefore equivalent to a business donating to a charity. The taxable profit is then a result of the charities' total income, less any donations or other non-exchange transactions, less all expenses, leaving as taxable income the profit of a charity's business income that has not already been applied to its purpose.

Tier 1 and 2 reporting rules also require charities to consolidate any entities they control for financial reporting purposes. If the Charities Business Tax targets this consolidated exchange profit it will remove any opportunity to avoid the tax by dividing the entity into smaller ones. It also resolves the issue of a wholly owned company donating its profits to the Charity to avoid any such tax.

Further, Tier 1 and 2 charities are subject to mandatory audit. This should ensure a high level of accuracy in reported income and expenses.

Aligning the Charities Business Tax with these existing financial reporting rules will create certainty amongst charities of who is and isn't liable for tax, allows standard makers to better integrate tax issues into financial reporting standards and tax only those (larger) entities that can reasonably be asked to contribute to the overall tax take without creating unintended inequities.

Extending a Charities Business Tax to entities smaller than that will in our opinion create an unreasonable compliance burden. The accounting rules charities have to comply with for their annual financial returns do not align with tax rules, meaning that two financial reports will have to be created, for potentially two different financial periods. Bookkeeping requirements are already very complex for charities, given the various external accountabilities, and separating taxable from non-taxable transactions may just add one complexity layer too many to be workable.

If smaller charities become subject to taxation, we believe that in turn the requirement to also have to comply with the Financial Reporting Framework should be abolished, with an eye to avoid a double compliance burden. Incidentally, there is no other country where small charities have to comply with such a framework.

## **E. DONOR-CONTROLLED CHARITIES**

The paper discusses the potential for tax evasion by donor-controlled charities, and possible legislative action to prevent this.

The paper gives the impression that New Zealand is an oddity in not regulating donor-controlled charities, which 'many' other countries do. It is true that amongst those countries that have charity regulation the majority have some kind of mechanism for the issues outlined in the paper. However, countries that define 'charitable purpose' and regulate 'charities' at all are a tiny minority, which makes this statement somewhat misleading.

We believe that using a charity for the purpose of gaining tax advantages for private individuals is a breach of the Charities Act, which prohibits private pecuniary gain, and therefore already illegal. As such, the Department of Internal Affairs would have the power to investigate and, if wrongdoing has occurred, de-register the Charity, which would make it taxable.

If our reading of the Charities Act is incorrect in this matter, we believe that a specific inclusion of the mentioned transactions in the definition of private pecuniary gain in the Act would be a more appropriate way to address the concerns raised in the discussion paper, as it carries the sanction of de-registration and therefore taxation.

Regulating specific activities of charities through any other Act than the Charities Act is in our opinion more likely to hinder rather than help the issue.

The discussion paper also mentions the idea of minimum mandatory distributions as a requirement for certain charities in this context. We believe the accumulation of assets by charities is a much wider issue for a much larger group of entities, and requires a separate review, again in the context of the Charities Act.

## **F. OTHER NFP ISSUES**

As outlined already, we believe that not-for-profits are fundamentally different from entities that operate for the private gain of individuals and should not share the same income tax framework as such entities. If parliament wishes not-for-profit entities to be taxed, a separate tax framework should be introduced to do so.

Under the current system, we believe that the \$1,000 deduction has not been updated in a very long time and should be adjusted at least for inflation from when the amount was last set.

In this (flawed) system, an exemption from taxing membership fees (or member trading income) is somewhat arbitrary compared to other forms of income. As with 'related' and 'unrelated' income in the context of charity taxation, simplicity is generally a better tool to promote equity than complexity and creates certainty in taxation matters. Again, we would suggest using 'exchange' and 'non-exchange' income as the core principle in tax matters.

Our experience with Friendly Societies and Credit Unions is too limited to be able to comment on tax matters for these kinds of entities.

## Submission on Taxation and the not-for-profit sector issues paper

### Sector comments

The charities and NFP (increasingly referred to as the ‘For Purpose’) sector make a valuable and significant contribution to New Zealand. Any changes that reduce the funding available are likely to have a big impact on the most vulnerable parts of our society.

Charities aim to be financially sustainable and achieve this through various ways such as developing diversified income streams and maintaining accumulated funds that provide returns to be used for the charity's purposes. It disincentivises charities to undertake these activities if they are taxed and therefore may make them more reliant on government money and donations.

It is a complex sector therefore it won’t benefit from a ‘one size fits all’ approach. Broad, sweeping changes are likely to have unintended negative consequences. Targeted measures to address actual problems are likely to be more effective and appropriate.

Charities often run at operating deficits and rely on a Foundation or accumulated funds for resilience and to save for large capital projects. There are also tagged legacies that require capital to be retained, and the investment returns used on the charitable purpose. Any legislative changes that impact the ability to maintain and accumulate these funds could have significant adverse consequences.

### New Zealand Red Cross

New Zealand Red Cross’ mission is to improve the lives of vulnerable people by mobilizing the power of humanity and enhancing community resilience.

Our core priorities are emergency management (including Meals on Wheels), migration (supporting former refugees), and our work internationally alongside the promotion of International Humanitarian Law.

We provide these programmes mostly within New Zealand but also in the Pacific region.

We primarily rely on donations, government contracts, and income from our First Aid business and second-hand shops to fund our charitable activities.

While we support a review of the tax regime to eliminate inequities, we are concerned that the outcome of these proposals will unintentionally reduce the amount available to support vulnerable people by adding to compliance costs and diverting funds to tax payments.

We are concerned about the effects this will have on the communities that we support. With less money available then we will have to reduce our delivery or locations where we deliver services, or both.

We are also exposed by this proposal to potentially incur tax on our charitable work in the Pacific because we receive funding from Government to provide services in the wider Pacific region, but the terms of the contract require us to use some of our own funds to support this work, which includes some of our non-contract business income.

- We propose that any funds required to be spent outside New Zealand by, and for the delivery of Government contracts is exempt from business income tax requirements.
- We also ask that consideration be given to extending the exemption for charitable service delivered in New Zealand to include the Pacific region as well.

Our comments below address specific concerns in relation to the questions in the Taxation and the not-for-profit sector 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.**

We do not support taxing of charity business income.

In these difficult economic conditions, there is more competition for donations and charities should be encouraged to explore other ways to generate and diversify income.

For many charities including New Zealand Red Cross, the business activities are an extension of their charitable purpose and outreach and any profits are redistributed through other community services.

As examples of extensions of our charitable purpose:

- second hand shops provide cheap goods to the disadvantaged and vulnerable often relying on volunteer labour to reduce costs and make the goods more affordable. People donate goods to our shops because they know any proceeds will benefit the community. They also may donate goods because they cannot afford a monetary donation.
- Our First Aid activity is an extension and important enabler of our purpose to develop community resilience. We provide first aid training for free to members who engage in emergency response and those who work with vulnerable people. We are only able to do this because of the established system supported by courses that generate revenue.

If these activities were taxed there would be less available to support our community activities providing help for the vulnerable. We would incur compliance costs further reducing the available funds to provide services.

In summary our second hand-shops and first aid courses are important revenue streams but have a dual focus and are not in set up nor in the same competitive markets as other retailers.

Therefore, the challenge in defining “business activities” or “Business Activities unrelated to the Charitable Purposes” is extremely hard to draw.

Finally, the level of additional compliance to separate between potential taxable activities as opposed to non-taxable charitable activities (including cost allocations) would be substantial.

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

It is difficult to define ‘unrelated business activity’ without having unintended consequences of taxing charities that are utilising other activities to create a diversified income stream. Further, it may result in increasing the cost in the market for services that are primarily delivered by charities such as First Aid training.

If any income is generated by unrelated business activity and that income is then used for charitable purposes within New Zealand, then taxing this income will result in less services being provided. If the charity sector is unable to provide necessary services, the burden will fall on the Government or become a gap in our communities resulting in further consequences for the wellbeing of our population.

We would be concerned if investment income was captured as unrelated business income. Our accumulated funds are largely the result of legacies which we manage in accordance with the bequests and to support long term sustainability of our services. Income is applied to our charitable purpose each year, but we need to be able to smooth out income to cover peaks and flows of other income. Demands for our services are often greater when times are harder, and donation income is down.

**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 business needs to be completely unrelated to the stated charitable purpose and clearly not applying its surpluses towards the short to longer term support of its charitable purposes. Further where the business activity is clearly linked as a fundraiser to a Charity such as Charity Op-Shops they should be 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?**

As before the exemption should not be removed to activities providing income that supports the wider delivery of the charitable purpose.

We would also advocate for a percentage ratio in these circumstances, as opposed to a small or medium test. Our income from Charity Op-Shops is meaningful to the delivery of the work we do, but as a percentage of overall revenues, is relatively small. If the focus is to tax proper commercial operations with tenuous, if any, link to the charitable purpose then that percentage ratio should be set quite high, as it is not the size of the charity that you should be targeting but the extent of the true commercial activities.

**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, agree that business income distributed for charitable purposes should remain tax exempt and if it is accumulated a reasonable time period to apply it to the charitable purpose should be allowed.

**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 often run at an operating deficit. It is therefore difficult to remunerate employees at a level to attract from the market. The FBT exemption is an important way charities can offer an attractive package to employees while operating with limited funds. This allows charities to be more able to compete for labour resources which are essential for delivery.

We do not consider that removing the exemption for charities will generate sufficient extra tax income to offset the additional compliance cost to the sector.

The cost of obtaining professional advice, setting up ongoing compliance processes, and paying FBT will all reduce the funds we are able to spend on our charitable purposes.

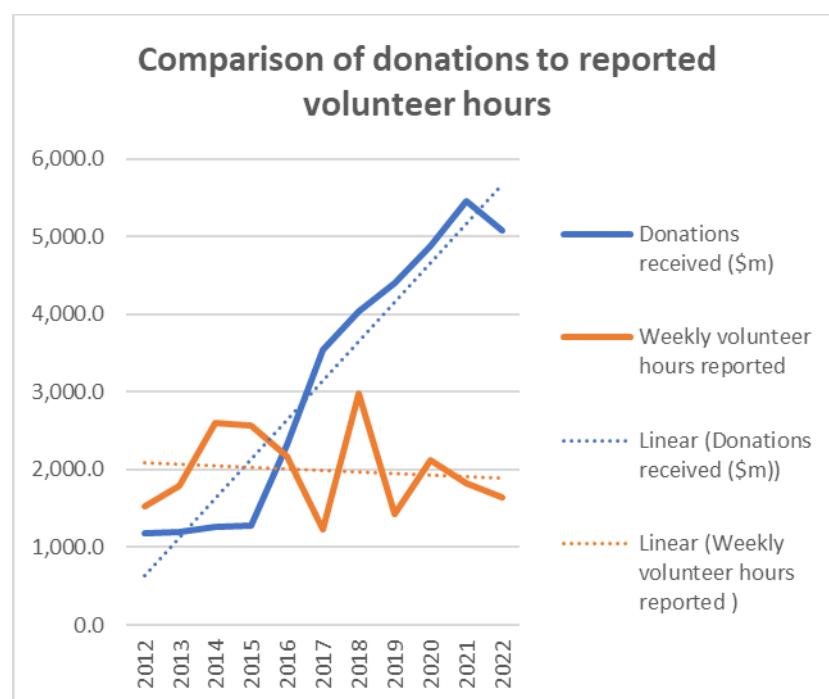
**Q15. What are your views on the DTC regulatory stewardship review findings and policy initiatives proposed? Do you have any other suggestions on how to improve the current donation tax concession rules?**

We believe that the overall stance and approach in respect of the DTC review and policy initiatives is positive and extend thanks to the review team. We have for some time been aware of low levels from claiming of tax rebates and presumably a lack of understanding of

the potential positive impact of doing so. Intentions to increase promotion of the scheme as it is, is welcomed. We also endorse all efforts to reduce both processing and claiming demands.

Our further comments for your consideration are as follows:

- If consideration is given to delinking the DTC from annual income tax, we recommend you consider the potential for fraud. For example, someone asking for a refund from the donee after they have received a tax rebate.
- We would welcome consideration that the tax rebate be paid directly to charities instead of the donor. This could potentially be positioned as IRD wanting to augment the value of donations by contributing to organisation running costs ‘so that your donation can be better applied to the delivery of services’.
- We note the discussion on distribution of withheld funds and wish to emphasise that there are circumstances where donated or granted funds are required to be held either for future specified purpose or in perpetuity. We wish to advocate that should there be a move to require a minimum distribution, that such held funds from gifted sources be excluded from the formula.
- We would appreciate opportunity to refer to the Fundraising Institute submission’s plea (to the review of DTC) that donating and volunteering be regarded as two sides of the same coin. We note that ‘donations’ in this context include both grants and gifts in wills income, neither of which are subject to the DTC regime. The graph below demonstrates the need to invest increasingly in raising funds to compensate for reduced volunteer availability, to ensure continuity of service as a minimum and increasing service delivery where possible, to meet demand.



Source: Project Periscope Ltd analysis of Charities database

- We note specific reference in the FINZ submission to the review of DTC to the issue and impact of ‘overheads’ and ‘admin costs,’ etc. These are real donation impediments due to people’s lack of understanding of the cost of doing charity business. Their submission references an alternative description of ‘infrastructure and compliance costs,’ none of which are avoidable. IRD’s adoption of this terminology ('infrastructure and compliance costs') when promoting the DTC regime could help educate people about the realities faced in delivering responsible, transparent, and accountable charitable services.

31st March 2025

IRD  
Wellington  
Via email: [policy.webmaster@ird.govt.nz](mailto:policy.webmaster@ird.govt.nz)

## Re: Consultation Paper on Taxing Charities and Not-for-Profits - Question 12

This submission addresses Question 12 of the consultation paper regarding the potential removal or significant reduction of income tax exemptions, specifically concerning the local and regional promotional body income tax exemption (CW40 in the Income Tax Act). We strongly believe that the income tax exemption for Business Associations should remain. Our reasons are as follows:

As a Business Improvement District (BID), we operate strictly under city council's BID Policy Guidelines. We advocate for local issues such as parking and public transport for the benefit of the local business community. We improve the commercial health of town centres, which in turn helps with local employment. Our constitution, aligned to Auckland Council's BID Policy, and registered with the Registrar of Incorporated Society, forbids any private pecuniary profits and distribution of property and funds to any person, including any members or members of the executive committee.

- **Community and economic development:** Business Associations play a crucial role in fostering local economic development. They invest significantly in activities that benefit the wider community, such as:
  - Promoting local businesses and attracting investment.
  - Enhancing the attractiveness of the area through beautification projects.
  - Improving public amenities.
  - Enhancing security and safety through initiatives like CCTV and security patrols.
- **Reinvestment in community safety:** As highlighted by our auditor, funds that would otherwise be directed towards income tax are reinvested directly into community safety measures, including CCTV systems and security personnel. These investments create a safer environment for both businesses and residents and are a vital service that would be significantly reduced if the exemption was removed.
- **Maintaining local services:** Removal of the exemption would severely limit the ability of Business Associations to provide essential services to their members and the community. This would negatively impact local economies and reduce the overall quality of life.
- **Distinct role from charities:** While some entities may apply for this exemption when unable to register as charities, Business Associations serve a distinct purpose focused on local economic development and business support, which is different from the core functions of charities.
- **Impact on small businesses:** Our small businesses rely on the activities of Business Associations. The proposed change would place a greater burden on them.

The removal of the income tax exemption for Business Associations would have a negative impact on local economies and community safety. The exemption should remain to ensure the continued support of these vital organisations.

s 9(2)(a)

Mark Knoff-Thomas  
Chief Executive

## **Creative Waikato - Organisational response**

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

IRD official issues paper - 31 March 2025

### **Background**

1. This submission is presented by Creative Waikato. Creative Waikato is a not-for-profit Regional Arts Organisation focused on capability building and support for arts, culture, creativity and ngā Toi Māori in Waikato. We work towards a vision for a Waikato region that *thrives with diverse and transformative creative activity*.
2. Creative Waikato is a creative community organisation that provides capability building programmes to artists and creatives within the wider Waikato region, including: Kirikiriroa/Hamilton, Thames-Coromandel, Hauraki, Matamata-Piako, South Waikato, Waipā, Waikato, Ōtorohanga, Waitomo and Ruapehu. We have a clear understanding of the wider ecosystem which includes many charitable organisations. These are led by passionate and committed people, who work hard to provide services to their communities. They cover a broad spectrum of areas and include but are not limited to: performing arts societies, craft and object art groups, community event organisers, theatres, art festivals, and writing guilds.
3. It is Creative Waikato's overall view that it is essential to have a strong sustainable charities sector. The potential to cause harm, in a process that could result in little additional revenue for the government, seems likely to have a significant impact on the sustainability of the charities sector and the communities they serve. Additional regulation in what is already a well-regulated sector poses an undue burden on the majority of charities who are following the rules. The lack of a clear problem definition, cost-benefit analysis and consultation with Māori and the general charitable sector is inadequate and must be addressed before any regulations are entrenched into law.
4. Creative Waikato has provided feedback on a few key issues in the following paragraphs.

### **Undue burden on already vulnerable sector**

5. This paper comes at a time when the sector is more under-resourced than ever. The current economic climate, lack of volunteers and increased pressure to provide essential services to communities, mean that charities are under immense pressure to remain sustainable.
6. The government's proposal to apply further scrutiny and regulations to an already vulnerable sector could result in communities not receiving the valuable services currently provided by charities.
7. The proposed tax settings could negatively shift the wealth divide by reducing charities and not-for-profits ability to sustainably fund services that directly

benefit our communities. Such changes pose a very real threat that these communities will struggle without this support.

**Additional regulation based on a few outliers**

8. Creative Waikato works with many charities who are doing a wide range of amazing mahi in their communities. We are concerned that there may be some unintended consequences in seeking to apply further rules and restrictions on charities.
9. It is our view that the number of charities that may break the rules is minuscule compared to the amount of positive benefits communities receive from charities. The important work of many small-scale charities (particularly in the arts, culture and creative sector) is contributing positively to social cohesion, community building, sense of place, sense of belonging, and providing meaningful opportunities to support the mental health of community participants.
10. If the proposals are entrenched into law, this would set a precedent to potentially impose further restrictions in the future. This creates significant risk to the broader creative community.
11. A more appropriate approach would be to adjust the existing regulatory checks and balances to address the small number of outliers that don't follow the rules.
12. There is overall a lack of compliance costs or estimates that provides a clear substantiation on why such regulations are necessary. A robust cost-benefit analysis is essential to understand the true scale of the issue.

**Definition of ‘unrelated business’**

13. Creative Waikato is concerned about the practical complexity of defining what is ‘unrelated business’. There are a range of related activities that contribute to the overall experience of things like events. This means there is concern around how those distinctions are going to be made, and the administrative cost of that process.
14. Many charities are in the position of needing to have some form of ‘business’ to supplement variable or declining donations. In fact, securing sustainable and long-term funding should be encouraged, whether through a business or not.
15. However, the paper doesn’t articulate when a business is unrelated, or whether managing passive assets/investments in a professional manner amounts to a business.
16. Charities which own businesses that bring in income, don’t do so for private gain, as they are limited by their purposes and must be seen to be advancing these purposes.

**Requirements for charities to be transparent already exist**

17. The process and criteria to become a charity is already robust. It first must fit within four purposes - the relief of poverty, the advancement of education, the advancement of religion; and other purposes beneficial to the community.
18. Once status is given, there are ongoing reporting requirements which charities must meet to remain charitable. Information on registered charities in New Zealand is publicly available via the Charities Register.
19. Charities must report on their impact via a Statement of Service Performance, with regard to what they set out to achieve and what they have achieved. This provision provides an opportunity for charities to tell their own stories. Not only whether it makes a profit or a loss.
20. It is important for government to understand the breadth and depth of mahi undertaken by charities, and more importantly what could be lost if regulations are imposed. It is a narrow view to impose regulations on charities, for what appears to be a minimal revenue gain.

**Te Tiriti o Waitangi**

21. The proposed regulations seek to undermine the principles of Te Tiriti o Waitangi and the Crown's duty of care to Maaori.
22. Within our rohe, we have Māori charities that engage in business activities to generate income that directly supports their communities. At the heart of what they do is to provide for the future of their people.
23. Underpinning this important mahi are principles such as *kaitiakitanga* (protecting and looking after the environment), *manaakitanga* (hospitality, kindness, generosity, and care for others, emphasising respect and a sense of community and collective responsibility) and *kotahitanga* (Māori unity, a shared sense of belonging).
24. These principles not only benefit Māori charities, but all charities.

**Charities provide essential community benefits**

25. There are over 29,000 registered charities who have volunteers that contribute approximately 1.4million hours each week.<sup>1</sup> Charities have an important role in the wider ecosystem with regard to providing important community benefits.
26. When it comes to tax, charities are not taking advantage of any loopholes. They are granted tax exemptions in recognition of the positive work they do in the community for the good of all.
27. A further unintended consequence of the regulation that is proposed is that the level of services which charities currently provide, may cease.

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<sup>1</sup> Charities Services 'Ngā Ratonga Kaupapa Atawhai' Annual Review 2023/24, p 4.

28. The level of scrutiny upon charities is already high, therefore any further regulation, would mean that the time, effort and commitment already undertaken by charities would become onerous, with some charities potentially folding as a consequence.
29. If the charity sector is unable to rely on income generated by ‘unrelated or in-direct activities’ (depending on how these things are defined), the unintended consequences could be, more charities facing closure, more job losses and additional strain on an already complex community sector.
30. A more serious consequence of this would mean that the government would have to fill these gaps. This could result in further spend and/or unmet need within communities. Both scenarios are undesirable.
31. If charities didn’t exist, then there would be louder calls on the government to provide and/or fund these services, which seem counterintuitive to the purported issues it is seeking to address.

### **Recommendations**

32. The lack of a clear issue definition has not been articulated, which has further compounded concerns within the sector. Providing a clear problem definition is imperative.
33. Charities have not been provided adequate time, nor have the resources, to respond to this paper. Meaningful consultation with charities is essential in understanding the impacts that these changes may have.
34. Consultation with Māori organisations is imperative, particularly to ensure alignment with Te Tiriti o Waitangi principles. Furthermore, Māori principles are useful in providing a guide for how government can engage meaningfully with the whole sector, not only Maaori.
35. Charities are already required to report on their activities. The current system is very transparent. Reporting on their impact provides charities’ with an opportunity for the wider public to see all the good mahi they do. It is recommended that government uses the checks and balances that already exist, rather than applying a ‘blanket approach’ upon all charities. It is also recommended that ‘Charities Services’ is additionally resourced to be a proactive enabler for registered charities and advocate on behalf of the sector.
36. Charities provide essential services that the government does not. These charities are driven by passionate volunteers who have years of experience in serving their communities. There is a huge risk that if these charities cease to exist, due to increased regulation, the government will inevitably have to fill these gaps.
37. The proposed changes represent a fundamental shift in the Government’s recognition of the value of charities and the complexity of their funding

sustainability, and this proposal will potentially reduce their ability to deliver essential services to communities.

38. It appears that there is a complete absence of potential costs or estimates on how significant the perceived issues are, what the indicative scope of this could be for income levels, as well as no analysis of the compliance costs that these changes would impose on charities. If there is no clear evidence of the scale of the problem, the wholesale introduction of broad-brush tax changes risks imposing undue burden on thousands of charities for the sake of addressing the actions of a few. Perhaps a targeted approach would be more appropriate.
39. The scale and approach to the consultation is also concerning. The provided document is complex to understand, and limits accessibility and engagement with the community sector and flax roots creative organisations. It also seems that there is limited engagement with Iwi and Māori entities in the impacts of this approach. It would be great to see more engagement through community conversations to ensure that the understanding of this impact is clear and considered.
40. It would be ideal to see a more scaled approach for any progression of this work. It seems important to explore the impact on Tier 3 and Tier 4 charities from the proposed tax changes. The groups in these Tiers are reliant on all their threads of income for sustainability, and many of these community groups do not hold significant reserves, nor have excessive revenue incomes.

**CONCLUSION:**

Creative Waikato understands how important the charitable structure is for the arts, culture and creative sector. It enables the impact of our work to be possible. As such we strongly advocate for policies that support the long-term sustainability of the charitable sector. We most certainly acknowledge the need for accountability, it is vital to consider the context. For the significant majority of the groups and organisations we work with, these broad-based tax changes risk causing significant harm to legitimate charities that serve our communities.

As an organisation we urge the Government to take an evidence-based approach to addressing any perceived concerns about tax abuse, rather than imposing significant additional compliance burdens on an already under-resourced sector.

Thank you for the opportunity to submit on this issue. We will continue to engage in future discussions around how to best support a thriving and sustainable charitable sector in New Zealand.

Submitted on behalf of Creative Waikato  
s 9(2)(a)

Dr. Jeremy Mayall  
Chief Executive

27 March 2025



Taxation and the not-for-profit sector  
C/- Deputy Commissioner, Policy  
Inland Revenue Department  
PO Box 2198  
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### **Submission regarding Officials' paper on charities and NFPs (March 2025): First Credit Union Incorporated**

#### **Why Credit Unions Should Retain Their Tax-Exempt Status**

We welcome the opportunity to submit on the Officials' Issues Paper on "*Taxation and the not-for-profit sector*", in particular to address question 11 – "What are the implications of removing the current tax concessions for friendly societies and credit unions?"

Our main submission points are outlined below:

- We are a member-based organisation – we do not call our members customers because they by definition are not.
- We submit that the tax exemption for credit unions should be retained as is. The tax-exempt status of credit unions is not just a financial benefit for the credit unions; it is a crucial element that enables them to fulfil their mission of serving their members and communities. By supporting community development, promoting financial education, encouraging savings and responsible borrowing, providing a competitive market balance, demonstrating resilience during economic downturns, and supporting small businesses, credit unions contribute significantly to the overall economic well-being of society. Retaining their tax exemption is essential to ensuring that credit unions can continue to provide these invaluable services and remain a cornerstone of the financial sector.
- It is not clear from the Issues Paper whether there is perceived to be an issue with the existing tax exemption for credit unions, and whether there is a plan to remove it. Absent this clarity, we are unsure whether the possible changes to the mutual association rules will be relevant to credit unions.
- The current consultation on such a significant topic that has an existential impact on the operations of our business and transactions with our members feels rushed and the time frame to make informed decisions is too short. We submit that a fully informed consultation process must be adopted if there is a governmental desire to change the rules for credit unions.

#### History of First Credit Union

The concept of credit unions dates to the mid-19th century, with the first credit union established in 1852 in Germany by Friedrich Wilhelm Raiffeisen. These early credit unions, known as "people's banks," were formed to provide affordable credit to rural farmers and workers. The movement quickly spread across Europe and eventually the world. These pioneering institutions laid the groundwork for the global credit union movement, emphasising cooperative principles and mutual assistance.

First Credit Union started out in Hamilton as a credit union for the Catholic Community of St Mary's Parish in 1955. 2025 marks our 70<sup>th</sup> year! One of the reasons it was started was to provide access to credit for a section of the community who were unable to gain credit elsewhere – one example of this included unmarried women who were unable to access credit from traditional suppliers!

FCU has grown and today has circa 65,000 members, 10 physical branches, and provides not only savings and loans, but a fully transactional banking service for members. Products such as internet banking, mobile

banking and debit cards allow our members to access the financial system. A large cohort of our membership is not wanted nor seen as “profitable” by the traditional banking sector. We expertly fill that role.

## **The Benefits of Tax Exemption for Credit Unions and Their Communities**

Credit unions have long been a vital component of the financial sector, offering a unique and community-focused alternative to traditional banking institutions. The tax-exempt status they enjoy is a cornerstone of their ability to serve their members effectively and contribute to the broader economic health of their communities. Retaining this tax exemption is essential for several reasons, outlined below:

### *Disruption of their fundamental purpose*

The implied tax changes ignore the fundamental purpose of credit unions: They exist solely to serve their members, not to generate profits for shareholders. Subjecting them to the same tax structure as for-profit banks would disrupt a system that has successfully provided financial access and stability for over a century.

Credit unions typically make a profit each year, and a level of reserves needs to be held to ensure that Reserve Bank capital requirements are met and that there are funds available to continue to invest in the necessary banking infrastructure and other capital projects. Profits are not made for the sake of making a profit, as is the case for other participants in the banking sector. Instead, fees and interest charged to members are kept at a minimum viable level.

### *Support for Community Development*

Currently, the income derived by credit unions is considered exempt income, except to the extent to which the amount is derived from a business carried on outside of the membership. Credit unions are not-for-profit organizations that reinvest their earnings back into their communities. This reinvestment takes the form of better rates on loans and savings, lower fees, and improved services for members. The tax-exempt status allows credit unions to allocate more resources towards these community-focused initiatives, fostering local economic growth and stability. Removing this status would divert funds away from these crucial areas and ultimately diminish the positive impact credit unions have on their communities.

Additionally, we consistently provide funds to support the community, including community donations, general sponsorships, and supporting borrowing and funding for social housing initiatives, including approximately \$29m for 63 social housing developments across New Zealand in FY 2024.

### *Member-Centric Approach*

Unlike traditional banks, which prioritise profits for shareholders, credit unions operate on a member-centric model. This means that their primary objective is to serve their members' best interests. By retaining their tax-exempt status, credit unions can continue to provide competitive financial products and services that are tailored to the needs of their members. This approach ensures that financial resources are allocated efficiently and equitably, benefiting individuals who might otherwise be underserved by larger financial institutions. Specifically, First Credit Union has branches across the North Island to serve these communities, including Hamilton, Kawerau, Ngāruawāhia, Penrose and other locations. In Ngāruawāhia and Te Aroha for example, we are the only financial provider available to the local community. We do our best to benefit members that would otherwise be disadvantaged by traditional banking models.

### *Financial Education and Literacy*

Credit unions often play a significant role in promoting financial education and literacy within their communities. They offer workshops, seminars, and one-on-one consultations to help members make informed financial decisions. The tax exemption supports these educational initiatives by allowing credit unions to invest in programs that empower individuals with the knowledge and tools needed to achieve financial stability and success. Without this support, the ability of credit unions to offer these invaluable services would be severely compromised.

### *Encouraging Savings and Responsible Borrowing*

One of the primary missions of credit unions is to encourage savings and responsible borrowing among their members. The tax-exempt status enables credit unions to offer higher interest rates on savings accounts and more favourable loan terms. This incentivises members to save more and borrow responsibly, which in turn contributes to overall economic health. By retaining this status, credit unions can continue to promote financial habits that lead to long-term stability and prosperity for individuals and families.

### *Competitive Advantage and Market Balance*

Credit unions provide a necessary competitive balance in the financial market. Their tax-exempt status allows

them to compete with larger, profit-driven banks, ensuring that consumers have access to a diverse range of financial services. This competition drives innovation and improves the quality of financial products available to consumers. Removing the tax exemption would weaken credit unions' ability to compete, potentially leading to a less competitive and more concentrated financial market that could harm consumers.

In this space we specifically refer to the very high-cost provision in New Zealand of “transactional” banking – i.e. payments, internet and mobile banking, issuance and use of debit card facilities, where we (try) and compete with the large banks. Because we lack the scale of the large banks, the charges we incur in providing these services is comparatively higher. If income tax were imposed on the transactions we undertake with our members, we would be at a further competitive disadvantage and unable to provide the same financial services to our members, who may struggle to access banking facilities via the mainstream banks.

Retained earnings, in the form of surpluses, are the credit unions' only access to capital to support the ability to grow. To have the surplus reduced, via taxation, would result in slower growth for credit unions and a more uneven competitive playing ground.

#### *Resilience During Economic Downturns*

During economic downturns, credit unions have historically demonstrated resilience and stability, continuing to provide critical financial services to their members. The tax-exempt status plays a vital role in this resilience, as it allows credit unions to maintain lower operating costs and pass those savings on to their members. This stability is particularly important during times of financial uncertainty, as it provides a reliable source of support for individuals and communities facing economic challenges. Our longevity as a member-based, community-focused organisation for 70 years demonstrates this and provides certainty to those that are often left behind or underserved by the traditional banking system.

During Covid, First Credit Union provided a variety of indulgences to our members to “get them through”. At this same time, we took no government subsidies for wages.

#### *Commentary on process*

It is not clear from the Issues Paper whether Inland Revenue considers that the existing tax exemption for credit unions should be removed or not. Paragraph 4.8 notes that credit unions enjoy a wider tax exemption than mutual associations but provides no insight as to whether this is considered problematic. Question 11 asks for the implications of removing the tax exemption, implying that this is being considered by Officials. We consider that much greater clarity should have been included in this Issues Paper so that credit unions (and friendly societies) could make more meaningful contributions to the consultation process.

As noted at paragraph 4.6 of the Issues Paper, we understand Inland Revenue has prepared a draft but unreleased operational statement that sets out the Commissioner's updated view on the mutual association rules. Presently these rules do not apply to credit unions due to the specific tax exemption for them. Given the lack of direction provided in the Paper regarding the retention of the credit union tax exemption, it is unclear whether we should be concerned with and submitting on the aspects that relate to mutual associations.

The current consultation on such a significant topic that has an existential impact on the operations of our business and transactions with our members feels rushed and the time frame to make informed decisions is too short. We submit that a fully informed consultation process must be adopted if there is a governmental desire to change the rules for credit unions.

#### *Lastly...*

All the activities that FCU carry out and referenced above is grounded on, and indeed flows, from our genuine commitment to the vision, mission and values that sustain us – the tax exemption supports us in giving life and meaning to all of these. At a time when there is much to do, taxation will force us to do less.

Best regards,

s 9(2)(a)

**Simon Scott**  
Chief Executive  
First Credit Union



31st March 2025

David Carrigan  
Deputy Commissioner, Policy  
Inland Revenue  
C/- [policy.webmaster@ird.govt.nz](mailto: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.

Old Boys Sports Club Timaru Incorporated has been a cornerstone of our local community for 59 years, delivering not only sporting opportunities but also fostering social and community development. Our club supports junior and senior rugby, junior and senior netball, and touch, providing a welcoming environment where individuals of all ages and backgrounds can participate in sport and community activities. Our mission extends beyond the playing field, as we strive to 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 Community Sports Clubs**

Sport is not just a pastime in New Zealand – it is part of our national identity and contributes significantly to both the economy and society. As one of the many grassroots sports clubs in New Zealand, we play a crucial role in fostering community engagement, social connection, and personal development across multiple sporting codes.

Our club provides a space where individuals of all ages can come together, engage in physical activity, contribute to their local community, and form lifelong friendships and support networks. Beyond hosting rugby, netball, and touch competitions, we also organise community events, fundraisers for causes such as breast cancer awareness, and tournaments that draw participants from across the South Island. These activities strengthen community bonds and generate economic activity for local businesses throughout the year.



Sports clubs are also at the forefront of addressing important societal issues. We believe it is crucial to give young people a place to belong, providing them with a safe, supportive environment that fosters resilience, discipline, and teamwork.

### **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 across multiple sporting codes.
- Create an administrative burden for us as a volunteer-run organisation, diverting time and resources away from our core activities.
- Lead to increased costs for participants, which could disproportionately impact those from lower-income backgrounds and reduce youth participation in sport, 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. Old Boys Sports Club Timaru Incorporated 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.

Community sports are a cornerstone of New Zealand's social and economic fabric, and their contribution must be recognised and protected in any tax policy changes.

Yours sincerely,

s 9(2)(a)

Steve McKnight  
Club President  
Old Boys Sports Club Timaru Incorporated  
[admin@timaruoldboys.com](mailto:admin@timaruoldboys.com)



**KING'S**  
SCHOOL

31 March 2025

David Carrigan  
Deputy Commissioner, Policy  
Inland Revenue Department  
PO Box 2198  
WELLINGTON 6140

**Sent via email to: [policy.webmaster@ird.govt.nz](mailto:policy.webmaster@ird.govt.nz)**

Dear David

**KING'S SCHOOL SUBMISSION RE: TAXATION AND THE NOT-FOR-PROFIT SECTOR**

**1. Introduction**

King's School is pleased to contribute feedback to Inland Revenue's Officials' Issues Paper outlining issues and policy options for the taxation of the not-for-profit and charities sector. As an institution committed to the wellbeing of New Zealanders, we strongly support a tax system that fosters fairness and ensures positive outcomes for all New Zealanders.

King's School, a long-established private educational institution in Auckland, offers primary and intermediate education for boys. We are a charitable organisation, and any surplus revenue generated is reinvested directly into educational resources, long-term infrastructure projects, or shared with other charitable causes and community organisations.

Our Trustees and Board Members serve on a voluntary basis, with no compensation drawn from the School.

As a charitable institution, King's School occasionally needs to build reserves to meet the significant costs associated with operating a school. These include extensive long-term maintenance programmes to ensure the facilities remain safe and effective for our students. Without the ability to build reserves, King's School's ability to function effectively would be compromised, and its long-term sustainability would be at risk.

Member of



INDEPENDENT SCHOOLS  
OF NEW ZEALAND

FROM THE HEADMASTER

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[www.kings.school.nz](http://www.kings.school.nz)

## **2. Charitable Organisations and Taxation**

The current "one-size-fits-all" approach to classifying charitable organisations is problematic and warrants reconsideration. King's School differs significantly from commercial entities that are operating under charitable trusts. Unlike businesses that generate profits, King's School's primary focus is to provide quality education for young boys. Our activities are not profit-driven but are centred on fulfilling our educational mission.

## **3. Benefits to the State**

King's School educates 800 students annually who would otherwise require education through the state system, thus alleviating a significant financial burden on the government. Furthermore, the government has always benefited from collecting GST on school fees, which is a substantial annual contribution from our charitable organisation.

If King's School were required to pay tax on its income it won't be able to educate as many students, placing a further strain on the public education system and an increase in costs for the government.

## **4. Summary**

In conclusion, we firmly believe that charities, including educational institutions like King's School, should not be taxed, provided there is robust governance and clear definitions of what constitutes a charity. A fair and sustainable tax system should support the continued operation of charitable educational organisations, ensuring that they can fulfil their missions without unnecessary financial barriers.

Thank you for the opportunity to make this submission to Inland Revenue as tax reforms are being considered.

s 9(2)(a)

**Tony Sissons**  
HEADMASTER

Deputy Commissioner, Policy  
Inland Revenue Department  
PO Box 2198  
Wellington 6140

31 March 2025

To whom it may concern

**RE: TAXATION AND THE NOT-FOR-PROFIT SECTOR**

We appreciate the opportunity to make a submission on the officials' issues paper, "Taxation and the Not-for-Profit Sector." Our submission focuses specifically on the potential taxation of charity business income and its implications for our work in improving access to quality, healthy and affordable housing for those who would not otherwise have access. We are happy to be contacted about this submission.

Home Foundation is dedicated to ensuring all New Zealanders have access to healthy, secure, and affordable housing. To achieve this mission, we operate through a structured network of both Charitable Companies and Limited Liability Companies, all of which seek to engage in profitable activities within the housing sector. These entities are constitutionally bound to our charitable purpose, ensuring that all profits are reinvested into housing solutions and community support. No profits can be distributed for private benefit; instead, they are exclusively used to further our mission of improving housing affordability and availability in alignment with our Charitable Purpose.

**THE CASE AGAINST TAXING CHARITY BUSINESS INCOME**

A compelling reason not to tax charity business profit in our case is that all of our activities are geared toward improving housing outcomes across the housing continuum and making housing more affordable for those who cannot currently afford quality housing. This is work that the government also participates in and activates; however, the problem is too large for one sector of society to solve. Public investment in net new affordable housing has also been significantly reduced by the current government, meaning other non-government entities need to step in and provide solutions. In fact, this is the stated goal of the current government as it relates to social and affordable housing.

The Home Group uses an economically sustainable model that works across an integrated value chain (capital, development, construction, tenancy management) to deliver quality, healthy, and more affordable mixed tenure housing communities. We are only able to deliver affordable housing outcomes because we utilise traditional development margins to subsidise homes and outwork the shareholders' charitable mission. The degree to which we can succeed in this mission is contingent on being exempt from income tax.

Any tax exemption does not shield us from the same market forces that other housing developers face, or give us a competitive advantage, but rather allows us to reinvest all surpluses back into providing more affordable housing outcomes and enhanced community support. As a group of companies 100% owned by a Charitable Trust we are in fact at a disadvantage to other housing developers in that we are unable to easily raise equity capital by issuing shares. We believe our legal structure, charitable rules and constitutions provide enough guard rails to ensure any profits are directly used for the charitable purpose of the Trust and we also believe that the activities that generate those profits are also directly tied to charitable purpose.

## REINVESTMENT AND MARKET ACTIVITY

While we sometimes generate a profit from developments (through construction margin, development services fees, capital gains etc), 100% of these profits are recycled into future projects to continue our mission. A key component of our work is developing Mixed Tenure communities that include a range of housing from social, affordable, first-home buyer homes, and market homes. Not only does this create vibrant, connected communities that can offer neighbourhood support and care, but it allows us to make projects that deliver affordable outcomes financially viable. We understand that some might see market house sales as 'not charitable' work, however, it is widely accepted that any net new housing is a benefit as it creates movement and openings in existing cheaper homes. It also ensures communities are diverse and perform better than large swathes of social housing concentrated together.

Additionally, we do sell homes at market rates, which might not be traditionally viewed as charitable. However, it is an accepted argument that adding net new homes at any point on the continuum helps free up existing housing stock, reducing pressure on demand and improving overall affordability in the market. This aligns with the broader public interest.

## POTENTIAL IMPACTS OF TAXATION

If the law were to change and Home Foundation or its entities were charged tax on their housing activities, the ability to deliver affordable housing outcomes for those most in need would be significantly curtailed. Other than the brightline test, there is no capital gains tax in New Zealand, allowing many property owners to build, buy, and sell homes without paying tax. The Home Foundation is actively working to deliver more desperately needed affordable housing by using any profits it generates to subsidise homes and offer a range of affordable housing tenures, including Progressive Home Ownership (PHO), Affordable Rental, Social Housing, and Subsidised First Home Buyer homes. Taxing our operations would in a way place our public good activities at a relative disadvantage compared to those who profit through capital gains without reinvesting in affordability solutions.

If the policy were to change and income tax was applied to the profit of entities such as Home Capital Partners (HCP) and Kāinga Maha Limited (KML), our ability to:

- Provide rental subsidies and first-home buyer assistance;
- Develop housing in regions where costs are higher;
- Offer wraparound services and community support;

would be severely hindered. This would directly contradict the government's stated objectives of increasing housing availability and affordability.

## CONCLUSION

The removal of the charity business income tax exemption would create significant financial and operational challenges for organisations like ours that are dedicated to solving New Zealand's housing crisis. We urge the government to retain this exemption and consider other mechanism's (strengthening the criteria for what activities meet charitable purpose or requirement greater reporting transparency on how profits were generated by mission related activity etc) to allow us to continue making a meaningful impact on housing affordability and availability.

Kind Regards

**s 9(2)(a)**

Lissa Birse

Chief Executive Officer

**s 9(2)(a)**



Taxation and the not-for-profit sector  
C/- Deputy Commissioner, Policy  
Inland Revenue  
PO Box 2198  
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Sent via email: [policy.webmaster@ird.govt.nz](mailto:policy.webmaster@ird.govt.nz)

## **Taxation and the not-for-profit sector**

Dear David

Thank you for the opportunity to comment on the taxation and the not-for-profit sector consultation document (the **Consultation Document**).

While we can appreciate the need to ensure any foregone tax revenue resulting from the current tax exemption framework is resulting in value for money for New Zealand, we consider any potential changes should be considered carefully to ensure that there are no unintended consequences. Specifically, this includes taking into account the, potentially significant, additional compliance costs that may arise for the impacted organisations, against the likely additional tax revenue that could be generated, which may not be significant especially relative to the additional compliance costs.

Further, it is important to note the reality that any tax imposed on the not-for-profit sector will reduce the funding available to those entities to carry out their purpose. This may in turn result in additional funding or support required from the Government to maintain the same level of support that may be currently provided by impacted organisations.

We recognise that some of the examples relating to certain donor controlled charities that are raised in the Consultation Document may cause concerns as to the appropriateness of the current tax settings for charities, it is important to be clear as to how commonplace such practices are. In our view, further work should be done to quantify the issue and determine whether any potential change is warranted or if there are more targeted alternative ways to resolve those issues. It is critical that any potential change is appropriate in reference to the size of the issue - i.e. it would be detrimental to the overall New Zealand community if all charitable organisations that are doing genuine good end up losing their tax exemption or having to face additional compliance costs.

Finally, we also want to note that the Consultation Document takes a broad approach and does not consider the unique and nuanced circumstances of specific sectors or groups. For example, the impact of any potential changes on iwi organisations or local government, etc. It is too simplistic to apply the same policy analysis across all of these different sectors and groups. At a minimum, we would expect to see a recognition that there are sectors and groups where the issues outlined in the Consultation Paper may not be relevant or appropriate.

We provide comments on some of the specific issues considered in the Consultation Document below.

### **1. Charity business income tax exemption**

The Consultation Document largely comes to the view that there is no significant competitive advantage for charities as a result of the charity business income tax exemption. However, it does note some “second-order imperfections” that need to be considered including concerns around accumulation and whether that results in an advantage for charities. Again, the analysis in the Consultation Document does not see the accumulation issue resulting in a specific advantage.

Overall, there appears to be weak policy grounds, other than the potential costs to the Government, to suggest removing the charity business income tax exemption. While it is technically correct that providing a tax exemption to charities would shift the tax burden to other taxpayers, this view does not adequately consider the overall ecosystem of the charitable sector. That is, a reduction of the tax exemption means there are less funds for these organisations to do public good (inline with their charitable purpose), which may result in an increase in the need for Government financial support or for Government intervention. In our view, the tax exemptions (i.e. the business income tax exemption) for charities should not be considered in isolation, but viewed as an overall package of support that is provided.

In the absence of any clear policy grounds to repeal or limit the business income tax exemption, the only rationale would seem to be a fiscal cost savings measure, if it is accepted that no additional support will be provided to the impacted entities.

To the extent that there is a repeal or limitation of the business income tax exemptions, we consider these would likely result in significant complexity. It would be difficult to define what business activities are related to a charitable purpose. For example, a charity may have a purpose of promoting health to the general public and providing healthcare services and it may engage in a business of providing medical services for both publicly funded patients as well as privately funded patients, but we would consider it should be clear that this business activity is related to its overall charitable purpose- and in fact its part of its core charitable purposes.

The Consultation Document notes that to some extent the current FBT exemption already requires some differentiation. However, we would caution the reliance on the assumption that charities will already be familiar with applying such a rule as there is a risk that many of the impacted organisations would not have considered in too much detail, potentially due to the scale and quantum at stake due to it being FBT.

As noted in the paper, there are also further technical issues that would be required to be considered. A number of charities with business activities use limited partnership structures for a range of situations that should canvass both related business activities to the charitable purposes and unrelated business activities. Any legislative changes should ensure that the use of limited partnerships is still able to be used easily - but any changes related to 'unrelated' business activities will need to carefully consider the specific issues applicable to limited partnerships including the potential of taxable "dry" income as the taxable income allocated to a limited partner is divorced from actual cashflows.

The key question (as with all of these questions and potential ideas raised from a somewhat one sided tax revenue perspective in the Issues Paper) - is whether all the inevitable complexity that will need to be legislated for is really worth the small amount of increase in tax revenue for the Government (especially since that will take much needed resources away from the charitable sector at a time when the Government is likely to itself want to do less rather than more in the wide range of areas these charitable services operate in and provide public good to society in NZ.

We appreciate the consideration being given to having a de minimis threshold and relief for when the business income is distributed (noting that the deduction should also be available if it is the charity that has applied the funds to its charitable purpose and not only in the case if it is distributed to a parent charity) should the proposal proceed. However, in the absence of clear policy grounds to support a repeal, our view is that the business income exemption should remain. This is also balanced against the significant additional compliance costs that this will impose on charities (including the potential of having to track when business income is distributed) against the likely additional tax revenue that may be collected by the Government.

As a general comment, the issue around the use of imputation credits should be revisited if this proposal is to proceed, as the total amount of support provided by the tax system would reduce. The imputation credit system should ultimately reflect the tax profile of the shareholders of a company, consideration should be given to the use of the imputation credits including the ability to get a refund for unused credits.

Finally, we consider the deregistration rules should be reconsidered, particularly if there is a change to the taxation of charities as proposed in the Consultation Document. The current rules can result in a significant tax cost for the entities who wish to exit the charities regime. In our view, the rules result in overreach even in the absence of a change to the charities tax rules. We consider a transitional rule of some sort would be appropriate so that entities are able to opt-out of the charitable tax regime without incurring significant costs, as many may want to do so to reduce general compliance costs in light of a reduction to the tax benefits available to charitable organisations.

## 2. Donor-controlled charities

The Consultation Document highlights transactions involving certain charities which Inland Revenue has concerns with. We appreciate and can see issues with the types of transactions that are noted, however it is unclear how prevalent the issues are within the charitable sector. It is important to quantify the scale of the issue as this should inform the best approach in resolving those issues.

One potential outcome is that such transactions are in fact tax avoidance and therefore would be subject to reconstruction by the Commissioner. Inland Revenue can provide guidance so that it is clear to charities that these sorts of transactions are outside the contemplation of Parliament's intent and then enforce that by compliance activities. This may be a reasonable option if the issue is limited to a small number of charities.

If the decision is to introduce the concept of a donor-controlled charity then our view is that this should be well defined to ensure that it does not overreach. This could be limited to entities where the majority (e.g. 80%) of the donations are coming from the trustees or directors of the charity and the charity does not deal at arms-length with those trustees or directors. The rules should not apply if the transactions are at arms-length.

Further, to the extent that a charity falls within the definition of a donor-controlled entity, it may then be subject to a minimum distribution rule to ensure that the tax exemption is resulting in funds being used for public good. We consider a rule based on the cashflow of an entity for the year may be more appropriate, noting that for these entities, often cashflow is most critical and assessing against asset values could result in a need to realise assets for cash. However, it is important that such a rule would not impede on legitimate accumulation - e.g. where the charity has a significant capex project or is looking to rely less on donations, etc, this may be mitigated if the definition of what constitutes a "donor-controlled" charity is sufficiently targeted. This may also allow for a more meaningful percentage of distribution (e.g. 20% of net profit) if it is sufficiently targeted. Consideration should also be given as to whether any minimum distribution rule should be assessed over a multi-year period in order to normalise annual volatility.

We further note that any minimum distribution rule should not increase compliance costs by forcing a charity into a high financial reporting tier (e.g. tier 3 to IFRS) or requiring an audit.

It is also important to note that if the business income exemption is to be repealed or limited, consideration should also be given as to how to factor this into any minimum distribution rule that is applied to a donor-controlled charity that already had its business income taxed.

### 3. Integrity and simplification

#### *Not-for-profit member transactions and related matters*

The Consultation Document is concerned that there are integrity issues with the not-for-profit (**NFP**) sector. Mainly, that NFPs are not correctly applying the mutuality principle as interpreted by Inland Revenue and some member transactions are not being taxed. Further, it notes that the interpretation in the draft operational statement is consistent with the policy intention of the mutual association rules. Inland Revenue's expectation is that most NFPs would not qualify for mutual treatment due to a prohibition on those associations to be able to distribute surpluses to members.

In our view, this interpretation could result in many NFPs having to deal with additional compliance that it would not have had to do before. It may also result in additional cashflow issues when the ultimate funding is used to deliver benefits to its members but yet a portion of the funding has been lost to meet any tax liabilities.

In our view, further consideration should be given to estimate the current revenue leakage (which should also factor in the corresponding deduction the NFPs would get) and compare that to the likely significant increase in compliance costs for the NFPs. Noting that there are many NFPs which would likely not have sophisticated finance functions, etc which will make the compliance burden even more pronounced. In the absence of that balance being struck, which we consider it would be unlikely, we support a change to the legislation to clarify that all transactions with members are exempt from tax and all non-member transactions are taxable.

We also support a rule to remove small scale NFPs from the system, in particular if the legislation is changed which clarifies all transactions with non-members are taxable. For example, NFPs that have a net income of \$10,000 from non-member transactions are exempt. This should remove a number of small NFPs that may do a range of fundraising activities.

On the basis that we consider a legislative change is required generally in relation to NFPs, we do not see a need to remove the current tax concessions for friendly societies.

#### *Certain income tax exemptions and FBT exemptions*

As a general comment, many charities will have financial challenges and most of its funding will likely go to delivering their charitable purpose, as such, it will likely have less financial means to offer competitive salary to potential employees.

The ability to offer benefits without attracting FBT has been in place for over 25 years and it remains a highly valuable tool for charities so that they are able to offer remuneration packages at a cost affordable to the charity when the use of a vehicle or health insurance (and FBT exemption) is factored in. The charitable sector in almost all situations cannot afford to match the remuneration packages offered by no charitable employers. It is an understatement to say that the vast majority of people employed by a charity do not work for the charity because it is the best remuneration package they could get in the market.

We consider the policy rationale of providing support to charities remain sound, to the extent that we strongly expect and hope that it is the Government's intention to continue to provide support to the charitable sector.

#### *Tax simplification*

We can see merit in extending the FENZ simplification as an option for all NFPs, provided that it is optional and not mandatory.

In terms of the donation tax concessions, it is important that any change does not result in additional compliance for the charities, for example, the need to collect and provide data to Inland Revenue could result in significant system changes, etc depending on the information it is required to be provided.

#### **4. Consideration of specific sectors and groups**

It is important to note that the Consultation Document appears to be broad brush and has not given any consideration to specific sectors and groups that may have circumstances or features that require a different approach.

Specifically, we note that the issues outlined in the paper do not take into account the Māori economy and Te Ao Māori perspectives. Many iwi organisations operate charities and therefore any change to charitable tax landscape will have widespread impact for Māori. In particular, the concern around accumulation as outlined in the Consultation Document is problematic for Māori as a part of the mandate and focus is to accumulate intergenerational wealth within the entities. The definition of “donor-controlled” charity will be critical also as it would be inappropriate for charities established and funded by iwi and other Māori collectives to be captured. We further note that the early treaty settlements were settled into charitable organisations, as such any restriction or changes to the business income exemption may have broader impact.

The local government sector is another group that may require specific consideration as they operate a number of associations and charities and the potential changes could impact the funding that is currently available to those organisations, when ultimately, all benefits provided by those organisations are received by the public. Any shortfall of costs as a result in the change of the tax status will likely be passed onto ratepayers or have those services cut.

There will be other sectors and groups that will have circumstances or features that require further consideration.

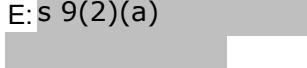
Thank you for taking into consideration our comments. Please let us know if you would like to discuss any of the above further with us.

Yours sincerely

s 9(2)(a)



Sandy Lau  
Partner  
E: s 9(2)(a)





## **SUBMISSION TO THE INLAND REVENUE DEPARTMENT ON OFFICIALS' ISSUES PAPER: TAXATION AND THE NOT-FOR- PROFIT SECTOR**

### **TE PUNA ORA O MATAATUA**

<b>Date</b>	31 March 2025
<b>To:</b>	Inland Revenue Department
<b>Name of Submitter:</b>	Te Puna Ora o Mataatua
<b>Website:</b>	<a href="http://www.tpoom.co.nz">www.tpoom.co.nz</a>
<b>Contact Person:</b>	Dr Chris Tooley Chief Executive
<b>Address for Service:</b>	s 9(2)(a) <span style="background-color: #cccccc;">[REDACTED]</span>

## TE PUNA ORA'S POSITION AND RECOMMENDATIONS

1. This submission is made by Te Puna Ora o Mataatua (**Te Puna Ora**) in response to the Officials' Issues Paper: Taxation and the Not-for-Profit Sector, dated 24 January 2025 (the **Issues Paper**).
2. Te Puna Ora is strongly opposed to the proposal to impose tax on the unrelated business income of charities.
3. Introducing the proposed tax will be unworkable, will impact on the services we can provide, be inefficient and create onerous administrative obligations for our organisation.
4. The Crown has an obligation to, but has failed to understand the impact of the proposed policy change for Māori and to consider how any negative or unintended effects might be mitigated, as required by Te Tiriti o Waitangi / the Treaty of Waitangi. Māori comprise a sizeable proportion of the charities sector and have unique drivers and features, that require specialist engagement. Te Puna Ora has not been engaged with on this Issues Paper. The IRD must rectify its omission and undertake targeted engagement with Māori charities, including Te Puna Ora in an appropriate manner before proceeding with further policy development.

## TE PUNA ORA O MATAATUA

5. Te Puna Ora is a charitable trust based in Whakatāne but operating more broadly in the Bay of Plenty. Te Puna Ora was established in 1991 by iwi across the Mataatua rohe. Te Puna Ora is not an iwi nor a single iwi-affiliated entity. Te Puna Ora is also not a settlement entity or affiliated with any particular post settlement governance entity.
6. We are the regional Māori Health Provider for the Eastern Bay of Plenty, and the largest regional health provider across the Bay of Plenty. We provide a broad range of integrated health and well-being services using a kaupapa Māori framework across the rohe of Mātaatua.
7. While we are based in the rohe of Mātaatua, we deliver to the people of the Eastern Bay of Plenty and we have governance and staff which reflect the communities we serve. As we are not an entity, we sit between Māori and the Crown, enabling the Crown-Māori relationship through the delivery of Whānau Ora health services.
8. Te Poutokomanawa o Te Puna Ora is our kaupapa Māori model of health and wellbeing, and the organisation's way of working. As a tool, the framework recognises and supports our whānau ora approach to healthcare and overall wellbeing, taking an integrated and collaborative approach to healthcare.
9. We are proud of and celebrate our collective success. Te Puna Ora was the recipient of the New Zealand Primary Healthcare Award for Equity in 2021. Our CEO was recipient of the Matariki Award in Health & Sciences (Waitī) in 2022 and Ngā Mata Wai Ora was the recipient of the DPAANZ Award in Excellence in Matauranga Māori 2023.

## **Our purposes**

10. The charitable purpose of the Trust is to:
  - a. to raise and enhance the level of health and wellbeing for its customers; and
  - b. to promote and enhance the cultural, spiritual, social, economic and environmental wellbeing for its customers;
  - c. to promote and provide health and wellbeing services for the iwi, hapū and whānau of Mātaatua rohe; and
  - d. such other charitable purposes as the trustees may from time to time determine.
11. We first registered as a charity in 2008. Since then, we have expanded the services that we provide whānau, hapū and iwi in our rohe to give effect to our charitable purposes.

## **Our services**

12. Our services include:
  - a. **Whānau Ora.** We are members of the Whānau Ora Commissioning Agency and the Eastern Bay of Plenty Whānau Ora Collective, and design intervention plans to support whānau education, employment, relationships, financial literacy, health, housing and cultural knowledge.
  - b. **Social housing across Mataatua.** We are members of the Māori Housing Network, develop home maintenance plans for whānau and since 2016 have repaired over 100 whare across Mataatua.
  - c. **Early childhood and parenting support.** We provide support to Māmā and Pēpi, including education, advocacy, advice, resources and connections to ensure tamariki get the best start in life.
  - d. **Rangatahi support services.** We provide support to rangatahi in terms of providing tamariki and rangatahi with a more healthy, nutritious and active lifestyle. For example, we run an intensive intervention whānau ora based programme for tamariki and rangatahi that involves nutrition plans, workshops, physiology and exercise.
  - e. **GP practices and health services.** We provide a range of medical services to people of all ages within the rohe, including whānau health promotion activities, Rehua Medical and Tarawera GP Practices (general practice clinics that provide adult and child care, medical care, minor surgery, prescriptions and immunisations), Rehua Nuku Ora (a mobile health clinic that provides services to all locations in Mātaatua, including marae, workplaces and community centres), rongoā, wairua and mirimiri services to improve hauora Māori care, counselling through Ngā Mata Wai Ora Counselling, alongside a range of home-

based support services (including ACC services, Te Puna Ora being the biggest Māori provider for ACC).

13. We have a total of 112 staff and 400+ support workers, work with over 3,500 direct clients per annum and over 9,500 patients registered with our Rehua Medical and Tarawera General Practices. In delivering a broad range of integrated health and wellbeing services across all stages of life, we are a party to more than 50 different contracts with over 30 different relationship managers across six core Crown agencies.

### **Inequitable health outcomes for Māori**

14. It is undisputed as between Māori, the Crown, and agents for and on behalf of the Crown that Māori inequitably experience poorer health outcomes than non-Māori. That inequity can be established on the data about Māori health outcomes:
  - a. In 2001, Māori as a population group had, on average, the poorest health status of any ethnic group in New Zealand.<sup>1</sup>
  - b. In 2019, on average, Māori lived seven years less than non-Māori and were 2.5 times more likely to die from diseases that can be addressed through health care.<sup>2</sup>
  - c. Māori experience a higher rate of disability than non-Māori (24 per cent to 17 per cent), higher rates of mental ill-health, and more negative health impacts from addiction than any other ethnic group in New Zealand.<sup>3</sup>
15. That recognition can be found throughout government health policy, but for these purposes, is illustrated through the repeated goal of achieving Māori health equity in Whakamaua: Māori Health Action Plan 2020-2025, prepared and published by the Ministry of Health.<sup>4</sup>
16. The inequities suffered by Māori across the many facets of the health system are the subject of ongoing inquiry by the Waitangi Tribunal, which has, across three separate reports, provided useful findings commentary on the relevance of Te Tiriti to the health sector, made findings of fact, and recommended action the Crown could take to make its health policy Tiriti-consistent.
17. The Waitangi Tribunal noted:

At the 2018 hearings for stage one of this inquiry, Director-General Dr Bloomfield stated: 'As a population group, Māori have on average the poorest health status of any ethnic group in New Zealand.' It is striking to us that the director-general was repeating in 2018, word for word, a statement published in 2006 in the Māori Health Chart Book referenced earlier in this chapter. This Crown report goes on

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<sup>1</sup> Waitangi Tribunal *Hauora: Report on Stage One of the Health Services and Outcomes Kaupapa Inquiry* (Wai 2575, 2019) at 18.

<sup>2</sup> *Health and Disability System Review - Interim Report* (2019) at 40.

<sup>3</sup> Waitangi Tribunal *Hauora: Report on Stage One of the Health Services and Outcomes Kaupapa Inquiry* (Wai 2575, 2019) at 18.

<sup>4</sup> Ministry of Health *Whakamaua: Māori Health Action Plan 2020-2025*.

to say: 'This is not acceptable, and the Government and the Ministry of Health have made it a key priority to reduce the health inequalities that affect Māori.'<sup>5</sup>

## **The role of Māori Health Providers within the Crown-Māori Relationship**

18. As a primary healthcare provider, Te Puna Ora provides public access to healthcare. More importantly, Te Puna Ora also steps in to provide the culturally responsive model of healthcare delivery that the Crown has always struggled to deliver, and which is so vital to the Eastern Bay of Plenty communities that it serves.
19. The state of Māori health statistics demonstrate the failure of the mainstream system to meet Māori health needs. If those inequities in health outcome can be addressed by different models of care, like that provided by Te Puna Ora, it follows that efforts should be made to support their delivery. Not to do so is tantamount to saying 18 per cent of the population do not deserve to enjoy the same good health as the rest of Aotearoa.<sup>6</sup>
20. Through its own efforts, Te Puna Ora enables the Crown to deliver on the obligations to deliver equitable health outcomes to Māori within the context of the highly devolved health system, as set out in section 7 of the Pae Ora Act 2022.

## **Officials' Issues Paper: Taxation and the Not-For-Profit Sector**

21. The Issues Paper seeks consultation on a number of questions related to taxing business income of charities. We address each question below.
22. However, firstly, we wish to point out that the process of consultation has been disappointing. The timeframe for providing a response has been just over one month, which is unduly short and has not given us an adequate opportunity to consult with the iwi to whom we are accountable. The issues canvassed in the Officials' Issues Paper will have a substantial impact on many charities. It is also disappointing that no consideration has been given to the impact on Māori charities given their widespread use.

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

23. We do not support taxing business income of charities. In our view, introducing a business tax, even if for unrelated and accumulated business income, will have significant and irreversible effects on many charities and their ability to deliver services.
24. Firstly, the Officials' Paper notes that charities are able to accumulate funds tax free and identifies the criticism that charities have a competitive advantage to other trading entities. The criticism in effect compares charities to other trading entities that do not face the same restrictions that we as charities do. Irrespective of where we derive our income, as a charity we are bound by constraints that have long been recognised in law and do not apply to private companies outside of the sector. The existing settings

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<sup>5</sup> Waitangi Tribunal *Hauora: Report on Stage One of the Health Services and Outcomes Kaupapa Inquiry* (Wai 2575, 2019) at 24.

<sup>6</sup> Statistics taken from 2023 New Zealand Census: <https://www.stats.govt.nz/information-releases/2023-census-population-counts-by-ethnic-group-age-and-maori-descent-and-dwelling-counts/>.

within the charities regime provide the safeguards required to ensure that charities are delivering, such as:

- a. the prohibition on private pecuniary profit;
- b. the requirement to only distribute funds for charitable purposes;
- c. the requirement for charities to maintain charitable registration; and
- d. restrictions on the application of funds, if the Trust was to be wound up.

25. Simply put, Te Puna Ora can only ever utilise the income it earns on its charitable purposes. To then propose an income tax on business income, thereby reducing an entity like Te Puna Ora is difficult to comprehend particularly as the services we provided are vital to the communities we serve, which is evident in the various funding contracts we hold with Crown entities.

26. Secondly, our organisation has been operating since 2008 to serve the iwi of Mātaatua according to our own tikanga and kawa. We have been established to address the historical inequities that have affected the iwi and whānau of Mātaatua waka, many of which (as the Waitangi Tribunal has noted) have been caused historically by the Crown's breaches of Te Tiriti o Waitangi. We have used our charitable funds to undertake activities that, in our view, the Crown often have a duty to provide support and practical relief towards (for example, support offered by Māori charities during Covid. We note that:

- a. there is nothing in the Officials' Paper that suggests that the Government would earn any net revenue off taxing charities. There is a risk that the compliance costs would be substantial; and
- b. there is nothing to suggest that any revenue that might be earned, would be reinvested in our people. There would therefore be no gain in the proposal from an iwi perspective.

27. We recommend that the IRD undertake targeted engagement with Māori charities, including Te Puna Ora in an appropriate manner before proceeding with further policy development. Such targeted engagement may lead to a proposal for an exemption for Māori charities, particularly those that are post-settlement governance entities. Should such an exemption be explored, Te Puna submits that a broad exemption be considered given the unique role and function of a regional Māori Health Provider.

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

28. The practical effect of taxing unrelated business income would be unduly onerous and have a stifling effect on our ability to deliver our services.
29. Firstly, as a Māori charity we need an operating environment that provides us with financial certainty and with the ability to make funding decisions in a way to ensure maximum long-term sustainability. We have grown substantially since 2008 and have

accumulated funds which we invest to ensure long-term financial sustainability of our organisation. Our accumulated funds go into investments so we can continue to deliver our services to our whānau, hapū and iwi long-term. If earnings on accumulated income were to be taxed, it would damage our long-term financial sustainability and create significant uncertainty for future planning and delivery of our services.

30. Secondly, we are already bound by extensive administrative, accounting and reporting obligations as charities. Practically, taxation of unrelated business income would be difficult to apply. It will require us to apportion unrelated business income (and presumably expenses) to a degree that would exacerbate compliance costs without any corollary benefit. Any proposal to tax ‘unrelated business income’ discourages business and innovation. The negative effect on the charities sector will likely outweigh the benefit of any revenue generated. Furthermore, imposing a tax on unrelated business income while at the same time keeping the existing restrictions on charities (i.e., not to exist for pecuniary profit) would create a perpetual inequity between not-for-profits and private companies.

*Question Three: 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?*

31. We reiterate the onerous administrative and accounting obligations on taxation of business income on charities. We are opposed to any tax on business income. However, if business income were to be taxed, we consider that a narrow approach to defining ‘unrelated business’ income should be adopted. It could, for example, consider the following:
  - a. An exemption on taxing accumulated income of Māori charities on the basis that Māori are long-term, intergenerational investors. That fact was recognised by the Tax Working Group in their Interim Report at page 121.
  - b. A presumption against taxing accumulated income unless the charity could demonstrate and provide evidence justifying not distributing that income (for example, anticipated future expenditure, a distributions policy, a capital expenditure project required for charitable purposes etc);
  - c. That investment income of charities established for the ultimate benefit of Māori be excluded.

*Question Four: 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?*

32. If there is to be an imposition of income tax for unrelated business income, we consider that all Tier 2, 3 and 4 charities are excluded. The Tier 2 category captures a significant range (between \$5m and \$33m), and will impact the smaller Tier 2 charities in a significant way.
33. Further, we consider that marae and urupā must be exempt, regardless of the tier.

*Question Five: 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?*

34. Firstly, we reiterate that we do not support a tax on unrelated business income for charities for the reasons set out in our responses above.
35. However, if a charity earns business income unrelated to charitable purposes but that income is distributed for charitable purposes, in our view it should remain tax exempt.

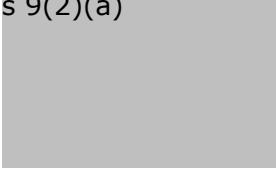
*Question Six: If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what policy settings or issues not already mentioned in this paper do you think should be considered?*

36. In our view the Crown needs to consider the unique impacts of any proposal to tax charities on Māori charities. In particular we note the following:
  - a. The purpose and function of many Māori charities is to enable hapū restoration and development as a result of the historical impacts of Crown Treaty breaches. The inequalities that Māori experience in health have not been of their choosing. However, charities like ours are trying to turn the tide and address the disparities that currently exist between Māori and non-Māori. Adding a tax on business income will create an environment of uncertainty and stymie the work that we are doing to address and uphold Māori health outcomes.
  - b. If business income tax was imposed, whether a charity could then be relieved from its charitable obligations in relation to that portion of income. It appears the proposal is seeking to tax charities, but at the same time maintain the same strict rules around distribution and reporting.
  - c. We do not believe that Māori charities are the intended target behind these proposals. This is because many Māori charities manage Treaty settlement assets or were selected as entities because of specific statutory drivers (such as the Māori Fisheries Act 2004). The paper currently does not consider the impacts on Treaty settlement entities, for example.

## **CONCLUDING REMARKS**

37. Te Puna Ora reiterate that we are strongly opposed to imposing any tax on unrelated business income of charities for the reasons set out in this paper.
38. Should such a tax be opposed, Te Puna Ora urge the Crown to consider how the proposals set out in the Issues Paper impact Māori, and in light of the significant impact, look to provide for an exemption that mitigates the negative, and presumably unintended effects on Māori.
39. We welcome the opportunity to discuss this with you in more detail.

s 9(2)(a)



Chris Tooley  
Chief Executive

ENDS.

Date: 31 March 2025

To: Inland Revenue

Re: Submission on Taxation and the Not-for-Profit Sector

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This is a submission on the Inland Revenue Department's consultation document, *Taxation and the Not-for-Profit Sector*. It is a personal submission, made in my own capacity and not on behalf of any organisation.

I am a lawyer practising in the provinces. I advise charities and not-for-profits every week. I see first-hand the value they deliver to our communities and the challenges they face. The proposal to revisit the tax treatment of income-earning activity by charities, including the possible introduction of a UBIT-style regime, is of serious concern.

In my view, applying income tax to business activity undertaken by charities is a mistake. It risks doing real harm to the sector for minimal, if any, revenue benefit. I set out my reasons below.

## **1 The Role of Charities in Society and the Tax System**

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- 1.1 Charitable organisations exist to deliver public benefit. They do not distribute profits, do not generate private gain, and typically operate under strict fiduciary and governance constraints. Their surplus, if any, is reinvested into their work. The consultation document rightly acknowledges this, but risks undermining that very principle by suggesting that a commercial activity, even if wholly directed to charitable outcomes, may no longer warrant tax relief.
- 1.2 Tax policy has long recognised the distinction between purpose and form. A café operated by a private business aims to generate profit for shareholders. A café operated by a charity might exist to provide training to the unemployed, reintegrate recovering addicts into the workforce, or subsidise the organisation's primary charitable services. The superficial similarity in activity does not imply equivalence in nature.
- 1.3 Any move to tax such income on the basis that it is "unrelated" to the core charitable purpose, even where its profits are wholly applied to charitable purposes, would amount to an erosion of that principle, and a retreat from the settled policy logic underpinning the current exemption.

## **2 International Experience with UBIT is Poor**

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- 2.1 The consultation document appears to look to the United States' Unrelated Business Income Tax (UBIT) regime as a possible model. I believe this would be a serious error. The U.S. experience provides a cautionary tale, not a precedent to follow.
- 2.2 UBIT in the United States raises vanishingly small revenue—typically less than 0.03% of total federal tax income—while imposing substantial compliance burdens on charitable

entities. According to IRS data, fewer than 4% of charities report any unrelated business income, and even fewer pay any tax after deductions.<sup>1</sup>

- 2.3 Moreover, UBIT's complexity forces even modest charities to spend scarce resources on legal and tax advice to interpret vague and inconsistent rules. For example, the requirement to "silo" each activity and track unrelated profits and losses separately has led to significant increases in accounting costs for thousands of organisations. The result is a disproportionate burden on smaller charities, which often abandon or avoid income-generating initiatives altogether due to the risk of tax exposure or inadvertent non-compliance.
- 2.4 In 2019, the U.S. Congress was forced to repeal a recent UBIT extension (taxing parking and transport benefits for staff) after widespread backlash and bipartisan recognition that the tax was pointless and harmful. The lesson is clear: UBIT offers ideological tidiness, not practical benefit.

### **3 A Solution in Search of a Problem**

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- 3.1 The consultation document acknowledges that New Zealand's charitable sector is smaller and more community-based than in other jurisdictions. The likely revenue from a New Zealand UBIT regime would therefore be even more limited even as the administrative burden still falls hard on local charities.
- 3.2 No robust modelling or evidence has ever been produced that suggests significant tax leakage is occurring under the current framework. Nor is there evidence that charitable entities are engaging in unfair commercial competition at scale. The suggestion of taxing charities in the name of "level playing fields" appears driven more by theoretical consistency than empirical concern.
- 3.3 In this respect, I draw Inland Revenue's attention to the work of Professor John D. Colombo, a leading American scholar on tax-exempt law, who has analysed and rejected the argument that taxing the commercial income of charities is necessary to preserve a level playing field.
- 3.4 He notes that charitable entities typically operate under different incentives and constraints than for-profits, and that their commercial activities are often small-scale or in areas where for-profit providers are absent. Colombo concludes that any competitive distortion is minimal and does not justify the loss of charitable capacity that would result from taxation. The rationale, in other words, is more theoretical than real.<sup>2</sup>
- 3.5 In practice, taxing income-generating activities would not eliminate the charitable purpose to which profits are applied. It would simply reduce the funds available to pursue that purpose. That means fewer meals served, fewer beds offered, fewer counselling hours provided, and fewer youth supported. The public cost of weakening the charitable sector would exceed any hypothetical revenue.

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<sup>1</sup> Per IRS Statistics of Income – Exempt Organizations, Form 990-T (2017); Urban Institute "How the TCJA's New UBIT Provisions Will Affect Nonprofits" (2019).

<sup>2</sup> John D. Colombo, "Commercial Activity and Charitable Tax Exemption," 44 William & Mary Law Review 487 (2002), especially at 510–51.

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#### 4 Charities Already Face High Administrative Burden

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- 4.1 Even without new tax rules, New Zealand charities must comply with extensive reporting, financial, and governance requirements. Introducing a requirement to determine whether an income source is sufficiently “related” to a charity’s purpose would introduce unavoidable ambiguity and friction. The law does not need more ambiguity and friction.
- 4.2 Who decides whether a church retreat is part of a spiritual mission or a commercial accommodation service? Whether a social enterprise bakery is rehabilitative or simply retail? These questions cannot be mechanised. Every determination would require subjective analysis, legal interpretation, and potential dispute. Charities would need legal advice. Inland Revenue would need new enforcement mechanisms.
- 4.3 This is the opposite of administrative efficiency.

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#### 5 Transparency and Targeted Integrity Measures

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- 5.1 If there are concerns about charitable entities operating in a way that conflicts with the spirit of their exemption, the answer is targeted transparency and accountability, not broad-based taxation.
- 5.2 It would make sense to always be considering:
  - a. Improved reporting for large charitable entities with significant business income
  - b. Better enforcement tools where organisations misuse charitable status
  - c. Measures to prevent private benefit or abuse of tax-exempt structures
- 5.3 None of that requires a blunt tax instrument that penalises legitimate activity, imposes unjustified costs, and solves a problem that has not been demonstrated to exist.

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#### 6 Reject an Ideological Turn

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- 6.1 Charities are already under pressure. Demand for their services is growing. Volunteer time is finite. Donations are stretched. And the public expects them to deliver more, not less.
- 6.2 Introducing a UBIT-style regime would not safeguard the integrity of the tax system. It would weaken the sector, diminish the services they provide, increase demand for public services and raise almost no meaningful revenue.
- 6.3 This would prioritise abstract consistency over practical justice—and impose costs that New Zealanders, especially the vulnerable, would ultimately bear. I urge Inland Revenue and the Government to reject this proposal in full. Tax policy should serve people and an obsession with abstract consistency.

s 9(2)(a)

Liam Hehir

31 March 2025

[policy.webmaster@ird.govt.nz](mailto:policy.webmaster@ird.govt.nz)

Regarding: Consultation Paper on Taxing Charities and Not-for-Profits - Question 12

Dear IRD Policy Team,

This submission addresses Question 12 of the consultation paper regarding the potential removal or significant reduction of income tax exemptions, specifically concerning the local and regional promotional body income tax exemption (CW40 in the Income Tax Act).

We strongly believe that the income tax exemption for Business Associations should remain. Our reasons are as follows:

- **Community and economic development:** Business Associations play a crucial role in fostering local economic development. They invest significantly in activities that benefit the wider community, such as:
  - Promoting local businesses and attracting investment.
  - Enhancing the attractiveness of the area through beautification projects.
  - Improving public amenities.
  - Enhancing security and safety through initiatives like CCTV and security patrols.
  - Advocating on local issues, such as parking and public transport
- **Reinvestment in community safety:** As highlighted by our auditor, funds that would otherwise be directed towards income tax are reinvested directly into community safety measures, including CCTV systems and Community Liaison Officers (security personnel). These investments create a safer environment for both businesses and residents and are a vital service that would be significantly reduced if the exemption was removed.
- **Maintaining local services:** Removal of the exemption would severely limit the ability of Business Associations to provide essential services to their members and the community. This would negatively impact local economies and reduce the overall quality of life.

- **Distinct role from charities:** While some entities may apply for this exemption when unable to register as charities, Business Associations serve a distinct purpose focused on local economic development and business support, which is different from the core functions of charities.
- **Impact on small businesses:** Many small businesses rely on the activities of Business Associations. The proposed change would place a greater burden on these small businesses, negatively impacting their financial stability and growth potential.

Manukau: Heart of the South ( Manukau Business Association) is one of the 50 Auckland Council supported Business Improvement Districts (BIDs). As a BID we operate strictly under BID policies which forbids any private pecuniary profits and distribution of property and funds to any person, including any members or members of the executive committee.

In conclusion, the removal of the income tax exemption for Business Associations would have

detrimental effects on local economies and community safety. We urge the IRD to maintain this exemption to ensure the continued support of these vital organisations.

Thank you for considering our submission.

Sincerely,

s 9(2)(a)

Audrey Williams

General Manager

31 March 2025

**Submission to Inland Revenue**

**From: Retirement Villages Association of New Zealand (RVA)**

**Subject: Taxation and the Not-for-Profit Sector – Impact on Charitable Retirement Villages and Membership-Based Associations**

**Date: March 2025**

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**About the Retirement Villages Association (RVA)**

The RVA represents operators, developers and managers of nearly 500 retirement villages across New Zealand, housing over 53,000 older New Zealanders. This includes charitable and not-for-profit retirement villages that play a critical role in delivering safe, connected communities for older New Zealanders. RVA is itself a not-for-profit membership organisation funded by member subscriptions.

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**1. Impact on the Not-for-Profit Sector – Charitable Retirement Villages**

**a. Business Income Tax Exemption**

Charitable retirement villages generate income which is reinvested into maintaining and improving their facilities and services. These are essential to support residents and deliver on their charitable purpose. Removing this exemption would reduce financial sustainability, leading to reduced services, deferred maintenance, and potential closures.

**b. Accumulation of Funds**

Charitable retirement villages operate in an environment that demands prudent long-term financial planning. Retaining reserves is not a matter of excess but of necessity – to ensure continuity of service and operational resilience. Capital-intensive needs such as facility refurbishments, new builds, and infrastructure improvements require careful accumulation of funds over time.

In addition, charitable retirement villages face ongoing pressures from variable occupancy levels, rising wage demands, and increasing operating costs. Cash flows from these businesses are irregular and often difficult to predict. Maintaining reserves provides a financial buffer to absorb these fluctuations and ensure that essential services remain uninterrupted.

Efforts to limit fund accumulation risk undermining the sector's ability to plan strategically, invest in long-term improvements, and adapt to changing economic conditions. A one-size-fits-all approach to accumulation overlooks the practical realities of managing charitable retirement communities, and may inadvertently weaken their long-term sustainability.

**c. Minimum Distribution Requirements**

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Mandatory annual distribution thresholds would be rigid and inappropriate for retirement villages, which operate on multi-year planning cycles. Capital planning and infrastructure investment cannot be aligned to arbitrary annual disbursement rules. Trustees are already bound by fiduciary duties to serve the charitable purpose in a financially prudent and transparent manner.

**d. Loss of Sector Capacity**

Tax burdens would reduce the capacity of charitable retirement villages to deliver quality housing and services for older people.

Most charitable retirement village operators serve regional centres and focus on providing more affordable housing options, often including rental accommodation. These organisations typically operate with tight financial margins and do not have access to external shareholders for capital support. Any changes to the current tax settings for charitable providers would place significant strain on their operations, potentially leading to the withdrawal of essential housing services across regional New Zealand – at a time when they are most needed.

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## **2. Impact on Membership Associations such as the RVA**

**a. Taxation of Member Subscriptions**

Member subscriptions fund RVA's core operations, including sector representation, education, training, and support. These funds are not profit-generating and are reinvested into supporting our members. Taxing this income would reduce the RVA's capacity to operate and would likely lead to higher fees for members, over 60% of whom are small or medium-sized operators. This would compromise their continued participation and engagement.

**b. Departure from Long-Standing Mutuality Principle**

Inland Revenue's updated interpretation that subscriptions may be taxable departs from long-standing practice. Membership-based associations have operated under the mutuality principle for decades, reinvesting surpluses to benefit their members and industries. The proposed shift introduces significant uncertainty and undermines not-for-profit associations without commercial intent.

**c. Inconsistent Tax Treatment Across Sectors**

Exempting amateur sports clubs while taxing other associations like the RVA is inequitable. Both types of organisations are not-for-profit, rely on volunteer governance, and deliver significant community benefit. Singling out some groups for different tax treatment risks fragmentation and confusion across the not-for-profit sector.

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## **3. Consultation Process**

The RVA shares the concerns expressed by other sector organisations, including the Aged Care Association of New Zealand, regarding the abbreviated consultation period for this issues paper. Given the broad scope and potentially far-reaching implications of

the proposals, the timeframe provided is inadequate for thorough analysis and sector-wide engagement.

Of particular concern is the decision to close submissions on 31 March, a date that coincides with the financial year-end for many charitable entities. This timing further constrains the capacity of not-for-profit organisations to formulate and present considered responses.

We respectfully urge Inland Revenue to ensure that any future consultation process is substantive and genuinely consultative. In line with the principles of the Generic Tax Policy Process (GTPP), there should be sufficient opportunity for early engagement, informed dialogue, and meaningful input from affected stakeholders across the charitable and membership-based sectors.

### **Recommendations**

The RVA strongly recommends that Inland Revenue:

- **Retain the business income tax exemption** for charitable retirement villages, recognising reinvested income supports essential housing services.
- **Do not introduce mandatory minimum distribution requirements**, which would harm long-term capital planning and sustainability.
- **Retain the current tax-exempt treatment of member subscriptions** for not-for-profit membership associations such as RVA.
- **Avoid a broad-brush approach** that penalises effective charitable and membership organisations in response to issues involving only a few entities.
- **Undertake robust consultation**, including deeper engagement with the retirement village sector, before finalising any policy changes.

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### **Conclusion**

Charitable retirement villages and not-for-profit associations like the RVA play a vital role in New Zealand's social infrastructure. The proposed tax changes would reduce sector capacity, raise housing costs for older people, and weaken organisations that have long operated with transparency, public benefit, and financial prudence. We urge Inland Revenue to proceed with caution and collaborate closely with the sector.

The RVA also endorses the submissions to this consultation made by the Aged Care Association (ACA) and BusinessNZ.

Michelle Palmer

Executive Director

Retirement Villages Association of NZ (RVA)

s 9(2)(a)





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](mailto:policy.webmaster@ird.govt.nz)

Dear Stewart

## Taxation and the not-for-profit sector

Thank you for the opportunity to comment on this officials' issues paper (issues paper).

### Opening comments

We appreciate the issues paper has been written quickly under a shortened timeframe. This setting has flowed through to the timing of its release and period of public consultation (five weeks rather than the usual minimum of six weeks). This may affect the depth and breadth of feedback officials will receive.

The issues paper considers multiple aspects. Two of these, the tax treatment of unrelated business income derived by a registered charity (discussed in chapter 2) and the tax rules for not-for-profit entities' member transactions (discussed in chapter 4), are significant and far reaching. Most New Zealand households will be a member of, connected to, support or volunteer in a not-for-profit (e.g. sports club, book club) or charity. Given the general nature of certain statements made in the issues paper, we are concerned its release has created confusion and uncertainty. That said, we note that since the issues paper was published, a [Q&A](#) page has been added to the Inland Revenue Policy website to provide additional guidance and information. We commend officials for making this available; however, we query how most interested parties would become aware of this additional source of information given that many would likely have printed the issues paper on the date of its release and not thereafter revisited the website.

In our view, the absence of credible data and information to support the proposal to amend the charities business income exemption is a significant shortcoming. Key aspects where data and information would assist readers in their assessment of the proposal include: the notional fiscal cost of not taxing charity business income unrelated to charitable purposes and the likely increase in this notional cost (as stated in paragraph 2.15); the net revenue benefit of taxing unrelated business income derived by charities; the compliance costs that would be imposed on the charitable and not-for-profit sectors if the policy settings and rules were changed; the revenue risk from the inappropriate use of donor-controlled charities. The issues paper should also have acknowledged that removing the charities business income exemption would likely result in the government having to allocate further funding to deliver the essential services currently provided by charities.

## Summary

Our key submissions are:

### Charity business income tax exemption (chapter 2)

- The problem definition and reason for the suggestion to tax business income unrelated to a registered charity's charitable purposes is unclear.
- We are not convinced a policy change regarding the taxation of business income derived by registered charities is required.
- The broad framework outlined in the issues paper would result in little or no increase in the amount of tax revenue and impose unnecessary compliance costs.
- Defining the term 'unrelated business activity' would be challenging and likely to give rise to uncertainty. The definition should specifically exclude certain activities.
- Should unrelated business income become taxable (which we do not support) it would be appropriate to include a de minimis rule to exclude small-scale business activities carried out by a small charity.
- We support the principle that charity business income distributed for charitable purposes should remain tax exempt either by allowing a deduction or granting a tax credit.

### Donor-controlled charities (chapter 3)

- While the general anti-avoidance provision could be applied to address the use of donor-controlled charities to enable tax avoidance, we support further work being undertaken to ascertain whether there is a need to develop specific tax rules in this regard.
- It will be critical for the specific rules to be appropriately targeted so as not to restrict or constrain the ability of the donor-controlled charity to carry out its charitable purpose.

### **Not-for-profit and friendly society member transactions (chapter 4)**

- Due to the far-reaching effect of the tax rules for income derived from member trading transactions, and membership subscriptions and levies received by not-for-profit organisations, any change in policy or law should be considered and developed in accordance with the generic tax policy process. Clearly the taxation rules for this sector need to be consistently applied by all similarly organised taxpayers.
- It may be helpful to determine the appropriate policy position by aligning the tax rules to the not-for-profit nature of the entity. Under this approach trading transactions, and membership subscriptions and levies would be non-taxable.
- Consistent with the above, at a minimum we believe that membership subscriptions and levies should not be taxable (noting that this position may need to be clarified in legislation), and a de minimis rule be introduced.
- We highlight operational issues that should also be considered.

### **Income tax and FBT exemptions (chapter 4)**

- It is appropriate that the specific income tax exemptions listed in the issues paper be reviewed together with the affected parties (i.e. affected parties should be consulted with to consider and confirm the correct tax policy position).
- Without more in depth analysis to back up the suggested change in treatment, we do not support the removal of the FBT exemption for charities.

### **Tax simplification for volunteers (chapter 4)**

- We support further exploratory work be undertaken to extend the PAYE treatment of payments to volunteers for all in the not-for-profit sector.
- We suggest two other options for consideration: setting an appropriate tax-exempt threshold; and allowing a volunteer to apply for a certificate of exemption.

Our submissions are discussed in more detail below.

## **Charity business income tax exemption**

The discussion in chapter 2 of the issues paper considers changing the current tax exemption for all business income derived by a registered charity to instead tax business income derived from an 'unrelated business activity' (i.e. business income unrelated to the

charity's charitable purposes). The reason for the review is stated in paragraphs 2.15 and 2.16 of the issues paper as being a matter of fiscal cost and requiring an assessment of the level of support the Government wants to provide to charities. With respect to the fiscal cost, it is further stated at 2.15 that:

- Not taxing charity business income unrelated to charitable purposes, particularly income that is accumulated, is a significant fiscal cost and is likely to increase.
- Tax concessions for unrelated charity businesses reduce government revenue; and therefore, shift the tax burden to other taxpayers.

The issues paper also states that allowing a full tax exemption makes New Zealand an international outlier (refer paragraph 2.4).

In our view, the problem definition is not clear. There is no mischief if a registered charity is applying the business income derived to its charitable purposes. In these circumstances, there is no compelling reason to change the policy settings. If officials are concerned with the behaviour of a few (and believe there is an issue with the accumulation of untaxed profits) the better approach would be to apply the existing general anti avoidance provisions where appropriate or to develop specific rules that target the issue.

The criteria to be satisfied for a charitable organisation to be registered under the Charities Act 2005 is also relevant. If there is non-compliance with these criteria and therefore the entity's charitable status, it would be more appropriate for Inland Revenue to refer the matter to Charities Services for that organisation to investigate further.

A campaign to raise public awareness of the work of registered charities and highlighting how the business income derived by the charitable organisation has been applied to further its charitable purposes may also be of benefit. Inland Revenue could work together with Charities Services if required in this regard.

The media release issued jointly by the Minister of Finance and Minister of Revenue states that the reason for this work stream is to ensure the integrity of the tax system<sup>1</sup>. However, the statements in the issues paper highlighted above suggest the reason for the review of the taxation of business income derived by a charity is to expand the revenue base.

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<sup>1</sup> [Consultation on charity tax settings open | Beehive.govt.nz](https://www.beehive.govt.nz/consultation/charity-tax-settings)

We do not consider adequate grounds have been presented for reducing the scope of the charity business income tax exemption. The fiscal cost referred to (both present and future) for not taxing charity business income unrelated to charitable purposes is not quantified; nor does the issues paper present any data or information to support the statements made in paragraph 2.15 summarised above.

Furthermore, the statement regarding fiscal cost considers only one side of the equation. The assessment of the true revenue cost should also take into account the savings in government expenditure (which reduces the tax burden on other taxpayers) that are made from charitable organisations delivering the community services and support required.

Many would consider supporting the charitable sector in its work through the business income tax exemption to be the most efficient way to deliver the services needed in the community. A full cost / benefit analysis should be undertaken to determine the true net position.

Broadly, the framework put forward in the issues paper appears to be that if unrelated business income derived by a registered charity is taxed, a deduction or credit would be allowed when that income is applied to its charitable purpose. Effectively, this would eventually place the registered charity in the same final net tax position as is achieved under the current rules while introducing unnecessary complexity and increased compliance and administration costs. In other words, there would be no change in the amount of revenue collected over time, but deadweight costs would be imposed on a group of taxpayers who would likely not have the resources available to sustain those costs. This outcome is undesirable and inconsistent with the government's current policy to remove or reduce regulatory barriers and to improve the quality of regulation and the performance of regulatory systems.<sup>2</sup>

If there is a concern regarding anti-avoidance behaviour the better approach would be to take enforcement action under the general anti-avoidance rules or consider introducing a specific targeted rule.

### **Accumulations**

The references to accumulations of business income in chapter 2 of the issues paper suggests the issue of concern is not the business income tax exemption. Rather, it is the

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<sup>2</sup> See role of the [Ministry for Regulation](#).

accumulation of that income over a number of years which may lead to a delay in distribution to, or diversion of the funds from, the registered charity's charitable purposes (see for example, paragraphs 2.6, 2.30 – 2.35). The issues paper does not address this sufficiently.

In paragraph 2.31 officials note that there are many good reasons for charitable organisations to accumulate funds. We agree. Indeed, it is prudent to do so. As recognised in paragraph 2.17, a policy change to tax unrelated business income, would mean there would be less funds available to accumulate. We would add that it may also discourage or prevent the act of accumulation. Both outcomes may place the sustainability or longevity of the charitable organisation at risk.

A lack of awareness or information may be contributing to the concerns regarding the accumulation of business income by a charity. Recent developments in reporting may help to bridge this gap in future. As officials are aware, improving transparency on charities accumulating and distributing funds was the subject of public consultation during the Charities Act 2005 review in 2021.

The financial reporting standards for Tier 1 and Tier 2 charities require the financial statements to disclose in the notes to the Performance Report certain information about accumulations, including, “*a description of the purpose of the reserve, the entity's plans for applying the reserve towards its stated purposes, and when the entity expects the reserve will be applied.*” Also, from this year, ‘large’ charities (i.e. Tiers 1, 2 and 3 as defined by the relevant financial reporting standards<sup>3</sup>) must report in their [annual return](#) these amounts:

- capital contributed by owners or members
- accumulated surplus or deficits
- reserves
- total accumulated funds.

The registered charity must also explain in the annual return how it plans to use the accumulated funds in the future.

Given the reporting changes, it may be appropriate to delay any further work in this area and instead monitor developments. If concerns pertaining to accumulation or unreasonable delay in the use of funds for charitable purposes remain, suitably targeted intervention could be

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<sup>3</sup>See Table 1 on page 10 of officials' issues paper.

considered. Any new rules introduced should be clear and simple to comply with. See further our comments on donor-controlled charities (chapter 3).

#### **Definition of 'unrelated business activity'**

Paragraph 2.3 of the issues paper states it is the unrelated business activities of a registered charity that are the focus of the review. Aspects of the definition of 'unrelated business activity' are discussed in paragraphs 2.21 – 2.24.

Should the suggestion to tax income derived from an unrelated business activity proceed (which CA ANZ does not support), it will be critical to ensure the definition is clear and easily applied in practice. This would be a challenging exercise as it would likely increase uncertainty. Charities carry out many and varied activities – some may be considered a business and some may not. Whether the activity is sufficiently connected to the charitable purpose will also be fundamental and would be difficult to discern.

The issues paper correctly recognises the relevance and practical implications of these matters. Often it will be a matter of fact or degree and dependent on the nature of the charitable purpose and activity being carried on. There will always be boundary issues with a definitional approach to draw an arbitrary line in the sand. Once determined, detailed guidance and examples should also be published to help affected charities easily comply and to promote voluntary compliance.

Paragraph 2.24 of the issues paper mentions three sources of income from unrelated business activities that remain exempt in other countries where unrelated business income is taxed. These include:

- certain fundraising activities that are promoted primarily to raise money for the benefit of a charity;
- charitable businesses that are substantially run by unpaid volunteers; and
- businesses primarily engaged in selling donated goods or services, such as charity op-shops.

We agree income from the above should continue to be tax exempt. Other specific exemptions may also be appropriate. If the decision is made to proceed with taxing unrelated business activities, which we do not support, we suggest officials engage with the charitable sector to identify these.

### **Compliance costs**

The issues paper acknowledges that taxing income derived by a charity from unrelated business activities would increase compliance costs (this would include both ongoing and upfront costs relating to transition e.g. determining a tax base for assets, inventory, etc). The impact of this should not be ignored. As stated earlier in our submission, it appears the broad framework of the proposal (being to tax unrelated business income and allow a deduction for amounts applied to the charitable purpose) would result in increased compliance costs for little or no change in the amount of revenue collected. On this assessment, a change to the business tax exemption is unjustified.

CA ANZ's preference would be to retain a broad principles-based exemption for the whole sector rather than introduce complexity via ad-hoc exemptions and / or an extension of such exemptions.

Paragraph 2.13 states that charitable trading entities may have an advantage over non-charitable trading entities because not having to manage tax compliance costs lowers the charitable trading entities' relative costs of doing business. This statement is inaccurate. It ignores the compliance costs imposed by the Charities Act 2005 (e.g. annual reporting, audit requirements) that must be met by a charitable trading entity. Furthermore, on principle, the overall objective of changing the policy settings of the tax exemption should be to reduce compliance costs for all.

It would not be acceptable to introduce a change that would impose an additional compliance burden on a broad sector of the community (absent a sufficient and meaningful de minimis rule). Practically, it is common for many charitable entities to operate without professional advisors and support, with the treasury and other key officeholder roles generally fulfilled by volunteers. This operational aspect would present significant challenges to affected entities to meet any increased compliance obligations.

### **De minimis rule**

The issues paper suggests a de minimis rule for small-scale trading activities using the financial reporting thresholds for charities. Applying these thresholds, it is possible that less than 1,300 charities (broadly those with over \$5 million in expenditure) would be affected by the change to tax unrelated business income (refer paragraphs 2.25 – 2.29). Put another way, Tier 3 and Tier 4 charities (representing an aggregate of 88% of 'small' charities) would be removed from the scope of the proposal.

Should the proposals proceed (which CA ANZ does not support), it would be appropriate to include such a de minimis rule. Adopting the financial reporting thresholds would provide consistency between financial reporting, reporting obligations under the Charities Act 2005 and income tax. This alignment would assist with compliance. That said, we note that a de minimis rule is not a solution to the issue of concern (whatever that may be). Rather, it is a tool to manage the scope of the proposed change.

### **Relief for distributed business income**

Paragraphs 2.34 and 2.35 of the issues paper suggests allowing a tax deduction or tax credit for distributions of unrelated business income that has been accumulated. The rationale for this is to provide relief when accumulated surpluses are eventually distributed for charitable purposes so that the income ultimately remains tax exempt. We support this principle. Adopting a deduction approach when funds are provided for a charitable purpose / to a recognised donee organisation accords with the current rules for all companies in general making cash donations. Also, allowing a deduction or providing a tax credit would be a relatively efficient mechanism to provide relief. That said, it should not be forgotten that a consequence of introducing these requirements would be to increase compliance costs with negligible or no increase in revenue.

### **Other issues**

Paragraphs 2.36 – 2.40 of the issues paper discuss other considerations if the charities business tax exemption were to change. Mentioned are the territorial rule (i.e. the requirement to apportion business income between a charity's charitable purposes in New Zealand and outside New Zealand); use of hybrid or transparent structures; the charity deregistration tax rules.

We recommend the following also be considered:

- Māori Authorities and Treaty of Waitangi settlements;
- social enterprises;
- relationship or interaction with the proposals for taxation of not-for-profit entities discussed in chapter 4 of the issues paper;
- connection with the recommendations from the regulatory stewardship review of the donations tax credit rules (mentioned in paragraphs 4.34 – 4.37); and
- GST issues.

## Donor-controlled charities

Chapter 3 of the issues paper considers donor-controlled charities. The reason for reviewing this group is the revenue risk that could arise from the use of donor-controlled charities in tax avoidance arrangements or structures. We support the review in this context (but note the general anti-avoidance provision already exists and could be utilised in this scenario). However, in doing so, it is critical that the rules are appropriately targeted and do not give rise to unintended consequences.

The issues paper suggests some key criteria that could be used to define a 'donor-controlled charity', such as: the proportion of funds the founder (or their associates) contribute to the charity; the control the founder (or their associates) have over the operation of the charity; the type of charity, e.g. a charity that carries out charitable activities themselves, or a fundraising charity. On the face of it, these appear reasonable.

We suggest further work be undertaken to identify the criteria that would best reflect these types of charities and the activities they carry on in New Zealand. For example, it would be relevant to take into account the reasons why the founding member and / or a family member of the next generation(s) continue to be involved in the governance of the donor-controlled charity. This could be, for example, to ensure continued connection with, and longevity of, the organisation.

Possible features of a tax regime for donor-controlled charities highlighted in the issues paper include:

- rules for restricting investments by the charity (applying an arm's-length principle); and
- a minimum distribution rule (i.e. requiring a minimum distribution each year for charitable purposes, for example, a percentage of the market value of the charity's net assets or a percentage of the average value of the charity's property not directly used in charitable activities).

The objective of a restricted investment rule is to limit the ability for donors to transfer value out of the charity through non-arm's length transactions or circular arrangements (see paragraph 3.12 – 3.13). The minimum distribution rule is targeted at concerns about unrestricted accumulation and the timing mismatch between the enjoyment of the tax benefit (i.e. the tax-exempt treatment) and the application of the funds for charitable purposes (see paragraph 3.17).

There are practical issues that should be considered with these rules. For example, a minimum distribution rule could be seen as arbitrary. Both this rule and a restriction on investment would increase complexity; may be inconsistent with the charitable organisation's purpose or governing / founding documents; or unnecessarily restrict the charity's charitable activities.

In some cases, the entity may not have the funds available to make the level of distribution that may be set. Compliance costs will be increased (for example, additional records would be required to be kept over and above financial reporting obligations). One size will likely not fit all. In some cases, a minimum distribution rule may unnecessarily restrain the charity's efforts to further its charitable purposes. For example, say a charity is saving up to fund a significant repair or renovation (such as a roof that requires extensive scaffolding). Imposing a minimum distribution rule would reduce the amount of funds saved and impede the progress toward completing the roofing project.

### **Not-for-profits and friendly society member transactions**

*Declaration: CA ANZ acknowledges its status as a professional member body. As such, should changes proceed, and depending on the final form, it will potentially be affected by the matters raised in this part of the issues paper.*

Paragraphs 4.2 – 4.8 of the issues paper consider the policy settings and current rules for the tax treatment of income derived from member trading transactions, and membership subscriptions and levies. It is important to note this area of the law is far-reaching. It affects many organisations of varied types and sizes from the very small to the very large, such as local community hobby clubs; charities; incorporated societies; sporting associations or bodies; mutual associations; member bodies; commercial collectives / trade bodies; unions; body corporates. Therefore, it is critical any changes are carefully considered and developed under the full generic tax policy process.

#### **Key concern – inconsistency of treatment**

The key matter of concern under the current law is the inconsistent tax treatment of income derived by not-for-profit entities.

The problem is complex and has existed for many years (possibly more than 25 years). In our view, there are two key issues:

- *Law v practice*: there has been different interpretations adopted, and different advice given on how the following apply to a not-for-profit entity:
  - The common law principle of mutuality
  - Relevant income tax legislation; and
  - Inland Revenue's operational practice and guidance.

As a result, some not-for-profit entities are treating member subscriptions and levies as exempt while others are not. Some may be paying tax on member transactions and some may not.

- *Form over substance*: there are inconsistencies within the income tax legislation with a specific tax exemption provided for all income derived by friendly societies and credit unions (excluding income derived from a business carried on beyond their membership). This is recognised in paragraph 4.8 of the issues paper. There is also a specific exemption for income derived by a body promoting amateur games and sports. There is no clear suggestion in the issues paper to remove these exemptions<sup>4</sup>. This exacerbates the consistency problem.

As a matter of principle, inconsistencies in the tax base should be eliminated to remove inequities and unfairness (actual and perceived) as these heighten the risk of anti-avoidance behaviour such as tax driven restructuring. This behaviour undermines the integrity of the tax system.

### **Suggested approach**

It may be helpful to determine the appropriate policy position by aligning the tax rules to the nature of the entity that will be affected. By definition, a not-for-profit organisation means that profit is not its purpose of existence. Accordingly, under this approach it follows that all transactions of a not-for-profit entity should not be taxable in the absence of tax avoidance. This would remove significant compliance costs / deadweight costs from the sector.

That said, in some situations, it may be appropriate to tax a not-for-profit entity. For example, if the entity derives income by other means or through business-like activities exceeding what is required to carry out its purpose; or it is accumulating 'large' amounts of income or capital without good reason or for reasons unrelated to its purpose. This would be a matter of fact and degree. We would be happy to explore this further with you.

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<sup>4</sup> We note question 11 in the issues paper asks, "What are the implications of removing the current tax concessions for friendly societies and credit unions?"

Another matter to consider is timing. For example, a body corporate may charge an additional levy component to fund painting and other remedial works of the building complex to be carried out at future relevant intervals (i.e. every 5 – 10 years). In this case, the additional levies received should remain tax free as the funds are ultimately used for its purpose and for the members' benefit, albeit over an extended time period (but importantly to address required work as part of an ongoing maintenance programme). Ultimately, this is one of many reasons why member subscriptions and levies should not be taxable.

Possible risks of abuse of the tax-free treatment could be alleviated by targeted integrity measures.

#### **Subscriptions and levies and member transactions taxable**

The issues paper mentions Inland Revenue has reconsidered its position regarding the tax treatment of member subscriptions and levies and income from member transactions. The Commissioner's updated view is set out in a draft operational statement which has not yet been released. It is intended to release the draft operational statement for public consultation after the submissions on the issues paper have been considered. Broadly, the updated view is that these items are taxable for most not-for-profit entities (refer paragraphs 4.5 – 4.6). It is acknowledged that approximately 9,000 not-for-profit organisations may be affected by this change in view. The issues paper does not disclose the source of this number. The number of organisations affected could be more than stated.

In our view, two statements in the issues paper create uncertainty:

- After withdrawal in the early 2000s of public guidance on the mutual association rules in relation to member transactions, Inland Revenue remained of the view that subscriptions and levies were of a capital nature and tax exempt (paragraph 4.5).
- Profits from member transactions or subscriptions may currently be taxable as business income or income under ordinary concepts (paragraph 4.7).

The application of the concepts referred to in these statements (i.e. capital nature, business income, income under ordinary concepts) for not-for-profit organisations are not explained further in the issues paper. This does not sufficiently clarify the position for these organisations to help them to comply. Even with further explanation, given the broad nature of activities in the not-for-profits sector and the technical nature of the concept itself, determining what is 'income under ordinary concepts' will likely be difficult.

The flow-on effects of the change in tax position considered in the draft operational statement include increased complexity and compliance costs, and a reduction in funds available to the not-for-profit entity. For example, if a not-for-profit entity derived taxable and non-taxable income it would be required to apportion the expenses incurred for deductibility purposes and file a tax return. Similarly, an apportionment may be required if the subscription related to taxable and non-taxable activities or purposes. Some may also need to obtain an IRD number and familiarise themselves with myIR. This can be particularly challenging with many not-for-profit organisations' reliance on volunteers to perform these functions and the short tenure of service or involvement in governance roles. See further below regarding operational matters.

If our suggested approach set out above (i.e. in the absence of tax avoidance, all transactions of a not-for-profit entity should not be taxable) is not accepted, we recommend the following course of action:

#### **Law should be clarified**

To achieve certainty and consistency, we recommend, at a minimum, the law be reviewed and amended to clarify that membership subscriptions and levies are non-taxable. The issue should not be left to be determined by a non-binding public Inland Revenue statement. It would also be helpful to confirm the interaction between the tax rules for not-for-profits and the income tax exemption rules for registered charities (business income and non-business income).

This submission is made on the basis that, regardless of Inland Revenue's view on the taxation of not-for-profits more broadly (as per the submission above), it does not make sense to tax membership subscription income. In particular, there is no justification provided for the statement in paragraph 4.7 of the issues paper that "*the updated view in the current draft operational statement is consistent with the policy intention of the mutual association rules*".

The basis for Inland Revenue's operational view on the taxation of subscription income is set out in paragraph 4.6 of the issues paper. The key point is stated in the third bullet point – that, in order for the principle of mutuality to apply, any surplus must be distributed to members. If the constitution prevents this, then Inland Revenue considers that the organisation cannot be a 'mutual' under common law.

As a starting proposition, this interpretation of mutuality is overly narrow. The common law principle of mutuality – that one cannot profit from oneself – has historically exempted member contributions and surpluses of genuine mutual associations from income tax. The core to mutuality – in principle – is that no person outside the mutual circle benefits from surpluses. A sensible approach would be to recognise that not-for-profit entities do satisfy the mutuality principle despite non-distribution rules, because their surpluses are applied for the collective benefit of members (and not for outsiders). That is, the ethos of mutuality is preserved where there is no true outside profit-taker involved.

In the context of member bodies in New Zealand, such as incorporated societies, the contributing members control the common fund and use it for their mutual purpose. Members democratically control the society's funds through voting on resolutions, electing committees, reducing future member subscription (economically equivalent to returning funds), and the like. The fact that members may choose (via their founding / governing rules) not to divide up and distribute the fund among themselves does not negate their control; it reinforces that the fund must be used as they collectively decide in line with their purpose. All of this is consistent with the principle of mutuality, and that subscription income should not be taxable.

The draft operational view (unpublished) creates an anomalous incentive; to amend constitutions to allow a notional distribution, just to treat member subscriptions as non-taxable. That cannot be a sensible or intended result of the common law. The mutuality principle should not be interpreted in a way that undermines the very policy of encouraging non-profit conduct.

The logical policy conclusion is that the current outcomes, based on the principle of mutuality, should continue to be respected. If that requires the law to be changed to specifically exempt membership subscription income, then the action required to achieve this should be taken without delay.

Regarding the current tax exemptions for other specific mutual organisations such as friendly societies and credit unions, these regimes should be considered as part of the work undertaken regarding the appropriate application of the mutuality principle more broadly.

#### **De minimis required**

Given the significant number of organisations that would be required to pay tax if Inland Revenue's revised position was enforced, we recommend a de minimis rule be put in place.

Mechanisms available to deliver this include increasing the deduction available to not-for-profits from \$1,000 to, say, at least \$10,000 (or other appropriate threshold to remove 'small' not-for-profits from the tax system); and / or modifying the income tax return filing requirements and resident withholding tax exemption rules for not-for-profits.

We note that if officials do not accept our recommendation that membership subscriptions and levies should be non-taxable, the matter will not be addressed by increasing the de minimis threshold. For example, a large body corporate could operate with annual net income in excess of, say, \$100,000 and still be subject to tax. This would not assist the entity to build up the funds needed to meet the cost of significant maintenance expenditure that will be incurred in the future.

#### **Operational matters**

Another important aspect to consider is the voluntary nature of many not-for-profit organisations and how this might affect compliance. It is common for the officer / governing member roles to be undertaken by fellow club members. The roles may change regularly, for example, every year or two years. Committee members may also cease to be members of the club. If a not-for-profit entity is subject to tax who would be (or should be) held liable for non-compliance? Would officers be held personally liable? How would Inland Revenue monitor and enforce compliance? What if the not-for-profit entity is unable to pay the tax?

In some situations, the relevant volunteer officer may be unaware of the different tax treatment between subscription income and donations received, or the amounts may not be separately recorded or identified. In the latter, it would be difficult to retrospectively determine the nature of the receipt.

There is also a risk that the increased complexity and compliance burden imposed by taxing member transactions and member subscriptions and levies would discourage people from volunteering to be involved in governance / committee roles. This would be detrimental to society and the voluntary sector.

#### **Income tax and FBT exemptions**

The issues paper suggests reviewing five specific exemptions:

- local and regional promotional bodies;
- herd improvement bodies;
- bodies promoting scientific and industrial research;

- veterinary service bodies; and
- non-resident charities with no charitable purpose in New Zealand (exemption applies to non-business income earned in New Zealand).

We support a review of the above income tax exemptions, including considering whether there are valid reasons for the exemption to continue (for example, a body promoting scientific and industrial research will likely be building up funds to later spend on that research. This activity should continue to be supported). It would also be relevant as part of the review process to investigate how best these entities should be supported in the tax system. The relevant bodies and organisations should be consulted with.

#### **FBT**

Paragraphs 4.25 – 4.29 of the issues paper considers the FBT exemption for benefits provided by a charitable organisation to its employees while they are carrying out the charitable purposes of the organisation. The reasons stated for the exemption are to:

- support the charitable sector by enabling charities to offer more competitive salary packages at a lower cost; and
- reduce the charity's compliance costs.

The suggestion in the issues paper is the FBT exemption should be removed because:

- the exemption distorts the labour market as it creates an incentive for organisations and employees to negotiate for non-cash remuneration; thereby paying less tax;
- the exemption lacks coherence; and
- the compliance cost savings may be reduced following the current review of FBT settings.

In our view, the reasons put forward to remove the FBT exemption for charitable organisations are weak. The first reason (distortion of the labour market) is unsupported by data / evidence. The second reason (lack of coherence) is not in itself a reason to repeal the exemption. If appropriate, the design and scope of the exemption could be changed to achieve coherence. The third reason (FBT review) is premature. The outcomes and recommendations from the FBT review are not yet known.

The FBT exemption has largely existed since the introduction of FBT in 1985. It is not clear what has changed in the operating environment for charities that would warrant the removal

of the exemption. CA ANZ members have provided feedback that charitable organisations value the exemption which helps the organisations to attract high calibre people. Without more, it would appear mean spirited to repeal the exemption.

Whether the exemption should be removed is ultimately a decision for the government.

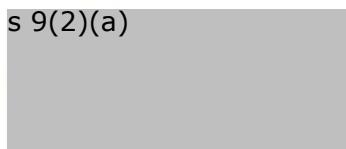
### **Tax simplification – volunteers**

We support officials' willingness to investigate ways to lower tax-related compliance costs for volunteers. On the face of it, the suggestion to extend the PAYE treatment of payments to FENZ volunteers for all in the not-for-profit sector is worthy of exploring further. However, if the proposal proceeds, we recommend volunteers be able to choose which method they would like to apply (i.e. either PAYE or schedular payment rules).

Other suggestions that could be considered include setting an appropriate exempt tax-free threshold; and allowing volunteers to apply for an exemption certificate.

We are happy to discuss our submission further. Please contact John Cuthbertson in this regard.

Sincerely,



John Cuthbertson FCA

**NZ Tax & Financial Services Leader**



Craig Elliffe FCA

**Chair, Tax Advisory Group**

31 March 2025

[policy.webmaster@ird.govt.nz](mailto:policy.webmaster@ird.govt.nz)

### Consultation Paper on Taxing Charities and Not-for-Profits - Question 12

Dear IRD Policy Team,

This submission addresses Question 12 of the consultation paper regarding the potential removal or significant reduction of income tax exemptions, specifically concerning the local and regional promotional body income tax exemption (CW40 in the Income Tax Act).

We strongly believe that the income tax exemption for business associations under the Business Improvement District (BID) programme promoted by the Auckland Council should remain. Our reasons are as follows:

- **Operate under BID Policy Guidelines:** As a BID, we operate strictly under Auckland Council's BID Policy Guidelines.
- **No Private Pecuniary Profit:** Our constitution which is approved by Auckland Council's BID Policy team and registered with the Registrar of Incorporated Society, forbids any private pecuniary profits and distribution of property and funds to any person, including any association members or members of the executive committee.
- **Community and economic development:** Business Associations play a crucial role in fostering local economic development. They invest significantly in activities that benefit the wider community, such as:
  - Promoting local businesses and attracting investment. This leads to employment opportunities in the local community.
  - Enhancing the attractiveness of the area through beautification projects.
  - Improving public amenities.
  - Enhancing security and safety through initiatives like CCTV and security patrols.
  - Advocate on local issue such as parking and public transport that also benefit the local community.
- **Reinvestment in community safety:** Funds that would otherwise be directed towards income tax are reinvested directly into community safety measures, including CCTV systems and security personnel. These investments create a safer environment for both businesses and residents and are a vital service that would be significantly reduced if the exemption was removed.
- **Distinct role from charities:** While some entities may apply for this exemption when unable to register as charities, Business Associations serve a distinct purpose focused on local economic development and business support, which is different from the core functions of charities.



**Mt Eden Village INC,**  
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- **Impact on small businesses:** Many small businesses rely on the activities of Business Associations such as website directory listing, promotional activities and dissemination of essential information such as emergency management, power outages, etc. The proposed change would place a greater burden on these small businesses, negatively impacting their financial stability and growth potential.

In conclusion, the removal of the income tax exemption for Business Associations would have detrimental effects on local economies and community safety. We urge the IRD to maintain this exemption to ensure the continued support of these vital organisations.

Thank you for considering our submission.

Sincerely,

**Ken Choe**  
**Manager, Mt Eden Village Inc**  
**T/A Mt Eden Village Business Association**

31 March 2025

[policy.webmaster@ird.govt.nz](mailto:policy.webmaster@ird.govt.nz)

**Regarding: Consultation Paper on Taxing Charities and Not-for-Profits - Question 12**

Dear IRD Policy Team,

This submission addresses Question 12 of the consultation paper regarding the potential removal or significant reduction of income tax exemptions, specifically concerning the local and regional promotional body income tax exemption (CW40 in the Income Tax Act).

We strongly believe that the income tax exemption for Business Associations should remain. Our reasons are as follows:

- **Community and Economic Development:** Business Associations play a crucial role in fostering local economic development. They invest significantly in activities that benefit the wider community, such as:
  - Promoting local businesses and attracting investment.
  - Enhancing the attractiveness of the area through beautification projects.
  - Improving public amenities.
  - Enhancing security and safety through initiatives like CCTV and security patrols.
- **Reinvestment in Community Safety:** As highlighted by our auditor, funds that would otherwise be directed towards income tax are reinvested directly into community safety measures, including CCTV systems and security personnel. These investments create a safer environment for both businesses and residents and are a vital service that would be significantly reduced if the exemption was removed.
- **Maintaining Local Services:** Removal of the exemption would severely limit the ability of Business Associations to provide essential services to their members and the community. This would negatively impact local economies and reduce the overall quality of life.
- **Distinct Role from Charities:** While some entities may apply for this exemption when unable to register as charities, Business Associations serve a distinct purpose focused on local economic development and business support, which is different from the core functions of charities.
- **Impact on Small Businesses:** Many small businesses rely on the activities of Business Associations. The proposed change would place a greater burden on these small businesses, negatively impacting their financial stability and growth potential.

Additionally, we would like to emphasise that:

- As a **BID (Business Improvement District)**, we operate strictly under city council's **BID Policy Guidelines**.

- We advocate for local issues such as **parking and public transport** to support the local business community.
- We contribute to the **commercial health of town centres**, which in turn supports local employment.
- Our **constitution, approved by Council's BID Policy team** and registered with the **Registrar of Incorporated Societies**, explicitly prohibits any **private pecuniary profits** or the **distribution of property and funds** to any person, including members or members of the executive committee.

In conclusion, the removal of the income tax exemption for Business Associations would have detrimental effects on local economies and community safety. We urge the IRD to maintain this exemption to ensure the continued support of these vital organisations.

Thank you for considering our submission.

Sincerely,

**Tasha Gummer**  
General Manager



*Inspiring Our Communities To Live  
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31 March 2025

# Submission on the Taxation of Charities in New Zealand

## Sport Auckland submission to the Inland Revenue Department

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Sport Auckland is a registered charitable trust (CC23631) on the Charities Service Register. We are governed by a Volunteer Board and have been awarded the Sport New Zealand Good Governance Mark accreditation.

Our purpose is to inspire our communities to live healthy and active lifestyles. We are partners of and funded by Sport New Zealand Ihi Aotearoa, Health NZ – Te Whatu Ora and Aktive. To achieve our purpose we deliver initiatives that enables our communities to participate in play, active recreation, sport and health and wellness.

Last year over 43,000 tamariki and rangatahi participated in our play, active recreation and sport initiatives. We helped educate, upskill and increase the capability of 96 community clubs and 65 secondary and primary schools to be able deliver to the above tamariki and rangatahi. Some 8,400 adults participated in our Green Prescription (GRx) programme that empowered them to change behaviours and lead more healthy, active lifestyles.

We are part of the Regional Sports Trust Network (RSTs) that exists throughout the motu. The network plays a crucial role in ensuring equitable access to physical activity, particularly in underserved communities. Our work includes delivering school and community sports programmes, supporting volunteer development, running equity-focused initiatives, and promoting health and wellbeing through movement.

Our income is derived from central and local government funding, class four and community trust funding and philanthropic donations. Our revenue is small. Basically each year it is money in, money out for us. We distribute over \$1m p.a. directly to our community through the Tū Manawa Active Aotearoa Fund to help address the barriers for young people to be active.

For us, should the proposed taxation changes come into effect there will be unintended consequences for our charity including: -



*Inspiring Our Communities To Live  
Healthy And Active Lifestyles*

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- Reduced ability to reinvest in charitable services because taxation would divert funds away from community programmes.
- Increased administrative complexity due to the need to artificially allocate shared overheads (e.g., staff time, office costs) between taxable and non-taxable activities.
- Penalising prudent financial management, as RSTs that build reserves to ensure financial sustainability 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). Many RSTs rely 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, RSTs 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 organisations like ours.

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 purpose for the benefit of our communities. Changes to these exemptions will negatively impact on our sector and on the service delivery that not-for-profits provide to their communities.

We strongly urge the IRD to retain current exemptions so RSTs, and other charities, can continue delivering valuable services to improve the wellbeing of New Zealanders.

We thank you for the opportunity to provide feedback on this issues paper regarding taxation and the not-for-profit sector.

31 March 2025

Deputy Commissioner, Policy  
Inland Revenue Department  
By email: [policy.webmaster@ird.govt.nz](mailto:policy.webmaster@ird.govt.nz)

**Subject: Response to Consultation on Taxation and the Not-for-Profit Sector**

Kia ora Deputy Commissioner,

Thank you for the opportunity to submit feedback on the Inland Revenue Department's (IRD) consultation on taxation and the not-for-profit sector.

Trust Democracy (TD) was established as a non-profit incorporated society in 2019 and seeks to foster democratic innovation for a fair, just and inclusive society. TD is not a registered charity.

In 2019, TD, in collaboration with Sue Barker Charities Law, helped facilitate the engagement of the not-for-profit sector in a Department of Internal Affairs review of the Charities Act. This included a survey completed by over 650 respondents, two issues papers and a presentation that was delivered to more than 1,200 people at 30 events.<sup>1</sup>

TD welcomes discussions on ensuring a robust and principled framework for the charitable sector. However, we have serious concerns about the premise of the current consultation and strongly urge a first-principles review of the Charities Act before any tax changes are made.

**A First-Principles Review is Necessary Before Any Tax Changes**

The IRD's consultation appears to assume that the taxation of charities is a question of government revenue and fiscal policy rather than one of ensuring a strong, independent, and effective charitable sector. We contend that the fundamental issue is not whether charities should be taxed, but rather that there is an urgent need to clarify what constitutes a charity in the 21st century. The definition of charitable purpose has not kept pace with societal changes, and any review of tax exemptions must be considered within this broader context.

**Three Key Reasons Charities Should Not Be Taxed**

**1. Charities Provide Public Benefit Beyond Direct Recipients (Positive Externalities)**

Charities deliver substantial benefits to society that extend beyond their immediate activities. The charitable sector contributes significantly to social capital, community resilience, and democratic participation. Governments recognize these contributions as justification for tax exemptions because charities create positive externalities that reduce the need for direct state intervention. Removing or altering these tax exemptions risks undermining the very institutions that help build a fair, just, and inclusive society.

**2. Existing Legal Frameworks Provide Oversight and Accountability**

New Zealand already has one of the most transparent regulatory environments for charities in the world. The financial reporting obligations under the Charities Act provide robust

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<sup>1</sup> See <https://trustdemocracy.nz/charities-act-review/>

mechanisms for oversight, ensuring that charitable funds are used appropriately. If concerns exist about the accumulation of funds or governance practices, these should be addressed through the monitoring and enforcement of existing fiduciary duties rather than by imposing new tax burdens that could stifle the sector.

### 3. The Business Income Tax Exemption Does Not Provide a Competitive Advantage

The assertion that charities running businesses have an unfair advantage over for-profit enterprises does not hold up to scrutiny. Comparative analysis from jurisdictions such as Australia shows that for-profit companies have advantages in terms of access to capital, ability to pay dividends, and structural flexibility. Charities face significant barriers in raising capital, and their ability to accumulate tax-free revenue is a necessary mechanism to ensure long-term sustainability. If a for-profit business wishes to benefit from the same tax status, it is free to restructure as a charity—but this would require it to forgo private pecuniary gain and commit to charitable purposes permanently. This fundamental distinction invalidates claims of unfair competition.

#### **Conclusion: Tax Exemptions Are an Investment in a Thriving Democracy**

The tax settings for charities should not be viewed as government subsidies but as an investment in a system that fosters civic engagement, social cohesion, and public trust. The current approach in the IRD's consultation risks weakening the charitable sector by focusing on taxation before addressing the fundamental legal and definitional issues underpinning it.

TD urges the IRD to recommend that any changes to the taxation of charities be deferred until a full, independent, first-principles review of the Charities Act is undertaken. Only with a clear, modern definition of charitable purpose can any meaningful discussion on tax policy take place.

We appreciate your consideration of our submission and welcome further discussion on this critical issue.

Ngā mihi, nā

s 9(2)(a)



Simon Wright  
Chair

Submission	Taxation and the Not-For-Profit sector
To	Deputy Commissioner, Policy <a href="mailto:policy.webmaster@ird.govt.nz">policy.webmaster@ird.govt.nz</a> Inland Revenue Department P O Box 2198 Wellington 6140
Submitter	Anglican Family Care Centre Incorporated
Address	266 Hanover Street Dunedin 9016
Contact person	Lynette Finnie, General Manager s 9(2)(a)
Date	31 March 2025

## Introduction

Anglican Family Care Centre Incorporated has been serving the Otago community providing social services since 1970. We play a vital role in supporting vulnerable tamariki and whānau, often filling critical service gaps not fully met by government agencies. In many cases, our support prevents long-term harm and the need for more intensive state intervention. We operate in Dunedin, Balclutha, Oamaru, Alexandra and Wānaka, and employ 43 kaimahi. We provide a range of programmes where we support at risk whānau and tamariki to thrive.

Our funding primarily comes from government contracts and donations and fundraising. We also generate a small portion of income from term deposits, interest, events, asset sales, and room hire. As government funding decreases and costs rise, we increasingly rely on alternative income, donations and fundraising to sustain our operations.

## General comments

Anglican Family Care (AFC) support the stated objective of simplifying tax rules and reducing compliance costs. We are also supportive of the proposed changes around making it easier for donors to claim tax concessions throughout the year.

We are concerned that there are no specific examples the problems around unrelated income this consultation aims to address. If there are concerns about charities abusing tax exemptions, these should be clearly quantified to enable targeted interventions rather than broad measures that could have unintended consequences. Recent media attention has focused on large charities generating significant unrelated business income while still benefiting from tax exemptions. However, smaller charities like AFC are not the target of these concerns. Any changes to the current framework must be evidence-based and proportionate. We recommend

a targeted impact assessment be undertaken before any reforms are introduced, particularly to ensure unintended consequences for community-based organisations like AFC are avoided.

Government funding for NFP agencies usually does not cover the full cost of delivering services. This means NFP's need donations, grants, and other income sources to fully deliver services and to be financially sustainable. Lost income through increased taxation and compliance costs could make many NFP's financially unsustainable. If this happens this could increase the burden on government services to meet social needs in communities previously met by NFP's.

### **Specific consultation questions**

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

Taxing charities unrelated business income could discourage charities like AFC from developing innovative and sustainable revenue streams. As government funding declines and operational costs increase, charities need flexibility to adapt and remain financially resilient. The current rules allow us to use modest income from things like asset sales and office subletting to continue delivering our services efficiently and effectively. Introducing tax obligations in this area risks creating barriers to innovation and increasing compliance costs for little public benefit.

*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?*

We are concerned that there is not a clear definition of what is 'unrelated' income. As previously stated currently, AFC generates a small amount of income which offsets costs like purchasing new vehicles or rent. Taxing this income would reduce funds available for charitable activities and increase compliance costs. Clear guidance on what constitutes 'unrelated' income is needed to avoid potential misinterpretation.

Furthermore, we recommend that any test for determining 'unrelated' income be developed in consultation with the sector and accompanied by clear, practical guidance to avoid confusion and administrative burden. A one-size-fits-all approach would likely disadvantage smaller charities whose incidental income is used solely to support core 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?*

Care would be needed around setting a threshold for continued exemption. Using the existing Tier system for threshold-setting could inadvertently disadvantage smaller Tier 2 organisations. For example, Tier 2 charities can have total expenses ranging from \$5 million to \$33 million. AFC, operating at the lower end of that range, could face a disproportionate burden compared to larger organisations in the same tier. We recommend exploring an alternative scaling model or

exemptions based on the percentage of income derived from unrelated business activities, rather than total expenditure alone.

*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?*

If charity business income distributed for charitable purposes is not tax-exempt, AFC believes this could reduce charitable giving from non-charity businesses and the overall amount donated.

This could also create confusion and inefficiencies in the wider ecosystem of charitable giving, especially if non-charitable businesses become hesitant to distribute income to charities due to uncertainty over its tax treatment. Ensuring that charitable purposes remain the guiding principle for tax exemptions is key to sustaining the flow of private giving and sector resilience.

*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?*

Removing or reducing the FBT exemption would impact AFC's ability to provide extra incentives for some staff. This is in addition to the impact of loss of income from tax and increased costs of compliance. This potential change cannot be looked at in isolation. When considered alongside other proposals such as taxation on unrelated income, the cumulative effect would materially weaken our ability to attract and retain staff, manage costs, and deliver frontline services.

*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 proposed policy initiatives to help increase the uptake of donation tax concessions. This could be very beneficial to the NFP sector. We believe these changes particularly if well-promoted and accessible, could support increased donation activity. We would encourage IRD to explore partnerships with financial institutions and payroll providers to make claiming donation tax credits easier and more automatic for donors.

Thank you for the opportunity to comment on this proposal.

s 9(2)(a)

Lynette Finnie  
General Manager, Anglican Family Care

## Submission on IRD Officials' Issues Paper: Taxation and the not-for-profit sector

31 March 2025

### Submitter

Chris White  
Chief Executive Officer  
Southern Cross Health Trust

s 9(2)(a)

### Introduction

1. Southern Cross Health Trust welcomes the opportunity to provide feedback on the Officials' Issues Paper on taxation of charities and not-for-profits.
2. Southern Cross Health Trust is a registered charitable trust established 47 years ago with the express purpose of assisting in the provision of medical facilities, services and research in New Zealand to supplement those provided by the Government.
3. Southern Cross Health Trust furthers its charitable purposes directly via its charitable subsidiary, Southern Cross Healthcare Limited (**SCHL**), which owns and operates New Zealand's largest nationwide network of 26 wholly owned hospitals, joint venture hospitals, specialist centres and healthcare providers.
4. SCHL and its 100% owned subsidiaries are also registered charities that qualify for charitable status. They all have the objective to further Southern Cross Health Trust's charitable purposes, namely operating within the New Zealand healthcare industry.
5. Healthcare is very capital intensive. The New Zealand government is struggling with the capital requirements for healthcare and is increasing its use of private hospitals for public surgeries. As a result, any investment by the private sector to maintain and expand hospital capacity supports the New Zealand healthcare system.
6. Southern Cross Health Trust's core charitable purposes include treating the ill, and building, operating and maintaining hospitals. As a group, we reinvest any surpluses into maintaining, providing and expanding our healthcare services, including building new facilities, improving our existing facilities, investing in technologies and training our people to enhance patient care. We provide services directly for the public healthcare sector which has the additional benefit of reducing pressure on the public system.
7. Other charitable and community sponsorship activities include: programmes for

charitable surgeries and nursing education scholarships; Pause Breathe Smile (a fully funded mental health programme for schools); and Round the Bays in Auckland, Wellington and Christchurch.

8. Our submission relates to the charity business tax exemption and the fringe benefit tax (FBT) exemption for charities.
9. The suggestion of removing the charity income tax exemption for business income unrelated to charitable purposes should not impact the Southern Cross Health Trust group as all of its businesses are tightly aligned and linked to its charitable purposes. However, we do not support any such legislative change as it will materially adversely impact the ability of the charitable sector in New Zealand to carry out their charitable purposes. This includes many areas where the Government appears reliant on the charities' work continuing and therefore we would expect it to be encouraging of that work.
10. In relation to the suggestion of removing the charitable exemption from FBT (which has been in place for 40 years), removing this FBT concession would significantly and detrimentally affect our ability to operate sustainably and provide benefits that allow us to attract and retain top quality employees.
11. We support moves to simplify taxation, address compliance costs and reduce integrity risks, but we believe that taking a one-size-fits-all approach via the blanket removal of tax concessions will not have the desired result for the Government.
12. Southern Cross Health Trust, SCHL and its subsidiaries are not donor-controlled charities, so we do not address this in our submission.

### **Charity business income tax exemption**

13. Southern Cross Health Trust group is involved in healthcare and associated services, which is clearly related to our charitable purposes.
14. We work alongside the Government to expand and deliver services for the healthcare system in New Zealand. This includes investing in facilities and providing elective surgeries for Health New Zealand - Te Whatu Ora and ACC patients. We have also grown our charitable surgery programme, which provides treatment without charge for patients who would otherwise be in the public system or receive no treatment.
15. In the 2024 financial year, the Southern Cross Health Trust group provided care to more than 100,000 patients in our hospitals and health facilities across the country. In addition, the Southern Cross Health Trust group supports the health outcomes of more

than 90,000 New Zealanders through the provision of rehabilitation, physiotherapy, mental health, and workplace health services.

16. In that period, approximately 31% of those patients were funded by Health New Zealand - Te Whatu Ora and ACC, demonstrating the important role we play in supporting the entire New Zealand health system. In addition to patients funded by Health New Zealand - Te Whatu Ora and ACC, every patient we treat is one less patient in the public system – be those patients funded by private insurance or (increasingly) self-funded. This is especially important in the current environment as the public system remains under pressure to meet ever increasing demand and reduce waiting lists, particularly for elective surgeries.
17. While Southern Cross Health Trust group has retained earnings from its business activities, it is not correct that there are surplus funds available that are not being used (or planned to be used) for the Southern Cross Health Trust group's charitable purposes. All of our funds are reinvested to provide healthcare services and to maintain, expand and improve our healthcare facilities for all New Zealanders.
18. However, the Southern Cross Health Trust group has a constrained balance sheet as compared to its growth aspirations. We, therefore, operate in a capital constrained environment compared to our competitors who have access to capital markets that we are unable to access. In other words, we strongly agree with the importance of the statements and comments made in the third bullet point at paragraph 2.13 of the February 2024 Officials Issues Paper.
19. Capital (retained earnings) is being reinvested to support expansion throughout the country that will benefit New Zealand. In the 2024 financial year we spent circa \$70m on expanding our hospital network to create additional capacity to support the public health system. We also have a pipeline of significant spend for capital projects in the current and future years. Any changes to the tax exemption for charities creates uncertainty over our ability to fund these projects.
20. While there is a perception that charities have a competitive advantage relative to 'for-profit' healthcare organisations, Southern Cross Health Trust cannot raise capital due to our structure and we cannot pay profits to investors. This limits our ability to access the capital that is available to our for-profit competitors. Introducing taxes would further limit the available capital to invest in healthcare. As noted above, we strongly agree with the statements made in the third bullet point of the Officials Issues Paper.
21. Although we do not consider it should be directly relevant to the Southern Cross Health Trust group for the reasons mentioned above, we reiterate that we do not support changing the charity business income tax exemption for business activities that are unrelated to their charitable purpose because it would materially disadvantage the charitable sector which contributes significantly to our society.

22. However, if the Government decided to put aside those concerns, and were to limit the current scope of charity business tax exemption, we submit that there must be a clear and obvious definition of what is considered unrelated business, i.e. for activities that are totally unrelated to and do not otherwise support a charity's purposes. This would avoid arguments over nuanced interpretations of charitable purposes, especially as many charities' constitutional documents have historic drafting from decades ago that creates interpretation difficulties in today's modern society. It would also create the potential for arbitrary constraints on the businesses that charities could engage in, creating further competitive disadvantages to the for-profit sector.

23. A loose and uncertain definition of unrelated businesses would materially increase the complexity of the relevant tax rules, create a high level of uncertainty and overall would unnecessarily complicate the New Zealand tax rules for charities. This would lead to considerable compliance costs and uncertainty for charities as well as the IRD.

#### **FBT exemption for charities**

24. We appreciate the core policy rationale behind any changes to FBT is to ensure that employee remuneration is appropriately taxed on a fair and equitable basis. However, the private sector has the advantage of being able to offer employees a share of the equity ownership of the relevant entities – which is something that charities cannot offer.

25. Removing the FBT exemption removes one of the counter balances to employee remuneration that is available to the charitable sector to assist with attracting staff. It is highly relevant for Southern Cross Health Trust, as it allows the group to provide health insurance for employees, which in turn helps attract and retain people with a competitive overall remuneration package. Any reduction in these benefits would need to be offset by an increase in wages to remain competitive, which further constrains the Southern Cross Health Trust and reduces funds available to be reinvested in our charitable purposes.

26. All our employees carry out work that delivers our healthcare charitable purposes (i.e. they are not employed by an unrelated business). With nearly 3,000 employees in the Southern Cross Health Trust group, removing the FBT exemption would put us at a significant cost disadvantage compared to tax paying entities, particularly as we do not receive the benefit of tax deductions for FBT.

27. If the tax exemption for FBT was discontinued, the potential financial impact to our businesses will be significant. This will reduce our funds available each year that we otherwise invest in our charitable purposes.

28. We submit that a detailed cost benefit analysis for the sector is essential to understand the compliance cost impacts of any change to the FBT exemption. Consideration should also be given to the benefits that are available to the tax paying employers which are not available to the charitable sector and how this impacts the respective renumeration of each sector.

## Conclusion

29. For nearly 50 years, Southern Cross Health Trust and its charitable subsidiaries have operated as charitable entities, reinvesting 100% of profits into increasing capacity in the healthcare system, improving patient care, expanding services, and supporting our communities' health needs.

30. Without the current level of New Zealand tax concessions for registered charitable entities, our ability to carry out our charitable purposes will be significantly diminished. We urge the Government to consider the contribution we make to the New Zealand healthcare system.

31. It is essential that charitable organisations retain a tax exemption to continue serving the community alongside and in collaboration with the Government. The charities' sector makes a critical contribution to New Zealand society and unintended consequences must be considered before changes are made to charities taxation rules.

s 9(2)(a)

Chris White  
Chief Executive Officer  
Southern Cross Health Trust

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](mailto:policy.webmaster@ird.govt.nz)

**Submission on Officials' Issues Paper: Taxation and the not-for-profit sector**

Thank you for the opportunity to submit on the officials' issues paper Taxation and the not-for-profit sector issued on 24 February 2024. Our submission addresses questions 1 to 5 and question 10 of the issues paper.

We provide a summary of our submission, an overview of Healthcare Holdings Limited and the private healthcare market, and a response to some of the specific questions that the consultation proposes.

**Summary of our submission**

Our submission focuses on the impact of the charitable tax exemption on the private healthcare providers market in New Zealand.

We submit that the proposal to remove the tax exemption for unrelated business income of charities should proceed in relation to the business income of large commercially operated tax-exempt healthcare provider businesses.

Removing the tax exemption would:

- eliminate a distortion to an efficient market for private healthcare services;
- be a coherent approach in terms New Zealand's broad base low-rate tax policy settings;
- improve horizontal equity in the tax system;
- be justified on public policy grounds due to the lack of transparency, accountability and review of the public's tax expenditure supporting the current tax exemption;
- remove a historical anomaly that originally applied only to charitable health services for the poor and destitute.

We submit that the proposal to remove the FBT exemption for charities should proceed to the extent that those charities are operated as commercial businesses.

## **About Healthcare Holdings Ltd**

Healthcare Holdings Ltd (HHL) is a large New Zealand owned healthcare business that owns and operates a wide variety of medical facilities across New Zealand including hospitals and outpatient, diagnostic, occupational and mobile services. These healthcare services are delivered through wholly owned brands such as MercyAscot and a wide range of joint ventures with other branded healthcare providers.

HHL opened its first facility, Ascot Hospital in Auckland, in 1998 and since then has grown to become a leading provider of private value-based healthcare spanning hospital, diagnostic and specialist services. HHL has grown to over 2000 dedicated employees.

HHL is a privately-owned for-profit business that pays New Zealand income tax on its profits.

### **The provision of private healthcare in New Zealand**

Healthcare in New Zealand is predominantly delivered by the publicly owned and funded health system. However, private healthcare providers are providing an increasingly large share of healthcare, funded and accessed by 1.5m New Zealanders that purchase health insurance<sup>1</sup>, ACC and referrals from the public health system.

The Ministry of Health currently lists 76 certified provider private hospitals in New Zealand.<sup>2</sup> Approximately 45 of these are not-for-profit including major commercial surgical hospital operators such as the Southern Cross Hospital Group (17 hospitals), St George's Hospital and Mercy Hospital. Major for-profit operators include Evolution (11 hospitals) and Healthcare Holdings (including 6 hospitals and diagnostic imaging).

The New Zealand Private Surgical Hospitals Association's (NZPSHA) members represent 46 of those facilities and delivered over 224,000 surgical discharges in 2024 which was 67% of all elective surgery delivered in New Zealand that year.<sup>3</sup>

Private healthcare plays an important role in New Zealand relieving pressure from the public health system, delivering choice, high quality patient-centred care and bringing innovation and efficiencies to healthcare delivery. Private healthcare in New Zealand is delivered by sophisticated, well managed businesses. NZPSHA members alone employed 4,795 staff in 2023.

### **A distortion in the private healthcare market**

Despite the important role of private healthcare in New Zealand, there is an uneven playing field in the private healthcare market driven by differing treatment of market participants under the Income Tax Act 2007. Some private and large-scale commercial healthcare businesses operate as tax exempt charities providing them with cost and cashflow advantages as compared to the tax paying for-profit private healthcare businesses.

HHL believes that this distortion impacts pricing decisions, efficient capital allocation and the allocation of resources, particularly highly skilled medical personnel, in the healthcare market. As such, HHL welcomes Inland Revenue's review of the tax exemption for businesses operated by charities.

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<sup>1</sup> <https://blog.fsc.org.nz/insights-and-trends-affordable-and-accessible-healthcare>

<sup>2</sup> <https://www.health.govt.nz/regulation-legislation/certification-of-health-care-services/certified-providers/private-hospitals?region=282>

<sup>3</sup> [https://www.nzpsha.org.nz/\\_files/ugd/0ab73c\\_9982ddc84b5e47ae87f52ffa9e0e25d3.pdf](https://www.nzpsha.org.nz/_files/ugd/0ab73c_9982ddc84b5e47ae87f52ffa9e0e25d3.pdf)

## **Inland Revenue's 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?**

HHL submits that there are four compelling reasons to tax the business income of large commercially run tax-exempt healthcare businesses.

#### **i) Eliminate distortions**

The most compelling reason to tax business income is to eliminate a market distortion to better support efficient and competitive markets for the delivery of commercial products and services.

HHL disagrees with the competitive neutrality opportunity cost analysis in paragraphs 2.7 to 2.12 of the issues paper that leads to the conclusion that the tax exemption does not provide a competitive advantage. The analysis suggests that the trustees of a charitable business act like shareholders in a for-profit business and seek the same risk adjusted pre-tax returns on their investments as shareholders thus, rationally, preventing them from bidding their tax exemption into commercial decisions on pricing and investment.

However, this opportunity cost analysis overlooks the human motivations and actual behaviour of the trustees. If the purpose of the trust is to provide healthcare, then switching investments to other forms of untaxed investment is not a realistic option and, in some cases, may not be allowable under the deed establishing the trust. As such the trustees may well in practice accept lower untaxed returns from the healthcare business or pursue riskier healthcare investments and in effect bid that tax saving into the operation of the charitable business in order for their trust to deliver more healthcare. This distorts the healthcare market.

HHL believes that it observes this in practice in the healthcare market where it believes that at times tax exempt healthcare businesses engage in:

- uneconomic price competition for certain health services;
- inefficient capital allocation through the building and holding of excess capacity;
- the use of that excess capacity, local council rates relief and the FBT charitable exemption to target the highest quality specialist surgical, clinical and nursing talent, driving up costs generally in the private healthcare market;
- the establishment of effective regional monopolies where the presence of a tax-exempt healthcare business crowds out other competitors.

These distortions impose costs on healthcare consumers and deadweight costs on New Zealand society.

#### **ii) Breach of accepted principles of tax policy design in New Zealand**

The ability of large commercially run healthcare businesses to operate on a tax-exempt basis breaches a number of well-established tax policy design principles in New Zealand.

New Zealand's overall tax system design philosophy is a broad base low-rate tax system (BBLR). In that system, taxes are imposed at the lowest rate possible rate across the broadest possible tax base to raise the necessary revenue for Government. Excluding large, commercially run and profitable healthcare businesses from the corporate tax base **conflicts with the BBLR principle** and means that, all other things being equal, corporate taxes on tax paying businesses are higher than they may otherwise need to be. Higher corporate taxes have potential negative implications for investment, productivity and wages.

Two similar healthcare business operated commercially where one pays tax and the other is tax exempt is a **breach of horizontal equity** that undermines the fairness and integrity of the tax system.

In addition to the tax cost itself, the tax paying healthcare business incurs **additional compliance costs** not faced by the tax-exempt healthcare business.

There is a significant **lack of overall tax system coherence** when two very similar commercially operated healthcare businesses are subject to completely different tax treatments.

**iii) Lack of transparency, accountability and review of the tax expenditure**

The tax exemption for large commercially run healthcare businesses owned by charities is disclosed as tax expenditure in the Treasury's Tax Expenditure Statement.<sup>4</sup> However, it is unable to be quantified by Treasury. Therefore, the cost of the tax exemption lacks transparency. Further the tax-exempt healthcare businesses are not accountable for the use of the tax exemption expenditure. There is no review mechanism in place determine the public benefit of the tax expenditure.

On the basis that the cost and benefits of the tax expenditure cannot be quantified or monitored, there are good public policy grounds to remove the tax exemption for large commercially run healthcare businesses.

**iv) The tax exemption for commercial healthcare businesses is a historical anomaly in the modern world.**

Historically, the charitable provision of healthcare involved volunteers providing healthcare to the poor and destitute funded by donations from society. Similar charitable health services still exist today, for example, the Charitable Hospital Canterbury which is almost 100% donation funded, staffed by volunteers and delivered 1100 medical procedures in 2023<sup>5</sup>. However, the modern healthcare market has evolved well beyond that model of delivery.

Tax exempt healthcare providers no longer dedicate themselves to providing healthcare to the poor and destitute. Instead, a number have become large, complex and sophisticated commercial businesses, some of which generate hundreds of millions of dollars of revenue. Their primary focus is delivering commercial health services to paying customers. They focus on commercial measures like market share, growth and service profitability. They are run by well-paid executive teams and employ medical personnel at market rates (and arguably set the market for the scarce resources of highly skilled specialists). Their business plans target highly profitable areas of surgery like orthopaedics and other elective areas, while leaving less profitable areas like managing chronic conditions and mental health services to the public health system.

The resources applied to their charitable purpose are insignificant compared to their commercial operations. For example, in 2024 Southern Cross Hospital Trust, a tax-exempt healthcare business, delivered 89,223 medical procedures of which 89,190 were to full paying customers and just 33 were to charity patients<sup>6</sup>. In the United States it was reported by the Wall Street Journal in 2022 that for-profit tax-paying hospitals in reality committed more of their resources to charitable healthcare (3.4% of patient revenue) than their tax-exempt competitors (2.3% of patient revenue).<sup>7</sup>

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<sup>4</sup> <https://www.treasury.govt.nz/publications/tax-expenditure/2024-tax-expenditure-statement>

<sup>5</sup> <https://charityhospital.org.nz/>

<sup>6</sup> [Southern Cross Health Trust Annual Report 2024, Consolidated Statement of Service Performance, pg 2.](https://www.southerncrosshospitaltrust.com/annual-report/2024-consolidated-statement-of-service-performance/)

<sup>7</sup> [https://www.wsj.com/articles/nonprofit-hospitals-vs-for-profit-charity-care-spending-11657936777?st=uMaze9&reflink=desktopwebshare\\_permalink](https://www.wsj.com/articles/nonprofit-hospitals-vs-for-profit-charity-care-spending-11657936777?st=uMaze9&reflink=desktopwebshare_permalink)

The application of a charitable tax exemption to a large commercially operated healthcare business is an historical anomaly that is unlikely to be delivering a material public benefit and should be removed.

**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 implication is that large commercially operated healthcare business that were previously tax exempt will be subject to the same tax impost and compliance costs as the for-profit tax paying healthcare businesses. This would require some additional resources to be applied to their tax obligations. However, in practice it does no more than level the playing field with for-profit tax paying commercially operated healthcare businesses and, as such, is not a policy issue.

**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?**

Focusing on the private healthcare market, HHL believes that the tax exemption should only be removed for large commercially operated healthcare businesses. Healthcare charities delivering predominantly charitable healthcare services for no or very low cost to patients, such as hospices, should retain their tax exemption.

As such, the criteria to identify the healthcare businesses that should not be tax exempt should include meeting one of the following tests:

- The operation is conducted in a commercial fashion, providing services at market prices to customers and using executive and medical staff remunerated at market rates.
- The operation seeks to make a profit from the delivery of services and relies on that profit to fund growth and new services. Donations are not a material source of funding.
- The operation competes for patients, resources and medical staff with for-profit tax paying current and future businesses in the healthcare market.
- The operation has a joint venture or joint investment with a for-profit tax paying healthcare business in a business to deliver healthcare 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?**

For compliance and administration purpose we suggest a de-minimus threshold (measured on a consolidated group basis) where there is a safe harbour tax exemption for small charitable healthcare businesses. That would require some data-based research to set the de-minimus at the right level but could be, for example, less than \$2m of patient revenue and less than \$5m of gross assets.

**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. Allowing a deduction for business income distributed to a charitable purpose is fair, it targets the tax exemption directly to the charitable purpose and is consistent with the current treatment of for-profit tax-paying healthcare businesses. For instance, Mercy Dunedin, supports a Chair of Population Health at the University of Otago, a charitable purpose that should be recognised.

**Q10. 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?**

In the healthcare sector, it is not appropriate for large, commercially operated healthcare businesses to have an FBT exemption for the reasons set out in our answer to Q1 above. However, the FBT exemption for employees directly involved in charitable activities may still make sense on compliance grounds.

HHL submits that the FBT exemption is removed for any business operated by a charity that has the tax exemption removed.

Thank you for considering our submission on this issues paper. We would be happy to be contacted to discuss this further with you.

s 9(2)(a)

**Dr Andrew Wong**  
Managing Director  
Healthcare Holdings Ltd

**Dr Ian England**  
CEO  
MercyAscot

## SUBMISSION ON IRD ISSUES PAPER ‘TAXATION AND THE NOT-FOR-PROFIT SECTOR’ ISSUED 24 FEBRUARY 2025

### Introduction

Dogwatch Sanctuary Trust Inc is a registered charitable trust (CC30434) dedicated to the rescue, rehabilitation, and rehoming of dogs across New Zealand. Our mission is to provide a safe and loving environment for abandoned and at-risk dogs, ensuring they are placed in suitable homes. To support our operations, we engage in business activities. These activities include:

- selling pet supplies;
- offering dog training services;
- operating an ‘op shop’; and
- renting surplus residential buildings located at our premises to tenants.

All proceeds earned from our business activities are reinvested into our core charitable purpose.

We submit this response regarding the proposed changes to the taxable status of charitable organisations that operate business enterprises to fund their charitable activities. While we acknowledge the government’s objective to ensure fairness and transparency in the taxation system, we urge careful consideration of the potential impacts on charities like ours and the communities we serve.

### Key Concerns and Impacts

#### 1. Threat to Financial Sustainability

Many charities, including ours, operate small-scale business ventures as a means of financial sustainability. These activities allow us to reduce reliance on government grants and public donations, ensuring long-term stability and continuity of services. Imposing taxation on such activities could significantly reduce our available funds for core charitable operations, not only because of reduced revenue from such activities but also because of increased compliance costs, ultimately affecting our ability to care for and rehome dogs in need.

#### 2. Reinvestment into Charitable Activities

Unlike for-profit businesses, any surplus generated from our business activities is directly reinvested into our charitable purpose. This means every dollar earned contributes to the welfare of rescued dogs. Treating these revenue streams as taxable income would divert essential funds away from our mission, contradicting the intent of charitable giving and social benefit.

#### 3. Disincentive for Self-Sufficiency

Encouraging charities and not-for-profits to develop self-sustaining revenue streams reduces reliance on taxpayer-funded support. If business activities become subject to

taxation, charities may be forced to increase reliance on government grants and public donations, creating additional pressure on government resources. A reduction in revenue will simply reduce the ability of charities to successfully deliver on their charitable mission.

**4. Distinction Between Commercial and Charitable Purpose**

A clear distinction must be maintained between business activities conducted solely for private profit and those undertaken to directly support a charitable mission.

Applying taxation uniformly without acknowledging this distinction would unfairly penalise organisations like ours that use business revenue to fund essential community services.

**5. Potential Unintended Consequences**

Imposing taxation on these revenue streams may lead to unintended consequences, including:

- a. **Service Reductions:** A decrease in funds would limit the number of dogs we can rescue and rehome as well as reduce our community outreach ability.
- b. **Job Losses:** Many charities employ staff to manage their business operations. Increased tax burdens may force staff reductions.
- c. **Higher Costs for Public Services:** If charities like ours are forced to scale back, the government may need to fill the gap, increasing costs for public animal welfare services.

In the appendix to this submission, we directly address the discussions questions posed in the issues paper.

## Recommendations

To support both the objectives of tax fairness and the sustainability of charitable organisations, we propose the following recommendations:

**1. Maintain Tax-Exempt Status for Mission-Driven Business Activities**

We urge the government to retain tax-exempt status for business activities where profits are fully reinvested into the organisation's charitable purpose.

**2. Develop Clear Criteria for Exemptions**

Establish clear guidelines distinguishing between genuine charitable reinvestment and business activities unrelated to an organisation's mission.

**3. Introduce Thresholds or Concessions**

Consider implementing income thresholds or partial tax concessions to ensure that smaller charities are not disproportionately impacted by the changes.

**4. Encourage Transparency Without Penalisation**

Rather than imposing taxation, enhance reporting requirements to ensure public accountability while allowing charities to continue benefiting from self-generated revenue.

**5. Consultation and Impact Assessment**

Conduct further consultation with affected charities to assess the real-world impact of these proposed changes and explore alternative measures that achieve fairness without harming vital services.

## Conclusion

As an organisation committed to animal welfare and community service, we strongly believe that any changes to the taxation status of charities should be carefully assessed to avoid unintended harm to charitable services. We urge the government to consider the recommendations outlined above and ensure that charitable organisations can continue to operate sustainably while remaining accountable.

We appreciate the opportunity to provide this submission and welcome further discussions on this matter as well as contact from Inland Revenue.

Your faithfully,

s 9(2)(a)

Mark Weaver

Chair

**Dogwatch Sanctuary Trust (CC30434)**

Email: [chair@dogwatch.co.nz](mailto:chair@dogwatch.co.nz)

## APPENDIX A – RESPONSES TO DISCUSSION QUESTIONS

### 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?**

*Our submission is that charity business income should not be taxed. The key reasons for our position are as identified under the heading 'Key Concerns and Impacts' in the body of our submission.*

*We do not consider the factors described in 2.13 and 2.14 warrant taxing charity business income. Whilst there may be extreme examples, as there is with anything, on the whole the points raised do not appear to have created a tangible advantage to charitable businesses over for-profit businesses in the existing marketplace. Furthermore, as the paper itself identifies, charities are not incentivised to use their tax-exempt status to undercut for-profit business in the marketplace. They are incentivised to maximise profits for the benefit of their charitable purpose.*

**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 financial independence for charities, increased compliance costs further threatening the financial sustainability of charities, increased complexity (particularly when trying to distinguish between a 'related' and 'unrelated' business activity), and the reduction in charitable services thereby placing increased reliance on services provided by central and local government (and ultimately funded by tax).*

**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?**

*Our submission is that the exemption should not be removed. We consider there will be significant complexity in trying to distinguish between 'related' and 'unrelated' business activities. If the broad exemption is to be removed, then there should at least be exemptions such as those identified in the issues paper, being:*

- *certain fundraising activities that are promoted primarily to raise money for the benefit of a charity;*
- *charitable businesses that are substantially run by unpaid volunteers; and*
- *businesses primarily engaged in selling donated goods or services, such as charity op-shops.*

**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?**

*As noted in our answer to the prior question, if the exemption is removed, we consider at a minimum that certain unrelated business activities should be exempted. With respect to*

*activities that are not exempt, we submit that at a minimum there should be a threshold imposed so that small-scale business activities are not captured (such as the example cited in issues paper in relation to the United Kingdom).*

**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 charity business income distributed for charitable purposes should remain tax exempt. We do not have a particular view on how this should be achieved, but we do consider that any rules that may be imposed need to allow for the accumulation of funds for charitable use in later years.*

**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?

*Nothing further to add*

### **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?

*As we are not a donor-controlled charity we hold no particular view on this issue.*

**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?

*As we are not a donor-controlled charity we hold no particular view on this issue. However, we do consider it is sensible to investigate possible restrictions to address the risk of tax abuse by donor-controlled charities. We observe that if donor-controlled charities take advantage of the tax-exempt status afforded to charities it can negatively reflect on all 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?

*As we are not a donor-controlled charity we hold no particular view on this issue.*

### **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.

*As a registered charity we have no particular view on this issue.*

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

*As a registered charity we have no particular view on this issue.*

*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?

*As a registered charity based in New Zealand, and operating all activities within New Zealand, we have no particular views on these issues.*

*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?**

*Charities operate in a fiscally tight environment. It is often very difficult for them to compete with the for-profit sector, including in relation to attracting talent at competitive salaries. Often, they are reliant on staff having a personal desire to work for charity, even though the staff member may be able to obtain a higher salary in the for-profit sector for equivalent work. The current exemption from FBT is one way to enable charities to offer more competitive salary packages to attract talent to their organisations. It also reduces compliance costs.*

*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 do not oppose extending the FENZ simplification as an option for all NFPs.*

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

*We have not considered the DTC regulatory stewardship review findings, or the initiatives proposed. However, we welcome any steps to promote DTC regime.*

31 March 2025

David Carrigan  
Deputy Commissioner, Policy  
Inland Revenue Department  
**WELLINGTON**

Dear David

### **TAXATION AND THE NOT-FOR-PROFIT SECTOR**

The Registered Master Builders Association of New Zealand Incorporated is writing to provide comment on the not-for-profit section of the above officials' issues paper.

### **About Registered Master Builders Association**

The Registered Master Builders Association of New Zealand Incorporated (“**RMBA**”) represents a broad membership base, ranging from building apprentices to New Zealand’s premier residential and commercial building and construction companies.

Our members have been building the places where New Zealanders live, work, and play since 1892. We stand for quality, and back our members with the support and services they need to build strong businesses and deliver value for clients.

As the leading voice of the building and construction industry, we collaborate with the sector and government to develop and uphold the highest standards, so together we can build a better New Zealand.



We provide various support to our members including through education and networking events. We advocate for our industry and members by working with government, working groups and other external parties.

### **The policy framework for NFPs**

The issues paper advises that Inland Revenue has formed a view that membership subscription income is generally subject to tax for most not-for-profit organisations because their constitutions would prohibit distribution of surpluses to members, including on windup. It further notes that this outcome is consistent with the policy intention of the mutual association rules.

This position is concerning and surprising. RMBA is a not-for-profit organisation. We do not exist to derive income from our members. The purpose of our organisation is to facilitate our members to act together for the collective benefit of the membership base.

It has always made sense from a policy perspective that membership subscriptions are not taxable income, while other transactions with members and non-members are taxed. We believe that this distinction appropriately recognises that a subscription is simply a member's contribution to the services that they get back as part of a collective. It does not make sense from a policy perspective to tax this, as it would be tantamount to taxing a member for trading with themselves.

We cannot comment on Inland Revenue's view regarding the principle of mutuality, noting that the underlying analysis has not been provided. However, we would note that regardless of whether a surplus is distributed to members, members are the benefactors of any surplus the organisation makes because all funds are used to further their collective objectives.

### **Impact on RMBA**

While over time organisations like RMBA do not intend to make a profit, there are some years where a surplus arises because, for various reasons, member funds are not fully applied (for example a conference or event is cancelled). If that surplus is taxed, and there is no ability to carry back tax losses in the subsequent year, our members will be worse off.

Our expectation is that taxing member subscription income of non-profit entities will likely result in significant additional tax being paid by the sector. That will have an adverse impact on our ability to support our members, and we expect similar organisations will have these concerns. Restricting trade and professional bodies in this manner will make it more difficult to upskill New Zealand workers and businesses, placing an unnecessary handbrake on economic performance.

## **Submission summary**

In summary, RMBA considers the law as it has been interpreted and applied to date results in a sensible outcome. That is, member activity is not taxed (member subscription income is not taxable, and expenditure of member benefits is not deductible), and other transactions (with both members and non-members) are taxed.

The purpose of membership subscriptions is to support the collective objectives of our members. RMBA is not a business and does not operate with an intention to make a profit. There is no special class of members who stand to ‘profit’ from the operations of RMBA in the way the owners or shareholders of an ordinary business might do.

If Inland Revenue’s legal team have reached a view that membership subscriptions are taxable under the current law, then our view is that the law should sensibly be changed to reflect the principle of mutuality (as it exists in practice). That is, we submit that the government has very strong grounds to legislate for the existing position taken by most NFPs, that member subscriptions are not taxable.

Please contact us if you would like to discuss further.

Yours faithfully

s 9(2)(a)

Ankit Sharma  
Chief Executive Officer  
Registered Master Builders Association.

31 March 2025



Taxation and the not-for-profit sector  
Inland Revenue Department  
PO Box 2198  
WELLINGTON 6140

By email: [policy.webmaster@ird.govt.nz](mailto:policy.webmaster@ird.govt.nz)

Kia ora

### **Taxation and the not-for-profit sector**

Tourism Industry Aotearoa welcomes the opportunity to submit on IRD's issues paper on Taxation and the not-for-profit sector.

TIA is the peak body for the tourism industry in Aotearoa New Zealand. With around 1,200 member businesses, TIA represents a range of tourism-related activities including hospitality, accommodation, adventure activities, attractions, retail, airports and airlines, transport, as well as related-tourism services.

Tourism is a major part of our society and economy. It is 17.2% of our exports, 7.5% of GDP and 10.7% of employment. Given this, tourism is an important component of Aotearoa New Zealand, as it is for regions across the country.

As an industry association, we are not tax experts. However, we are aware that many entities across tourism will be potentially impacted by changes to taxation arrangements in the not-for-profit sector. And, as a mutual association ourselves, we may be directly impacted by proposed changes.

For these reasons, we support the submission of Business New Zealand, and we are a co-signatory of Business New Zealand's letter to the Ministers of Inland Revenue and Finance that specifically addresses concerns that subscription income would be taxable for many not-for-profits viewed as mutual associations.

In assessing the issues paper with a tourism lens, it was difficult to get a handle of the scale of the issues in terms of the value of the not-for-profit sector, the likely impact of changes and the level of increased taxation that would be expected. With this analysis not set out at a national level, it was not possible for TIA to distil the tourism implications. We submit that further work should include such data-driven specificity.

Sections 4.12 to 4.14 set out that exemptions for 'local and regional promotion bodies' may no longer be fit for purpose. At current tourism settings, most of the regional tourism organisations (as they are generally known) are council owned and operated and therefore we are uncertain around the tax implications of this section and whether there would be impacts on the tourism system.

If you have any questions relating to this submission, please contact Bruce Bassett on  
s 9(2)(a)

Ngā mihi,

s 9(2)(a)

Rebecca Ingram  
Chief Executive

Kia Ora ,

My name is Stephen McPherson and I am on the leadership team of the local Salvation Army corps and I am an employee of FVIP services here in the Hawkes Bay. I am writing to share my thoughts on proposed tax changes relating to charities and not for profits.

In both roles I get to see these organisations providing ongoing support services to those in need of a range of help and personal support with domestic violence situations, lack of housing, lack of food, drug addiction services, prisoner reintergration, civil defence emergency and a raft of other programmes helping to meet need where people are at.

The resources that support such endeavours to some degree are govt. funded and the difference is raised by the organisations in a raft of ways already running in a very lean style.

If the endeavours of such organisations are going to be taxed in the ways proposed that are clearly channeling that money into the support structures bringing relief to those who find themselves in bad situations the burden of raising that bridge finance simply becomes more arduous and the logical result is those most in need of help will have a tougher time accessing it.

I therefore ask that charities and not for profits clearly channeling raised funds and donations back to the causes for which they were given be kept tax free and where there is obvious breach of trust I submit that the appropriate legislation is already in place to deal with such scenarios.

Nga Mihi

Stephen McPherson

Caretaker Transitional Housing FVIP, Salvation Army Corps Leadership team, Engineer.

s 9(2)(a)

31 March 2025

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](mailto:policy.webmaster@ird.govt.nz)

Dear Sir/Madam

**Re: Taxation and the Not-for-Profit Sector**

**1. Background**

I am writing to you regarding the consultation document entitled *Taxation and the not-for-profit Sector* (referred to as 'the Issues Paper').

While BusinessNZ believes it is important for the Government to review elements of charities and not-for-profits (NFPs) from a taxation policy perspective as and when required, we are concerned that some of the ideas put forward in the Issues Paper could lead to regulatory overreach and significant adverse outcomes for individual businesses and business associations, including BusinessNZ.

While the Issues Paper examines three broad areas for discussion, BusinessNZ wishes to focus on elements of Chapter 2, which examines charity business income tax exemption, and Chapter 4, which considers several integrity and simplification issues.

We note that the consultation document in question 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.

However, we are concerned that there would be significant flow-on effects of some of the recommended changes that 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.

The other key aspect is that the Issues Paper represents Inland Revenue's initial views only. While we appreciate that this option invites the public to provide feedback, at the same time an Issues Paper that is too open-ended can create more questions than answers and leave submitters with a high degree of uncertainty, while possibly leading down a path towards regulatory overreach.

## **Chapter 2 – Charity Business Income Tax Exemption**

Concerns by the Government that have been expressed in the Issues Paper centre on charities that are in competition with private sector entities. Regarding tax exemptions for business activities of charities, the Issues Paper outlines proposed changes to tax income from business activities that are unrelated to a charity's core charitable purpose.

BusinessNZ's wide membership includes large organisations that operate as charities but run significant commercial enterprises, as well as enterprises with typical business structures that would compete with the former. In principle, BusinessNZ supports an exploration into charity business income tax exemptions, to ensure the policies associated with it are fit for modern-day practices. However, these should be done for the right policy reasons and conducted in such a way that any policy decision is based on solid evidence and analyses the costs and benefits associated with the changes proposed.

We note that Inland Revenue is looking at the current charities regime through a taxation lens, as would be expected. However, we believe the issue should instead be examined through a broader policy lens that considers issues such as long-term efficiency, innovation, and sustainable growth, rather than simply promoting government intervention through taxation.

There are three areas BusinessNZ wishes to raise in relation to future policy options for charities and their tax status.

### **1) Data driven outcomes**

The latest Charities Services annual report shows charities had total expenditure of \$25.28 billion in the 2023/4 year, and total income of \$27.34b. This meant a difference of around \$2b. Furthermore, a paper prepared for the Tax Working Group said that estimates from Charities Services and IRD indicated about 30 percent of registered charities were likely to have some sort of trading activities. We note the Minister for Finance has stated that if any loopholes are being exploited that would allow entities structured as charities to avoid tax they should otherwise pay, these should be rectified.

However, BusinessNZ cautions against policy decisions based solely on simple aggregated data. The vast majority of charities could conceivably be spending all their income, with only a relatively small subset of charities contributing to that \$2b difference between income and expenses. If that were the case, it would suggest a targeted policy approach should be taken, rather than a broad-brush approach.

Analysing changes based solely on high-level data can overlook associated costs that may arise. Research has shown that in many cases, charities can deliver services more effectively than the government, particularly where flexibility, community engagement, and specialised expertise matter. Also, charities can often operate with lower overhead costs, being deeply embedded in local communities, and able to rely on volunteer networks. This often allows them to respond quickly and efficiently to specific needs. Their mission-driven approach and ability to attract private donations and partnerships can also lead to more innovative and tailored solutions compared to government-run initiatives.

If the Government were viewing the taxation of charities purely from a revenue raising perspective, it should be noted that changes to charity tax exemptions may in fact create a net cost to Government accounts once the full range of costs have been taken into account.

## **2) Charity timeframes**

There appears to be a concern by the Government that charities may not be undertaking their charitable activities within sufficient timeframes.

While BusinessNZ appreciates the requirement that charities apply all their income and assets to charitable purposes, in reality this does not mean the charitable purpose will always fit into the current financial year.

The reasons for retaining some funds in reserve are varied. Often it is simply to ensure financial stability and continuity of services. Unexpected events, such as economic downturns, reduced donations, or emergency situations can create funding shortfalls. By maintaining reserves, charities can continue operating even when revenue fluctuates, allowing them to support beneficiaries without disruption.

Also, some long-term programmes require sustained funding, meaning charities must strategically allocate resources over multiple years rather than spending everything within a single financial year.

Reserves also enable charities to invest in future growth and innovation. By setting aside funds, they can develop new programmes, expand their reach, or improve infrastructure without relying solely on uncertain funding sources. It is often the case that grants for major projects require upfront investment, making reserves essential for securing long-term impact. Significantly, keeping a financial cushion helps charities adapt to changing circumstances, ensuring they remain resilient and effective in fulfilling their mission over time.

There is also a final government originating reason that some charities aim to hold reserves and that is some charities receiving funding through some departmental service contracts are actually required to demonstrate reserves in order to qualify for funding. Some departments, for example Oranga Tamariki, have used the existence of reserves held by charities as a proxy for financial stability, financial strength and entity reliability.

Issues relating to timeframes of expenditure and the need to ensure adequate reserves also apply to the NFP sector that we discuss below.

### **3) Relationship with the Charities Act 2005**

BusinessNZ understands that the charities sector is already subject to a high degree of regulation. A general view among those working in the charity sector is that New Zealand legislation governing charities is among the most comprehensive in the world, in terms of transparency and accountability requirements. New Zealand charities are required to provide complete disclosure.

Therefore, if concerns persist about particular charities that are not complying with the law, then a more **obvious solution should focus on enforcing the law that already exists**, or a discussion that includes the associated legislation governing the charities sector.

To that end, changing charity regulations including the Charities Act 2005 - rather than changing the tax settings associated with charities - may ensure a fairer and more consistent approach to taxation. Regulatory reforms to allow a targeted evaluation of charitable status could help ensure only genuine charities receive tax exemptions while preventing extreme cases of commercial misuse. An evaluation that seeks to examine perspectives on eligibility, governance, and reporting likely provides a better opportunity to boost transparency and trust without penalising legitimate charities through broad tax changes.

Overall, we believe that an overly narrow approach to adjusting charity settings could have unintended negative effects, reducing funding, discouraging donations, and burdening small charities with compliance costs. A sole focus on tax changes may also fail to distinguish mission-driven charities from commercial ones. Regulatory reforms offer a more precise solution, preserving tax benefits for deserving charities while ensuring fairness and integrity.

Regarding the issue of compliance costs, we note that paragraph 2.35 of the Issues Paper suggests the creation of a special memorandum account for registered charities that carry out unrelated business activity. New rules could allow credits for tax paid to be refundable when they are attached to dividends paid to their charitable parent in later years. However, such options could also create sizeable compliance costs for these charities, which again could redirect funds away from purely charitable purposes.

In short, the Government needs to walk a fine line in targeting its concerns without causing collateral damage to other charities.

BusinessNZ also believes that the Government needs to be cognisant of overseas settings for taxation of charities. While we typically favour tax settings that provide a competitive advantage to New Zealand, at the same time we need to ensure any changes do not tip the balance towards charities seeking to move offshore to countries such as Australia, the United Kingdom and Canada where charities do not pay tax on most types of income as long as it is clearly understood that it is used for charitable purposes.

***Recommendation: That the Government ensures any changes to the tax status of charities is based on detailed data-driven evidence, an acknowledgement of the broader charities legislative framework, and the full benefits and costs associated with the proposed changes that will likely impact the charities sector as a whole.***

## **Chapter 4 – Integrity and simplification**

The rationale for the proposals outlined in the Issues Paper is that Inland Revenue has developed draft guidance (which will not be released until after submissions on the issues paper) that departs from its previous views on the taxation of mutual associations. The 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.

While the discussion above regarding Chapter 2 outlines issues that may affect the organisational structure of certain businesses, the issues outlined in Chapter 4 would impact the very nature of BusinessNZ's operations and would also impact a significant number of its direct members. Overall, we are deeply concerned that taxing the profits of BusinessNZ and similar business associations would undermine our purpose, reduce the capacity to serve, and ultimately harm the sectors that we support.

### **NFP and friendly society member transactions and related matters**

#### **About BusinessNZ**

BusinessNZ is itself an NFP organisation that engages with government officials, community groups, MPs, and Ministers on a daily basis to ensure business interests are represented throughout the policy making process. We believe that what we do affects all New Zealanders, because when business is going well, it affects the wellbeing of our economy, our environment, our jobs, our communities, our families and our futures.

Figure 1 below outlines BusinessNZ's structure, which is the most comprehensive organisational structure in New Zealand for business representation. It includes a significant number of other NFP business associations, including four regional associations and 74 Affiliated Industry Group (AIG) members.

We note that while the four regional associations and around 10-15 of our AIG members would be relatively large in terms of staff numbers by New Zealand standards (although still very small when compared with equivalents offshore), most industry associations are 1-2 person operations at most. The reality for almost all business associations is that their predominant funding mechanism is member subscriptions, which typically provide just enough revenue to keep their operations running from year to year.

**Figure 1**



### **What Business Associations stand for**

The Issues Paper advises that under Inland Revenue's revised interpretation, subscription income would be taxable for many not-for-profits currently viewed as mutual associations.

**This change in Inland Revenue's operational position has come as a complete surprise to not only BusinessNZ, but also the wider business association community.**

This proposed change by Inland Revenue to what is a well understood and accepted policy position making logical and intuitive sense, has created a high degree of angst and uncertainty for business associations.

In short, BusinessNZ is at a loss to understand why the Government is potentially seeking to tax the perceived profits of not-for-profit organisations.

BusinessNZ believes the principle of mutuality should continue to apply, based on the current law, noting that this has been the position for decades and well understood by all NFP entities.

BusinessNZ and its regional and AIG members all share a focus on reinvesting any surplus revenue into future options that directly benefit their members and industries in line with the purpose detailed in their constitutions. These include, but are not limited to, professional training, industry research, policy advocacy, and engagement. Any surplus generated by a business association is almost always reinvested into the association's mission rather than allocated to owners or shareholders. Therefore, we believe taxing these funds would be counterproductive, as it would reduce the resources available for the very initiatives that benefit businesses and the broader economy.

### **Statement of clarification**

We note that Inland Revenue has released a question-and-answer statement to provide some further certainty around issues relating to NFPs. One deals with whether bodies promoting amateur games and sport will likely be affected, which states 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."*

While this change will be a relief for those NFPs, BusinessNZ questions why sports clubs and societies promoting amateur sports are treated differently from special interest clubs and societies that promote other pursuits. For example, a local stamp club shares many similarities with a local sports club, with both having committees, member responsibilities, regular meetings, and being largely run by volunteers. The difference is simply that one focuses on sports while the other does not.

If taken a step further, one could also argue that sports clubs and business associations also 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, BusinessNZ believes that sports clubs and business associations should have equal tax treatment as membership-based, not-for-profit organisations that support their communities. Since neither operates for private profit, taxing them differently creates an unfair distinction and from BusinessNZ's perspective

highlights the inadequacy of simply carving out certain groups for preferential tax treatment.

## **Options going forward**

The Issues Paper includes a number of future options to reduce the impact of the Commissioner's updated view on NFPs, particularly smaller NFPs.

One such option includes increasing the current \$1,000 deduction to remove small scale NFPs from the tax system, which would be a relatively simple and easy change to make. It would also make a significant difference at the smaller end of NFPs. A revised net income of say \$10,000 or more would likely exempt a significant number of non-sports clubs from being subject to income tax, thus alleviating some of the problem for such entities.

However, given what we outlined above, any targeted change like this, including modifying the income tax return requirements or resident withholding tax exemption, does not take into account the very nature of what NFPs are set up for and the significant value they provide many New Zealanders. Possible solutions such as the threshold change means that while a large proportion of NFPs would be able to continue in their current settings, it does nothing for those outside the threshold that have the same structure and purpose in place yet would find themselves having to pay tax on any surplus they make. From BusinessNZ's perspective this again seems to represent an inconsistent policy outcome.

What all these associations typically have in common is that they serve their members without a commercial profit motive. This means the margins between making a profit or loss can be minimal. Associations strive towards making an annual surplus, but the reality for many business associations 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 the association must dip into reserves they have built up to make up the financial shortfall. However, the ability of these associations to build up reserves during more favourable economic times and/or membership pick-up so that there is a buffer to continue operations would obviously be curtailed by changes to the tax treatment of NFPs.

The issue of economic conditions often plays a sizeable role in the financial fortunes of business associations. We note that the current economic environment has been especially challenging for many business associations, even more so than during the Global Financial Crisis in 2008-2010. Since membership fees are often among the first expenses cut during cost-saving measures, business associations tend to feel the impact of an economic downturn more acutely, and with a delay. Each membership cancellation typically affects revenue for an entire year, extending the financial strain over time.

Last, as outlined above regarding changes to charities, adjustments to the NFP tax settings can lead to not only increased tax payment obligations, but also increased compliance costs, causing increased strain on limited resources. Higher compliance costs will force many business associations to divert resources from core activities like advocacy, training, and networking to tax management. This may lead to increased fees, reduced services, thus weakening their ability to support businesses.

Overall, BusinessNZ believes that outlining potential policy changes to reduce the impact of the Commissioner's updated view on NFPs does not address the core problem regarding a fundamentally different stance taken by the Commissioner that does not align with the day-to-day reality and practices of NFPs, including business associations.

### **Alignment with offshore practices**

Last, as also outlined in our discussion regarding charities above, any changes in New Zealand need to be done in a way that takes into account typical offshore practices. Many countries recognise the importance of tax-exempt status for not-for-profit business associations. In jurisdictions such as 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. These policies acknowledge the broader public and economic benefits that business associations provide and reinforce the principle that they should not be taxed like commercial enterprises.

In summary, BusinessNZ believes that Inland Revenue's departure from its previous views on the taxation of mutual associations represents a stance that does not align with the intent and purpose of what almost all NFPs stand for. Proposed options to alleviate the impact of the Commissioner's updated view are piecemeal at best and fail to fully address the core of what NFPs, including business associations, provide both its membership and the wider economy on a daily basis.

***Recommendation: Government does not proceed with a draft operational statement regarding the Commissioner's updated view on the tax status for not-for-profit entities.***

Thank you for the opportunity to submit, and we look forward to any updates in the near future.

Yours sincerely,

s 9(2)(a)

Katherine Rich  
**Chief Executive**  
BusinessNZ

31<sup>st</sup> March 2025

### Submission on Charity Tax Settings from Playcentre Aotearoa

To Inland Revenue,

Playcentre Aotearoa would like to submit feedback to Inland Revenue on the proposed tax changes to charities. Playcentre Aotearoa is a charitable trust and has approximately 14,000 volunteers.

#### Question 1: Reasons to not tax charity business income

Charities in New Zealand are under significant pressure, with the cost of compliance with other legislation growing (e.g. health and safety), while the proportion of the population willing to volunteer their services is decreasing and securing funding through grants is becoming more competitive. Parents Centre, which had similar objectives to Playcentre Aotearoa, has recently ceased operating due to these pressures. For those charities who can afford to hire professional staff, they are always under resourced, and for charities using volunteers, the environment is becoming increasingly complex and of higher risk to them personally.

In this environment, adding in the complexity of determining whether income is taxable or non-taxable, and then allocating costs to taxable income to minimise tax costs, could put some charities at significant risk of failure. Many charities will feel they have no option but to seek professional tax advice, while others may expose themselves to personal liability by making incorrect assumptions about tax.

#### Question 2: Practical implications of taxing business income for charities

As noted above, it is the compliance cost and the risk of unintentional non-compliance by unqualified volunteers which is the biggest concern. At Playcentre Aotearoa, playcentres used for early childhood education (part of our charitable purpose) are also used for community groups, birthday parties, etc to subsidise the cost of providing the early childhood services. Empty playcentre buildings are sometimes sub-leased to offset the cost of maintenance until the building is repurposed or sold. Playcentre Aotearoa is in the process of amalgamating all its playcentres to operate as one national organisation, so potential business income is likely to be over any minimum threshold.

Our volunteers run various fundraisers to assist their centre to continue operating, and the variety of these would make it impractical to assess each one to see if it qualified as business income, and to assign related costs. If the proposed changes do go ahead, the definition of business income would need to be very clear, with many examples, to allow charities like us to set up processes to avoid the risk of non-compliance (e.g. by banning types of fundraising which would be categorised as business income). A possible unintended consequence of the proposed changes may be charities having to get tax advice every time they considered changing the way they invest surplus funds (e.g. purchasing a second rental

“Whānau tupu ngātahi – families growing together”



property) to check the income tax implications.

#### Question 3: Criteria to define an unrelated business

Some of the issues raised above may be removed, depending on the criteria used to define unrelated business activity. If an activity is secondary to the main activity of the charity and is intertwined (using same staff/volunteers and assets), then it should be deemed a related activity.

#### Question 4: Threshold for exemption from small-scale business activities

It seems reasonable to continue the exemption for Tier 3 and 4 charities, which are more likely to be run by volunteers, less likely to distort the tax system and unlikely to provide substantial tax revenue. It would mitigate the risks detailed above if business income below a reasonable threshold was non-taxable for Tier 1 and 2 charities. A threshold of \$100,000 per annum total income allow most charities to minimise compliance costs, effectively making an annual high-level assessment that business income is clearly under the threshold. The imperfections in the income tax system would be restricted to a small amount of business income and would be unlikely to have a distorting effect.

#### Question 13: Likely implications of removing or reducing FBT exemption for charities

As noted in the proposal, avoiding the cost of complying costs with FBT regulations is one of the main reasons charities are exempt. Current FBT regulations cause high compliance costs and drive unintended outcomes and behaviour. FBT regulations are presumably complex to minimise tax avoidance so reviewing these to simplify compliance while continuing to minimise tax avoidance will obviously be a challenge. Until proposals are put forward which demonstrate that FBT compliance costs will be significantly lower than is currently the case, our view is that extending FBT regulations to charities will result in both higher compliance costs and unintentional non-compliance by unqualified volunteers.

If FBT compliance is somehow greatly simplified, there still is likely to be an impact on charities. Current arrangements, for example providing cars to staff and allowing them to park them at home, will have to be reviewed and different arrangements made, to avoid FBT being applied to the deemed value of "available for private use". Charities tend not to have the capacity or capabilities to manage such change well and it may put them at risk of unintentional non-compliance.

#### Question 14: FENZ simplification extension

We support the change to make Honoraria classified as wages and salaries. Having volunteers receive an invoice for ACC levies is both confusing for them and results in additional compliance for them and/or the organisation (if the organisation reimburses them for the ACC Levies).

For more information, please contact

Stephen O'Neil

Chief Financial Officer

Playcentre Aotearoa

s 9(2)(a)



# weave

HAWKE'S BAY

TO: INLAND REVENUE DEPARTMENT, [policy.webmaster@ird.govt.nz](mailto:policy.webmaster@ird.govt.nz)

FROM: WEAVE HAWKE'S BAY INCORPORATED

RE: TAXATION AND THE NOT-FOR PROFIT SECTOR

DATE: 31 MARCH 2025

Weave Hawke's Bay Incorporated, formerly Napier Family Centre Incorporated, have been providing charitable services for over 40 years as a social service organisation.

While we welcome a review, we are concerned around the lack of detail in the proposals which could create unintended consequences for organisations like us that want to continue to explore ways to create sustainable income streams to help meet our charitable purpose and the demand for our services in the community.

The charitable sector is the backbone of New Zealand delivering support and services to the hardest to reach more effectively than many private or public entities. The charitable sector is an area not commonly understood and is a sector that is continually underfunded. There needs to be a mindset shift to create an environment where the sector can seek sustainable income streams and move from dependence to independence. Any final changes implemented following this review need to support this approach as a fundamental consideration. We feel more work and analysis directly with the sector needs to be done before any changes are confirmed. If we as a sector, feel challenged to have to divert income and/or cannot 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.

Given it is unclear what definitions will be used, and what might be provided to be taxed in the future, IRD must be sure that any proposals do not erode charities tax position, even in a small way as this will have dire consequences for those continually running on the smell of an oily rag year to year. As an example there should have been proposed definitions provided for "related" vs. "unrelated" activities so the impact could be better considered and understood. It is also unclear what any compliance costs of implementation as the current consultation contemplates many new definitions, special rules and thresholds taking a relatively simple tax framework to a more complex one – which will have a cost.

For Weave Hawke's Bay, currently none of our activities produce business income that is not charitable in nature. We rely on government funding heavily to pay our professional and qualified staff to carry out the counselling, social work, financial mentoring and early childhood services at minimal cost but still paying an equitable wage. However, this does not truly fund the costs of our services as we deliver based on community need and to support our own internal infrastructure, which is often not funded by Government as their contacts are based on service use/sessions. Given this, we also heavily rely on donations and grants from many of the charities mentioned in the paper. We would not be able to continue to operate without their help. As such, depending on how they are constructed, and the definitions used, their tax



# weave

HAWKE'S BAY

exempt status should continue as they mainly invest the funds they have so as to get a return which would enable them distribute to as many charities as possible.

With regard to the subject of FBT as a salary incentive for staff, as mentioned before, we pay equitable wages in line with the type of work our staff carry out in order to be able to attract the quality of staff required to provide the maximum benefit to our client base and to meet contractual obligations that we can account for honestly and ethically.

## **Recommendations**

More work and consultation needs to be undertaken with sector experts to further develop ideas, definitions and costs and to work through any potential unintended consequences with a overarching principle any changes should not discourage charities from seeking sustainable income streams and being innovative.

Ngā mihi

s 9(2)(a)

Kerry Henderson  
**Weave Hawke's Bay CEO**



**Thankyou  
Payroll**

Deputy Commissioner, Policy  
Inland Revenue Department  
Sent by email

23 December 2021

Tēna koutou,

**Submission on the Taxation and the Not-for-profit Sector**

We thank you for the opportunity to submit feedback on the consultation of Taxation and the not-for-profit sector as issued on 24 February. As a payroll software provider for 6000+ businesses and 800+ charities. We strongly support the nonprofit sector's contribution towards Aotearoa New Zealand's social wellbeing and economic goals, and as such we do our bit by offering free services to them.

We are also supportive of a fair and equitable taxation system. We do not believe that the changes suggested will achieve this goal. While we agree that tax abuse within any sector is unacceptable, the scale and depth of the issues described is unclear and lacking evidence and data. The paper appears to jump to conclusions without presenting and assessing data that proves or disproves the effectiveness of the current state. The paper does not address the potential harms and unintended consequences to other parts of the ecosystem, such as demand for increased government spending in areas that would be defunded through these proposals.

“Charities run on batteries but businesses run on solar panels” distinguishes the difference between the models that businesses and charities rely on. Charities (particularly smaller ones) are constantly looking for the next income source, while their resources are constantly depleting. Increased costs, reduced government assistance and lower grants means that charities need to be innovative to survive. So, they have to think like a business, but not act like one. Therefore, to compare a charity to a business based only on their income and expenses alone, is too simplistic.

There are concerns that the definition of “unrelated business activity” is very ambiguous and differs based on context. Not only is this difficult to understand for the taxpayer, but we would assume that additional spending on enforcement mechanisms will be required. Much like the Holidays Act of today, getting it wrong has enduring impacts with high public and political challenges. Nevertheless, the lack of clear definition creates further administrative burden and tax compliance costs.



**Thankyou  
Payroll**

We are supportive of any changes to improve donation tax credits (DTC) to help the sector increase donations. However, we believe that there was a missed opportunity to review payroll giving in the context of DTC. As a PAYE intermediary, we note that payroll giving only amounts to 0.18% of all employees in our books. Small things like the inconsistent charities list between IRD and Charities Services makes compliance inefficient and implementation difficult to have this as an avenue to increase donations to charities.

Ultimately, the role of the sector is to serve society, the environment and our most vulnerable groups, helping them when the government can't. This sector needs to innovate and prosper to reduce the burden on the government. We support a fair tax system but not at the expense of the people who need the services the most.

Ngā mihi nui,  
s 9(2)(a)

**David Morrison**  
Chief Executive Officer

## **Submission on Taxation and the Not-For-Profit Sector**

Kia ora

My name is Caroline Jewkes. I believe that there should be no taxation of Not-For-Profit services and the businesses that support them.

I work, volunteer and worship at The Salvation Army in Hamilton. For many years this work was in Salvation Army community services. In this role I saw firsthand the difference that funding (or a lack thereof) makes to our ability to help and care for people in our community. This funding includes profits from our Family Stores and income from reserved funds as well as donations and government funding.

In the NFP sector, money equates to lives changed and a reduced cost to the community overall. When funding for charities decreases, services are impacted and the number of people we can help is reduced. This results in a significant human cost – people remain in poverty, homelessness, addiction and the like. Such social issues impact individuals and families. With our massive rates of child poverty, and ongoing issues around homelessness, addiction, crime, etc this is not the time to be reducing services that support families and individuals who are experiencing harm.

Each week at our Recovery Fellowship (for people in addiction and their supporters) I hear about the difference The Salvation Army programmes make in their lives. Many say that the support from The Salvation Army has saved their lives. This is true both in a literal sense and in the quality of life and contribution to society that is created through treatment and support. Through our addictions treatment and other social services, people return to health, to work, and to law-abiding lives, children are reunited with their parents and people are lifted out of poverty. For every person who is turned away because of lack of funding, the costs go back on the taxpayer in health, justice, various social welfare services and the like.

In relation to questions raised in the discussion document:

- As self-funding for community services in the NFP sector is impractical, income from unrelated business activities is the life blood of continued provision of services. Any reduction in this income equates to a reduction in funding for services and an increase in financial cost to the community and in social harm.
- Basing tax exemption on volume of business income (Q4) ignores the fact that the higher the income the more services it funds. Economies of scale aside, the per-person impact is fundamentally the same whether the reduction in funding is for a large service with many clients or a smaller service with fewer clients. Therefore, tax exemption should be retained for all tiers of NFP income.
- Restricting business income tax exemption to fund-raising activities, volunteer run services and on-selling of donated goods (2.24) forces NFP services into a narrow and already over-crowded sector of the market. There is only so much money to be made from op shops and cake stalls and only so many volunteers to run them. Allowing tax exemption for other NFP business activities broadens the base from which funding can be drawn.
- The opportunity to reserve or accumulate funding (2.26) allows for forward planning for services to prepare for larger scale projects (including capital projects and investment in the development of new services or models of practice). Ultimately this funding

supports charitable services and as such it should not be removed from tax exemption.

- Less money in the NFP sector means greater cost to the taxpayer in health, crime and justice, social welfare, etc. This is not the sector to be looking to for cost savings. Perhaps try those people who are already 'wealthy and sorted' if you want more tax income!

Thank you for the opportunity to speak to this review. I am happy to be contacted if needed.

*Caroline Jewkes*

Member and employee of The Salvation Army (Hamilton)

Contact:s 9(2)(a)

31 March 2025



# Hawke's Bay Fruit Growers Association - Submission on the IRD Consultation Paper

## Taxation and the Not-for-Profit Sector

26<sup>th</sup> of March 2025

Kia ora koutou,

On behalf of the Hawke's Bay Fruitgrowers Association (HBFA), a not-for-profit entity, and the Hawke's Bay Fruitgrowers Charitable Trust (HBFAC), we appreciate the opportunity to submit feedback on the proposed tax changes outlined in the IRD's consultation paper on "Taxation and the Not-for-Profit Sector."

As long-standing organisations serving Hawke's Bay's horticultural sector, we represent family-owned fruit growing businesses and industry with a core mission to promote, foster and protect, advocating for growers within Horticulture. Our charitable arm (HBFAC) delivers significant public benefit through grants that benefit research initiatives, industry development, and industry-wide resilience programmes.

### General position:

We support the IRD's goals of integrity and simplification and agree that fair and transparency is essential for a thriving charitable and not-for-profit sector. However, we strongly caution against changes that risk undermining the financial sustainability and impact of the charitable sector as a whole - particularly for regional charities like ours that work closely with the community to deliver cost-effective outcomes.

### Key concerns:

#### 1. Loss of Tax exemption on business Income

- Our organisations generate modest revenue through sponsorships, events, disaster relief, that are reinvested 100% into charitable outcomes, including vocational training, research, wellbeing initiatives, and community support.
- Removing the tax exemption for "unrelated" business income risks penalising financially responsible charities that are proactively reducing their reliance on donations and grants.
- Defining "related" vs "unrelated" business activity is inherently subjective and may result in significant compliance costs and legal ambiguity. This disproportionately affects smaller organisations with limited administrative capacity.

#### 2. Increased compliance costs and complexity

- HBFA and HBFAC operate on tight budgets, rely on volunteer labour, and already face high governance and transparency obligations. Any increase in tax compliance or reporting requirements would reduce the resources available to deliver on our charitable mission.
- We strongly support a *de minimis* threshold for smaller charities and not-for-profits, especially Tier 3 and Tier 4 entities, to minimise the cost of compliance.

#### 3. Fringe benefit tax (FBT) Changes

- Removing or reducing FBT exemptions for charities may make it more difficult to attract and retain staff, particularly in regional areas like Hawke's Bay where private transport is essential.
- While we acknowledge the intent to create consistency, any FBT changes should consider the unique role charities play in public service delivery and the limited remuneration flexibility available to them.

#### 4. Donor-controlled charities

- While HBFAC is not a donor-controlled charity, we agree that transparency and accountability are critical. However, proposed rules must be proportional, evidence-based, and not restrict legitimate charitable giving and strategic investment for long-term impact.

#### 5. Recognition of sector contribution

- The consultation paper does not adequately acknowledge the *net benefit* delivered by charities to government and society. Charities like HBFACt often fill gaps that government cannot, at a fraction of the cost.
- In Hawke's Bay, our programmes support youth employability, seasonal workforce stability, Event resilience, and grower mental health – all priorities that align with broader public policy goals.

## Recommendations:

- **Retain the existing tax exemption on business income** where income is used to further the charitable purpose, regardless of whether the source is “related” or “unrelated.”
- **Implement a simple, robust *de minimis* exemption** for smaller charities to avoid disproportionate compliance costs.
- **Provide clear, evidence-based guidance** on donor-controlled charities, grounded in data about the actual scale and risk of abuse.
- **Retain the current FBT exemptions** or offer transitional support for charities most impacted.
- **Undertake a full cost-benefit analysis** of proposed changes, including the downstream fiscal and social impact if charities are forced to scale back services.

## Conclusion

HBFA and HBFACt urge IRD to carefully consider the unintended consequences of well-intentioned reforms. A vibrant, independent charitable sector is vital to the future of our community in Hawkes Bay. We support measures that improve integrity but believe this should be achieved through targeted enforcement and thoughtful policy design - not through broad tax changes that risk penalising good contributors. “Ensure the medicine fits the illness” approach is needed here.

Ngā mihi nui,

HBFA (Hawkes Bay Fruit Growers Association) & HBFACt (Hawkes Bay Fruitgrowers Association Charitable Trust)



## **Submission on the Officials' Issues Paper: *Taxation and the Not-for-Profit Sector***

**Submitted by:** Leukaemia & Blood Cancer New Zealand

**Date:** 31 March 2025

**Contact:** Tim Edmonds, CEO, s 9(2)(a)

### **Summary of Position**

Leukaemia & Blood Cancer New Zealand (LBC) is a national charity providing critical patient support, advocacy and research for New Zealanders affected by blood cancers and related conditions. We welcome the opportunity to contribute to the consultation on taxation settings for the not-for-profit sector. This submission addresses Q1-Q7 and Q13 of the issues paper. LBCNZ has no position on the remaining questions raised.

LBCNZ strongly opposes:

1. Any change to the current business income tax exemption for registered charities, including proposals to tax “unrelated” business income; and
2. Any removal or reduction of the fringe benefit tax (FBT) exemption for charities.

We urge the Government to proceed with caution and preserve a tax framework that enables charities to carry out their work without unnecessary compliance burdens or reduced capacity.

### **1. Charity Business Income Tax Exemption (Q1–Q6)**

We oppose any narrowing of the income tax exemption that would tax so-called “unrelated” business income. While we understand the concern about competitive neutrality and integrity risks, the current framework already serves the sector and the public well. Introducing a new layer of taxation would create serious risks and unintended consequences for charities like ours.

#### **a. Definitional Ambiguity**

The issues paper offers no firm or reliable guidance on what would constitute an “unrelated” business activity. This ambiguity creates considerable uncertainty. Many of our income-generating activities are standard across the charitable sector - such as merchandise sales, fundraising events, or sponsorship arrangements - but might not be easily classifiable under a new test.

Charities need clarity to operate confidently. In the absence of a precise and transparent definition, we are concerned that:

- Charities could inadvertently breach tax obligations due to misclassification.
- Valuable sources of funding may be abandoned out of fear or confusion.
- Risk-averse compliance behaviour could lead to reduced innovation and community engagement.

The mere prospect of these outcomes would have a chilling effect on mission-driven initiatives.

## **b. No Evidence of Competitive Harm**

The argument that the exemption confers an unfair advantage over for-profit businesses oversimplifies the real-world conditions in which charities operate. Charities:

- Cannot distribute profits to private individuals or shareholders.
- Cannot raise capital through equity markets.
- Must reinvest surpluses into their charitable mission.
- Often rely on volunteer labour and operate under stricter governance frameworks.

In practice, charities must balance public accountability with sustainable operations. Our trading activities are not commercial for commerciality's sake - they exist solely to support the delivery of public benefit. The public rightly expects that surplus funds from those activities are directed to our charitable purpose. That is exactly what we do. Taxing these surpluses would only diminish the resources available for public-good outcomes.

## **c. Disproportionate Compliance Burden**

Any regime that distinguishes taxable and non-taxable income streams will inevitably increase compliance costs. This would require significant investment in legal and financial advice, even for small-scale fundraising. Charities like LBC do not have dedicated tax teams, and every dollar spent on compliance is a dollar not spent on delivering services.

This burden would be most acute for small and medium-sized charities that lack internal administrative capacity. Even with a de minimis threshold, the line between exempt and non-exempt activity would likely be too complex to manage efficiently. We believe a better approach is to maintain a simple, principled rule: if the income supports charitable purposes, it should remain exempt.

## **d. Funding Flexibility Is Crucial**

Modern charities must be flexible and resilient in their funding strategies. Diversifying income through fundraising, sponsorship, partnerships, and earned revenue is not optional - it is essential. Donor patterns shift. Government funding changes. Economic conditions fluctuate.

If charities are penalised for adapting to these realities through responsible, income-generating activity, we risk undermining their sustainability. In a resource-constrained environment, all available funding sources must be leveraged to maximise impact. The tax system should support, not constrain, this imperative.

## **e. Alternative Safeguards Exist**

If the concern is ensuring that tax concessions are not abused, we believe this is better addressed through:

- Strengthened reporting and transparency requirements.
- Clear guidance from regulators.
- Robust application of existing charitable purpose tests.

These tools are already available and can be enhanced as needed. A wholesale shift to taxing accumulated business income, particularly where "unrelatedness" is vaguely defined, would be excessive and harmful.

## **2. Fringe Benefit Tax (FBT) Exemption (Q13)**

LBC also opposes any reduction or removal of the FBT exemption for charities.

Charities operate in a labour market where they must compete for skilled and dedicated professionals, often on significantly lower base salaries than comparable roles in government or the private sector. Non-cash benefits - such as wellbeing support, modest perks, or allowances - are a valuable and cost-effective way to attract and retain talent.

Removing the exemption would:

- Introduce new compliance obligations for already stretched finance teams.
- Incentivise a shift toward cash remuneration (even when non-cash recognition is more appropriate or meaningful).
- Reduce flexibility in how we can support staff, particularly those working in emotionally and operationally demanding roles.

The rationale for this exemption remains sound: it allows charities to use limited resources more efficiently to support their workforce. We do not believe the distortions this causes are significant enough to justify policy change - especially when no substantial integrity risk has been demonstrated.

## **3. Conclusion**

LBC respectfully submits that the current tax exemption framework for charities is fit for purpose, noting that it:

- Recognises the reinvestment of all surpluses into charitable outcomes.
- Enables innovation and adaptability in how charities fund their work.
- Avoids unnecessary administrative cost and complexity.
- Reflects the public's expectation that charities should direct resources toward service delivery, not tax compliance.

We therefore strongly recommend that:

1. The current income tax exemption for registered charities be retained in full.
2. No attempt be made to tax "unrelated" business income, especially in the absence of clear and reliable definitions.
3. The FBT exemption for charities be maintained to support operational flexibility and workforce wellbeing.

We thank officials for the opportunity to provide feedback and would welcome the chance to discuss these matters further if needed.

Kind regards,

s 9(2)(a)

**Tim Edmonds**

On behalf of Leukaemia & Blood Cancer New Zealand

**From:** s 9(2)(a) **Sent:** s 9(2)(a)  
**To:** Monday, 31 March 2025 12:34 pm  
**Subject:** Policy Webmaster  
Taxation and the Not-for-Profit Sector

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

Tēnā koe,

Hope that this email finds you well.

I'm wanting to respond to question 2 as per below.

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

Answer: To call something a business income that is unrelated to charitable purposes is not really fair since the income in one way or another affects how a charity operates. Having less income would make a charity less able to do the good work that they do and affects the people that benefit from the work of the charity in negative way/s.

Please ensure that all of my personal information (e.g. name, etc) is withheld for privacy purpose, and please do not contact me to discuss points raised.

Ngā mihi,

s 9(2)(a)

The Salvation Army | Territorial Headquarters | Booth House, 202-204 Cuba Street, Wellington 6011 | PO Box 6015, Wellington 6141

T: (04) 802 6269 E: s 9(2)(a) | W: [www.salvationarmy.org.nz](http://www.salvationarmy.org.nz)

The email message may contain information which is confidential. If you are not the intended recipient, you must not peruse, use, disseminate, distribute or copy this email or attachments. If you have received this message in error, please notify us immediately by return email, facsimile or telephone and delete this email. Thank you.

<b>Chapter 2: Charities business income tax exemption</b>	<b>Thoughts to ponder for submissions</b>
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?	<ul style="list-style-type: none"> <li>• If the proceeds of revenue are not applied to the purpose of the charity. Within reasonable time. Ie: Limit the accumulation time.</li> </ul>
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"> <li>• The additional cost of compliance will kill any innovation in the sector to diversify the sources of funding.</li> </ul>
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"> <li>• Tax exemption should not be removed from unrelated businesses.</li> <li>• The accumulation should be limited and forced to distribute the within 24 months of the end of financial year.</li> <li>• Data should be collected in the annual charity returns and measured.</li> <li>• Penalise accumulated income from unrelated business with tax.</li> </ul>
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"> <li>• It should not be removed.</li> </ul>
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"> <li>• It should not be removed.</li> </ul>
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	<ul style="list-style-type: none"> <li>• Compliance cost will increase</li> </ul>

in this paper do you think should be considered?	
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?	<ul style="list-style-type: none"> <li>• Government should define donor related charities.</li> <li>• The focus of this change and paper should be on donor controlled charities and foundation and not on the wider sector.</li> </ul>
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?	<ul style="list-style-type: none"> <li>• As above</li> </ul>
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?	<ul style="list-style-type: none"> <li>• The scale of abuse and opportunities of abuse need to be studied and changes made to create a robust governance structure by having independence in achieving the purpose of the charity.</li> </ul>
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: <ul style="list-style-type: none"> <li>• increasing and/or redesigning the current \$1,000 deduction to remove small scale NFPs from the tax system,</li> <li>• modifying the income tax return filing requirements for NFPs, and</li> <li>• modifying the resident withholding tax exemption rules for NFPs.</li> </ul>	
Q11. What are the implications of removing the current tax concessions for friendly societies and credit unions?	
Income tax exemptions	
Q12. What are the likely implications if the following exemptions are removed or significantly reduced: <ul style="list-style-type: none"> <li>• local and regional promotional body income tax exemption,</li> </ul>	

<ul style="list-style-type: none"> <li>• herd improvement bodies income tax exemption,</li> <li>• veterinary service body income tax exemption,</li> <li>• bodies promoting scientific or industrial research income tax exemption, and</li> <li>• non-resident charity tax exemption?</li> </ul>	
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?	
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?	
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?	

Sumita Paul

Trustee, Board Chair – Grief Centre

Board member – YWCA Aotearoa/NZ

Email: s 9(2)(a) 





# Home & Community Health Association

120 Featherston Street  
PO Box 5344  
Wellington  
New Zealand

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[www.hcha.org.nz](http://www.hcha.org.nz)

31 March 2025

Hon Simon Watts  
Minister of Revenue  
Parliament Buildings  
Wellington

Hon Minister Willis  
Minister of Finance  
Parliament Buildings  
Wellington

Dear Ministers

## **Home and Community Health Providers Concerns Regarding the Taxation of Not-for-Profit Business Associations**

We wish to express our deep concerns regarding Inland Revenue's revised interpretation of the taxation of mutual associations, as outlined in their recent Issues Paper. The proposal to tax subscription income of not-for-profits, including associations, would undermine their core purpose and weaken their ability to support the businesses and sectors they serve.

The Home and Community Health Association (HCHA) membership includes both private and government-contracted and funded association members, most of which are not-for-profit organizations. These organizations operate on very tight budgets, and the unintended consequences of these changes would heavily impact an already strained sector. This could also undermine the stability of the sector and HCHA itself, which serves as a vital bridge between the sector and the government.

Currently, HCHA provides opportunities for robust engagement across a wide range of NGO and private organisations, offering efficiency and support for the government. HCHA does not receive government contracts or financial provisions; member subscriptions primarily cover operating costs. We believe that taxing subscription income and other elements would impose unnecessary financial strain and limit the Home and Community Support Services (HCSS) sector's collective ability to invest in system and process upgrades, health & safety initiatives, sector-related training, quality assurance initiatives, and sector engagement and advocacy. These efforts directly benefit the government, healthcare communities, and patients, reducing the

impacts and burden on hospitals and primary care, and by extension, the wider economy.

The HCHA and our affiliate partners, including Carers NZ, Hospice NZ, Parkinsons NZ Charitable Trust and Stroke Aotearoa New Zealand, support the aging and serious injury population and address the critical issues of our time. Their practices and supporting services are vital to reducing emergency department waiting lists now and in the future. A destabilisation or even financial destruction of these entities would be dire.

The revised position by Inland Revenue has come as a complete surprise to many in the HCSS and wider association community. The current tax treatment of mutual associations has long been an accepted foundation of tax policy for such organisations, and this abrupt change disregards the unique nature of not-for-profit operations. If Inland Revenue now takes a differing view, a legislative amendment should be considered to reinstate the longstanding position that membership subscriptions are not taxable income.

Moreover, we question the inconsistency in tax treatment between different types of not-for-profit organisations. Inland Revenue has confirmed that sports clubs and societies promoting amateur games will continue to be tax-exempt, yet business associations, despite sharing many similarities as membership-based organisations, could be treated differently. Both types of organisations typically reinvest any surplus into their mission rather than generating private profits, and both provide critical services to their members and the wider community. Treating them differently from a tax perspective is both unfair and illogical.

While the Issues Paper outlines possible measures to mitigate the impact of these proposed changes, such as raising the tax-free threshold for small not-for-profits, these solutions fail to address the fundamental issue of unequal treatment. This piecemeal approach does not resolve the broader problem of taxing organisations that operate without a profit motive and exist solely to support their members. Additionally, introducing taxation on surpluses would hinder these organisations' ability to build financial reserves, which are often critical especially in times of stringency and challenge.

Internationally, comparable jurisdictions such as Australia, the United Kingdom, and the United States recognise the value of tax-exempt status for not-for-profit business associations. Their policies typically reflect the economic and social benefits these groups provide. If New Zealand moves forward with this proposed change, it risks isolating itself from common global practice and weakening the ecosystem that supports businesses and industry development.

In light of these concerns, we strongly recommend that the Government does not proceed with a draft operational statement endorsing Inland Revenue's revised interpretation. Instead, we urge the maintenance of the long-standing tax treatment

of not-for-profit business associations, ensuring that these essential organisations can continue to serve their members and the wider New Zealand economy effectively.

**Thank you for your time, consideration and favourable support.**

Yours sincerely,

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s 9(2)(a)

Lisa Foster

**Chief Executive**



Home & Community Health  
Association

Tel: s 9(2)(a)

P O Box 5344, Wellington 6140  
Please note I work Monday to Thursday.  
[www.hcha.org.nz](http://www.hcha.org.nz)

**HCHA Provider Members:**

Access Community Health Ltd  
Care On Call  
Counties Manukau Homecare Trust  
Drake Medox  
Disabilities Resource Centre Trust  
Forward Care Home Health  
Healthvision NZ Ltd  
Hauora Hokianga Trust  
Home Support North Charitable Trust  
IDEA Services (IHC NZ Ltd)  
Laura Fergusson Brain Injury Trust  
Lavender Blue Nursing and Home Care

Life Plus  
Lifewise Trust  
Mana Ātea  
Ngāti Hine Health Trust  
Ngati Ranginui  
Nova Health  
Nurse Maude Association  
Omahanui Homecare  
Pacific Island Homecare Services Trust  
Enliven – Presbyterian Support East Coast  
Presbyterian Support Northern Enliven  
Presbyterian Support South Canterbury  
Radius Care  
Royal District Nursing Service (RDNS)  
Spectrum Care  
Te Kohao Health  
Te Korowai Hauora o Hauraki Inc.  
Te Puna Ora o Mataatua  
Te Taiwhenua o Heretaunga  
TLC4U2 Ltd  
Tuwharetoa Health  
Visionwest Community Trust  
Whaioranga Trust Kaupapa Māori Health &  
Social Services  
Whaiora Homecare  
Te Oranganui Trust  
Mannis Community Care  
Good Partners Healthcare  
Solace Homecare Services Limited



# Taxation and the not-for-profit sector – Te Omanga Hospice Submission

Thank you for the opportunity to provide feedback. Our submission addresses the consultation questions directly using national hospice data. The intention is to reveal what consequential impacts there may, or may not be, on hospices and our public health system depending on the policy choices raised in the consultation paper.

## **The benefit hospices provide**

Hospices provide care to 11,000 people who die and their families each year. In addition, another 9,000 people living with a terminal illness are cared for each year by hospice. We do this in a funding and service partnership with the publicly funded health system. Because of the critical role of the taxpayer funded component of our service, hospice supports the principle of a broad-based tax system with a tax rate that sustains the investment required for a well performing health system.

Hospice provides a net benefit to government that the government would otherwise be financially liable to pay for. Removal of tax exemption would significantly impact hospice capacity to provide palliative health care and shift demand to fully government funded services such as emergency departments or hospital. Or, alternatively, create a requirement for additional government funding.

## **Importance of provisioning for capital funding**

Hospice also provide their own capital funding, as well as significant service delivery funding. This means accumulation of reserves for capital investment (such as in-patient facilities) is prudent. This is important for the questions relating to donor-controlled charities because they may be an important source of capital funding.

## **Is there a better way?**

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

## Discussion questions

### 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?

Charities are a critical component of civil society. Close to their community, and free from the innate constraints of government bureaucracy. Charities can be nimble and innovative in the provision of public good. In doing so, charities provide valuable competition for government. Charities make the market for both funding and provision of public goods contestable. As regards the funding side of this equation, that is a unique feature of charities. In doing so charities:



- Enhance the efficiency of government spending by providing another option for funding, delivery and prioritisation of public services – this is particularly true of hospice care
- Reduce the need for tax overall, thereby reducing the dead weight loss of tax collection
- Deliver intangible benefits such as social connection and community social cohesion, this is particularly true of the over 10,000 hospice volunteers

For hospice, business income is a critical part of hospice funding for palliative care. Each year over 30,000 New Zealanders die. Over one third of those, that is around 11,000 people, die in the care of hospice. In addition, another 9,000 people living with a terminal illness are cared for each year by hospice. A total of 20,000 people plus their families are helped each year. Hospice funds 35% of the cost of providing that care – that is more than \$60 million of health service funding. Overall total hospice charitable income is \$112 million, of which total business revenue is more than half, that is around \$60 million. Most of the business income is from the 137 hospice second hand retail shops. Business profit from hospice retail is over \$20 million, this profit is used to contribute to the \$60 million that hospice funds palliative care services annually.

The operating costs of providing health care are regular, and large. In contrast, donations, bequests and street appeals are lumpy and uncertain. For this reason, hospices increasingly pursue a range of business income, because business income provides a regular revenue stream against which hospices can budget operating costs (this is also a reason why charities hold reserves, so to manage funding / revenue uncertainty). Second-hand shops are not the only business, hospices run other businesses, such as farming for hospice and property development and residential rentals. These businesses are vital to sustaining, in total, an over \$200 million component of our health system.

When we look to the near future, we know that an ageing population inevitably leads to an increase in people dying. The need for hospice services is set to increase by over 50% in the next 20 years. Hospices will be directly involved with around 16,000 deaths by 2043. On top of that, there will be over 13,000 people who are in the last year of their life also needing care from hospice. So, in 2043, that will be around 30,000 people who will need care from hospice care in one year. We will need to be able to fundraise for a substantial expansion of hospice capacity to meet this growing need.

In light of this, we would ask if the objectives of the review might be better achieved via using the charities register and charities law, rather than a blanket approach using tax law. How big is this issue and is this the right means?

With specific reference to items 2.13 and 2.14.

2.13 – compliance costs of tax obligation. Hospices must prepare audited accounts for all parts of their operation. The cost of tax compliance is the marginal cost on top of existing and common (across tax and non-taxed entities) cost of accounting and audit. Accounting and audit compliance costs are the substantial costs here – not the marginal cost of a tax return. Absence of tax compliance, when seen in context, is not commonly a major benefit. In as much as compliance is a cost, that cost, if required in the future, would diminish the amount of funding available for hospice care.

- non-refundability of tax losses. The value of a higher rate of after-tax return and



the ability to sustain a business through difficult times needs to be considered in the context of the charitable service delivery trade-offs that a charitable business needs to make. Hospice businesses are in the business of funding palliative care services, and the call on profits for that charitable purpose is very strong. This mitigates against the build-up of surpluses over and above that of a taxed business that would provide an unfair buffer against business losses.

2.14 - cost of capital. Second-hand retail is not a capital-intensive business (for example, stock is donated). Therefore, differences in either relative costs of capital, or access to capital, are not significant factors in the principal charitable business of hospice. Little distortion is created by different tax treatment as a consequence of the relatively minor role of capital.

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

The most significant impact would be that the Crown would have to fund the difference immediately to sustain critical health services. Or, if not, fund more than the difference to pay for a large shifting of health costs to expensive and stressed parts of the public health system, such as emergency departments.

Hospice funds and provides a core public health service. Palliative care is the only medical speciality that has grown out of the community. This history means today's specialist clinical service retains large vestiges of its charitable origins – particularly charitable funding for both service delivery and capital (hospice in-patient facilities for example). This health service is provided by a workforce of specialist palliative care physicians, nurses and allied health professionals. While this is undertaken in a funding partnership with the Crown, 35% percent of this core public health service is paid for from charitable sources, and more than 40% of that funding comes from Hospice retail business profits. A smaller proportion comes from some other types of hospice businesses (one hospice has a residential housing company for example, or farming for hospice).

Second-hand charity retail is a mature and competitive business. Reasonably limited opportunities exist for expansion to off-set any reduction in charitable revenue due to tax. Demand for hospice services is another matter.

There is growing demand for hospice care – death numbers are rising as the population ages – and demand (and need) is of course certain and immutable.

Consequently, a reduction in hospice charitable income due to tax would have at best, a one-to-one impact on the requirement for taxpayer funding (with any additional dead weight loss that would come with that). At worst, a reduction would have a flow-on impact on costs to other parts of the health system.

Charitable funded hospice care reduces the flow of patients into more expensive publicly funded health services, such as emergency departments and hospital in-patient care. A drop in hospice service provision, would, if it was not one-for-one funded by extra taxpayer support, impose a greater financial cost on other parts of the health system, significantly more than the revenue raised by the tax. The impact would be less resources available to the government – not more, that is a net negative result.



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 should be where the profits are not clearly being spent in a reasonable timeframe (allowing that charities such as hospice need to provision for capital expenditure and secure stable income streams to meet the regular operating costs of hospice care) for a charitable purpose (that is for a purpose that meets the hurdle to become a registered charity).

Most, but not all, hospice shops make use of volunteers. However, there is a mix of paid and volunteer staff. The question of what represents 'substantially run by volunteers' may be potentially complex and fraught to define and administer. For example, is it just staff on the shop floor? What related proportion of central fundraising and marketing teams might be included? Or, if it is a charitable company that employs no or few staff, but contracts in services – like rental or building management for an apartment building, are those people paid employees for such a test? What about if the company directors are paid an honorarium? If paying company directors triggered loss of tax exemption, how might that diminish access to the skills and expertise to run a charitable business well?

The option to exempt business primarily engaged in selling donated goods or services, such as charity op-shops is sound and would address most, but not all, the concerns of hospice. Any business can help fund a charitable purpose. It is the use of the funds that is the key question that should determine if the business is related or not. It also raises the question of what donated includes? For example, to fund hospice care one hospice runs an apartment company, renting residential apartments constructed by the hospice with donated equity. Would that be a donated good? How might the difference between donated equity and debt funding be treated? There is a risk of adding undue complexity here.

A further example of the complexity of determining the volunteer or donated portion is farming for hospice. This runs by purchasing livestock (from hospice funds) which is then sold for a (intended) profit. Farmers donate land and grazing along with their time and expertise for hospice to fatten the livestock. Again, what is the volunteer portion, what is a gift and what is a business activity?

In summary the intent from beginning to the end in a hospice charitable business is gift, it can be very complex to break out what is the commercial portion.

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?

16 hospices are Tier 2 charities with revenue over \$5 million, and 16 hospices are tier three. None currently have revenue over \$33 million. So, an exemption for at least tier two charities would be required to avoid capturing hospices.

However, this would not be a principles-based threshold. A principle-based approach, for example not imposing unjustifiable administrative burden, would lead to a threshold like the UK's £8,000 / £80,000 above. Other than a de-minimis principle, it is not clear what other principles would suggest tiers 1, 2 and 3 should be separated, for example, charitable contribution or value is not useful here.



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, charity business income distributed for charitable purposes should remain tax exempt. A test might be that the income is distributed to a separate entity whose sole purpose is charitable (that is it meets the threshold for registration) and that separate entity passes an effective control / independence test.

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?

Because hospices must provide their own capital, often for expensive long-term facilities such as in-patient buildings, hospices commonly build-up long-term investment funds. The total value of these funds is around \$100 million. These funds are invested in a wide variety of investments. The consequential impacts on these investment funds needs to be carefully considered as some of their investments might be inadvertently captured by policy settings such as the Canadian 20% rule above. The key is to have a clear test of related charitable purpose. For example, a test might be that the income is distributed to a separate entity whose sole purpose is charitable (that is it meets the threshold for registration) and that separate entity passes an effective control / independence test.

### 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?

Because of the critical role of the taxpayer funded component of our service, hospice supports the principle of a broad-based tax system with a tax rate that sustains the investment required for a well performing health system. In as much as making a distinction between donor-controlled charities and other charitable organisations for tax purposes supports a broad-based tax system, then it is supported.

The Australian solution would appear to have the benefit of both simplicity and good incentives to distribute funds for a charitable purpose, again using charities registration and an effective control test as the hurdle for eligibility.

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?

Yes, there should be investment restrictions introduced for donor-controlled charities for tax purposes. Because of the critical role of the taxpayer funded component of our service, hospice supports the principle of a broad-based tax system with a tax rate that sustains the investment required for a well performing health system.

Again, the Australian approach would appear to have simplicity and efficiency advantages, particularly when combined with New Zealand's existing charities regulation framework.



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?

Yes, donor-controlled charities should be required to make a minimum distribution each year. Again, the Australian approach would appear to have simplicity and efficiency advantages. These advantages include the ability to seek an exemption. An exemption may be justified for example when the foundation is involved in a long-term fundraising endeavour, for example the purpose and distribution is for a large capital item.

## 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.

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

Hospice does not have a view on these specific questions, other than, because of the critical role of the taxpayer funded component of our service, hospice supports the principle of a broad-based tax system with a tax rate that sustains the investment required for a well performing health system.

### *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?

Hospice does not have a view on this specific question, other than, because of the critical role of the taxpayer funded component of our service, hospice supports the principle of a broad-based tax system with a tax rate that sustains the investment required for a well performing health system.



*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?

Hospice does not have a view on this specific question, other than, because of the critical role of the taxpayer funded component of our service, hospice supports the principle of a broad-based tax system with a tax rate that sustains the investment required for a well performing health system.

*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?

No response

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 any move to de-link donations from income tax and allow for more real-time donation tax credit payments. We believe this would be an incentive for more people to make charitable donations.

Biddy Harford  
Chief Executive  
Te Omanga Hospice

s 9(2)(a)

## **Submission on the Taxation and the Not-for-Profit Sector Consultation**

**Submitted to:** Inland Revenue Department, New Zealand

**Submitted by:** Volunteering New Zealand Tūao Aotearoa

**Submission Date:** 31 03 2025

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### **1. Introduction**

**Organisation Name:** Volunteering New Zealand Tūao Aotearoa

**Legal Status:** Charitable Trust and Incorporated Society

**Primary Purpose:** Community sector peak body for voluntary sector, providing national level volunteering services support.

**Contact Person:** Michelle Kitney

**Contact Email:** s 9(2)(a)

**About us:** We are an association of volunteer centres, and national and regional organisations with a commitment to volunteering in Aotearoa New Zealand. We started in 2001, the International Year of the Volunteer. We are a membership organisation and serve community organisations to deliver a range of programmes and activities to enable volunteers to better enrich communities across Aotearoa New Zealand.

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### **2. Key Submission Points**

#### **A. Charity Business Income Tax Exemption**

- If a tax exemption for registered charities is removed, we support:
  - A **de minimis exemption** for small-scale activities for Tier 3 and Tier 4 charities.
  - A **transition period** to allow charities time to adjust.
  - Clear guidelines to define "unrelated business activity" to avoid unintended consequences.
- We note that if a tax exemption for charities is removed, we are concerned that this could create:
  - **Disproportionate burden:** The compliance costs, complexity, and potential for double taxation create a sense that the burden is too high for the potential benefits.

- **Undermining innovation:** Taxing business income could stifle the development of sustainable funding models for charities.

## C. Tax Simplification and Integrity Measures

- We recommend:
  - Raising the **\$1,000 tax exemption threshold** for NFPs to at least **\$10,000** and that this amount be regularly reviewed and increased.

## D. Impact on Volunteers

Volunteering New Zealand Tūao Aotearoa **supports reforms to simplify tax compliance for volunteers**, particularly the honoraria tax treatment. We support proposed changes that could enable honorarium payments to volunteers to be processed through the PAYE system.

### Regarding honorarium and the PAYE system - we note that:

- Volunteers who receive honorarium may experience complications and issues, such as being required to account for ACC levies.
- We discussed the proposal with the team leading volunteer support at Fire and Emergency New Zealand (FENZ). They noted that the simplifications introduced from 1 April 2019 for their volunteers has benefitted their volunteers, and their organisation.
- This change for FENZ volunteers significantly reduced administrative processing support relating to payments of honorarium. It also alleviated complications arising from volunteers having to pay ACC levies, including issues such as not understanding the requirements, not knowing where to go to resolve issues through to experiencing debt collection processes being triggered for non-payment.
- We would like to highlight that most community organisations are completely voluntary run, do not have any paid staff. This would include registered charities. They are not likely to currently utilise the PAYE system.
- We support consideration of a tax-free threshold for honorarium. This could reduce the burden on volunteers who receive an honorarium from an organisation with no paid staff or PAYE system in place.

### Regarding volunteers and ACC, we note:

- We are neutral on whether honorarium payments should trigger ACC levies, but instead ask: *What coverage or benefit accrues to a volunteer who pays ACC levies on their honorarium payments? Does this provide them any cover?*

- We note the con-current petition that volunteer Firefighters be covered by ACC.
- In principle we support volunteers accessing better ACC coverage. Such a change could help keep our volunteers safe and look after their wellbeing.
- However, we note that this could in turn trigger a cost to organisations in terms of levies for coverage.
- Proposed changes to ACC coverage and levies associated should be considered in more detail and widely consulted on.

#### **E. Other matters**

- **Fringe benefit tax:** we support maintaining status quo for simplification purposes.
- **Donations and tax credits:** We support exploration of real-time tax credits for donations.

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### **3. Conclusion and Recommendations**

We appreciate the opportunity to contribute to this consultation.

- While we acknowledge the need for fair tax policies on income and wealth, we recommend that any changes to the taxation of registered charities be considered with care. This is because of the potential unintended consequences on small and medium charities and their ability to serve communities.
- We note that there is confusion around tax obligations and honorarium (and we acknowledge that IRD has clear guidance about this on their website). We would happily work collaboratively with IRD to try and bring greater awareness of the existing rules, and any changes that may result from your process.
- We also note that there is a wider issue around volunteer workers not being covered for stress and trauma, and they can end up not being able to do their paid work and not being covered by ACC. Discussions above touch on ACC payments and levies, and any changes considered in that area should be consulted on more broadly.

We are happy to discuss this submission further and provide additional input if needed.

**Signed by:**

Michelle Kitney

s 9(2)(a)



Chief Executive

Volunteering New Zealand Tūao Aotearoa



**NGĀI TAI KI TĀMAKI SUBMISSION**

**IN RELATION TO**

**Te Tari Taaki Consultation Paper: Taxation and the not-for profit sector**

**2025**

**TAPUWAE ONUKU  
TAPUWAE ARIKI  
TAPUWAE O TAI**  
WE OF THE SACRED FOOTPRINT IN THE EARTH  
THE FOOTPRINTS OF THE HIGH-BORN  
THE FOOTPRINTS ON OUR FORESHORES

- 1.0 Ngāi Tai ki Tāmaki (Ngāi Tai) welcomes the opportunity from Te Tari Taaki to respond to the consultation paper 'Taxation and the not-for-profit sector' (the paper).
- 1.1 Ngāi Tai ki Tāmaki (Ngāi Tai) are the original inhabitants and Iwi of Tāmaki Makaurau.
- 1.2 Ngāi Tai trace their ancestry from ancient pre-waka peoples known as Turehu and Patupaiarehe, led by Koiwiriki and his daughter Hinemairangi of the Hūnua, Papakura, Maraetai and Pakuranga districts.
- 1.3 Later Polynesian voyagers including Tāmaki, son of the apical ancestor Maruiwi, and their relative Ruatāmore led a large contingent of their people overland from their initial landing at Taranaki, to become established throughout the Tāmaki, Hauraki and Northland regions.
- 1.4 The pre-waka ancestors of Ngāi Tai welcomed famous voyaging waka such as Tainui to Tāmaki during its passage through the Hauraki Gulf / Tīkapa Moana and Te Waitematā around seven hundred years ago. Some crew members disembarked to settle among the tangata whenua, including Taikehu, who established himself at Te Maungauika (North Head) and on Motutapu, which he named after part of his Hawaiki homeland.

Of Taikehu, it is said:

*Ngā waka o Taikehu, me he kaahui kaitaaha kapi tai.*

*The canoes of Taikehu, like unto a shoal of herrings filling the sea.*

- 1.5 The Iwi is now based in Maraetai, Te Waitematā and Tīkapa Moana, and exercises mana whenua and mana moana interests across Tāmaki and with a longstanding connection to Te Waitematā and Tīkapa Moana.
- 1.6 The Ngāi Tai main marae is Umupuia at Maraetai, and the iwi has various marae connections

across Mātaitai, Whataapaka and beyond. The Iwi has whakapapa and other relationships with Iwi in the Tāmaki Makaurau and Hauraki regions.

- 1.7 Ngāi Tai maintain customary interests and ahi kā in Tāmaki Makaurau, Hauraki, and Hauraki Gulf/Tikapa Moana since time immemorial and are acknowledged as being amongst the original inhabitants of Aotearoa.
- 1.8 The Ngāi Tai ki Tāmaki treaty settlement legislation was passed exclusively in 2018 as the Ngāi Tai ki Tāmaki Settlement Act 2018.
- 1.9 Ngāi Tai also maintains shared interests in the collective settlements of;
  - (13 iwi) via the Ngā Mana Whenua o Tāmaki Makaurau Collective 2014,
  - (63 hapū) Waikato – Tainui Raupatu Settlement 1995;
  - and is awaiting the enactment of the (12 iwi) Hauraki Collective Iwi Settlement likely in 2025 – 2026
- 1.10 The Ngāi Tai area of interest (Figure 1 and 2) encompasses the eastern seaboard of Aotearoa as illustrated below, and is recognised per the Ngāi Tai ki Tāmaki Settlement Act 2018.



Figure 1: Map of Ngāi Tai ki Tāmaki area of interest accessed from Ngāi Tai Ki Tāmaki Take Taiaomaaurikura, September 2022.

Figure 2: Map of Tikapa Moana/Te Moananui-ā-Toi/ Hauraki Gulf Marine Park accessed from Tai Timu Tai Pari Sea Change Marine Spatial Plan, April 2017.

- 1.11 The Ngāi Tai ki Tāmaki Trust is the Post Settlement Governance Entity or PSGE that represents both the ~1600 registered individuals as well as the thousands who are not, therefore the response of Ngāi Tai should not be treated as a single comment but should be afforded an appropriate status and weight that recognises the collective that it represents.
- 1.12 The PSGE has established a Charitable Investment Trust (CIT) which is primarily responsible for establishing and advancing the commercial interests of NTKT primarily through infrastructure and development, aquaculture and tourism experiences.
- 1.13 Similarly, the PSGE has established a Community Development Trust or CDT which has the responsibility of realising the iwi aspirations for social, cultural, environmental outcomes including health, education, housing and kaumātua priorities.

### **Ngāi Tai ki Tāmaki Position and Response**

- 2.1 **Ngāi Tai ki Tāmaki considers that the changes proposed in Te Tari Taake, 'Taxation and the not-for profit sector' consultation paper would result in negative outcomes for Māori organisations and would be in violation of the purpose of the Ngāi Tai ki Tāmaki Claims Settlement Act 2018.**
- 2.2 **Ngāi Tai ki Tāmaki considers that the changes proposed would impact our ability to achieve our purpose of intergenerational wealth creation.**
- 2.3 The paper speaks to aligning New Zealand tax policy with international policy. We consider that Māori organisations are unique to Aotearoa/New Zealand, and it would be inappropriate to attempt to align their tax treatment with international taxation standards.
- 2.4 The current taxation settings allow income to be accumulated tax free for many years. This is in line with the Ngāi Tai ki Tāmaki purpose of intergenerational wealth generation for the benefit of future generations of Ngāi Tai ki Tāmaki iwi members. Our Treaty Settlement includes an apology for crown treaty breaches that have alienated Ngāi Tai ki Tāmaki from financial benefits of land ownership. Our treaty settlement provided a small financial contribution for the iwi to invest and build on, in an attempt to regain wealth lost through previous crown actions. A change to these settings could remove our ability to retain accumulated income and hinder our ability to recover

from acknowledged land losses.

2.5 Treaty of Waitangi Settlement terms define group entity structure. There is a need to create charitable entities to provide charitable benefits to the community. Advancing commercial interests to realise iwi social aspirations is central for Post Settlement Māori organisations. Taxing these commercial interests would reduce the ability to realise social outcomes.

2.6 **Q1 response:** The most compelling reasons not to tax charity business income as it relates to Māori post settlement organisations are that this would run counter to the purpose of Treaty Settlement legislation and inhibit the ability to build intergenerational wealth. Imposing tax on charities could create barriers to delivering charitable outcomes. Imposing tax on charities would increase compliance and costs, reducing the ability to provide benefits in many communities which are usually underserved by local and central Government.

2.7 **Q2 response:** If the tax exemption is removed for charity business income that is unrelated to charitable purpose the most significant practical implication is defining unrelated business income. For a Māori Post Settlement Group, focused on growing intergenerational wealth, we consider any business activity we undertake to be in line with our charitable purpose.

2.8 **Q4 response:** Any de minimus rule (proposal of a threshold whereby tax exemptions could continue to apply for reporting tier 1 and 2 entities) would undermine a Post Settlement group's ability to accumulate wealth for future generations. We are Tier 1 due primarily to Treaty of Waitangi settlement property opportunities and subsequent revaluation gains. And we are, by the very nature of being an iwi organisation, mokopuna or future-generation focused.

2.9 **Q7 response:** Should Aotearoa/New Zealand make a distinction between donor-controlled charities and other charitable organisations for tax purposes, it would be important to clearly define 'donor-controlled charity'. The definition should be limited to those who take advantage of the donation credit / deduction or claim a donation rebate for payments to the charitable entity. We acknowledge the concerns around private foundations using charities to enable tax avoidance but urge Te Tari Taaki to consider that many Māori sector organisations who represent a large group of people usually have a charity to provide charitable benefits which can be connected to the donor entity – it would not be fair to capture these within the definition of 'donor controlled charities'.

2.10 **Q9 response:** We do not agree that charities should be required to make a minimum distribution each year. This could remove our ability to use accumulated funds to build and grow assets, hindering our ability to develop intergenerational wealth. Annual distributions run counter to our

Post Settlement group purpose.

### Summary

3. Ngāi Tai ki Tāmaki considers the proposed changes would have negative impacts on our ability to build intergenerational wealth and would be in opposition to the purpose of the Ngāi Tai ki Tāmaki Claims Settlement Act 2018.
4. We thank Te Tari Taaki for the opportunity to submit regarding this consultation paper.
5. We wish to be heard in support of our submission.

Mauri ora ki a tātou,  
s 9(2)(a)

 Jada MacFie

**Te Kaiurungi | Chief Executive**

On behalf of Ngāi Tai ki Tāmaki Trust

[admin@ngaitaitamaki.iwi.nz](mailto:admin@ngaitaitamaki.iwi.nz)



March 28 2025

E mail: [policy.webmaster@ird.govt.nz](mailto:policy.webmaster@ird.govt.nz)

**Re: Taxation and the Not for Profit Sector**

Tēnā koutou,

Thank you for the opportunity to feed into the Issues on Taxation and the Not for profit sector - issues paper of February 24, 2025. This submission is written on behalf of the JR McKenzie Trust.

**Background**

The J R McKenzie Trust (JRMT) is a private philanthropic charitable trust that has been making investments into the community across Aotearoa New Zealand since 1940; established by the late Sir John McKenzie and further endowed later by his son, Sir Roy McKenzie. JRMT distributes allocated funds, generated through shares in an Independent Investment company – Rangatira Investments.

Rangatira Limited (“Rangatira”) is not itself a tax-exempt entity. However, the majority of its shareholders (approx.60%) are tax-exempt charities that are registered with the Charities Commission under the Charities Act 2006. The JR McKenzie Trust (JRMT) owns over 40% and other charitable organisations, which include Outward Bound, Te Omanga Hospice, and Birthright, approximately 12%.

JRMT has a focus on working and investing in ways that advance equity through transformational change and system focussed solutions. It does this through a variety of approaches and mechanisms (often grants) to organisations that align with JRMT’s values and vision of ‘a socially just and inclusive Aotearoa New Zealand.’

We are a member of Philanthropy New Zealand (‘PNZ’) and we also express our support for the points expressed in their submission on behalf of members.

**Introduction**

We have a number of concerns about the proposed changes to the taxation of the charitable sector, particularly regarding process, fairness, and the potential unintended consequences on vulnerable communities.

## **Section 2 - Donor Controlled Charities**

Our submission outlines our specific concerns relating to Section 2 of the Discussion Document – Donor Controlled charities and some relating to the General process .

### **Donor-Controlled Charities**

**Family Foundation giving forms an important part of the philanthropic landscape in Aotearoa, New Zealand and we believe it and many other forms of generosity, should be encouraged.**

The JR McKenzie Trust is not a ‘Donor Controlled Charity;’ however we note some ambiguity in this document regarding this definition and other matters.<sup>1</sup>

It should also be noted that we, and other charities in New Zealand contribute many millions annually in tax unable to be accessed by JRMT, through the Imputation regime. If charities were able to access imputation credits, this Trust’s annual distributions would increase by 30-40%. There would be no need for more overheads to make this increase possible, as all of our income is in the form of dividends received from Rangatira. JRMT has built up over 35 million imputation credits since the introduction of the imputation credit regime.

- **Risk of Discouraging Major Philanthropic Giving:** Many significant charitable gifts come from donors who take an active role in ensuring their funds are used effectively. Excessive restrictions or compliance requirements could deter philanthropy, leading to reduced funding for charitable causes. There are many examples peppered across Aotearoa, New Zealand where donors have given major gifts through a ‘Donor controlled charity’, that have enabled valuable projects and /or initiatives that may otherwise not have happened. One such example is the new Wellington Children’s Health Service and Hospital Te Wao Nui, but there are many others where donors have a keen and active interest in where their gifts are going to and how they are being used.
- **Donor Funds critical to philanthropic Ecosystem:** Philanthropic funding organisations like the JR McKenzie Trust often collaborate and co-fund together with donor led funds. Any reduction in donor led fund’s ability to gift/donate and co-fund would negatively impact the collective availability of philanthropic funds across the sector. This has a negative impact on the ability of charities to serve the needs of vulnerable community members who are relying on their services. If vulnerable members of the community cannot access services through charities this will further increase the burden on government funded and provided services.

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<sup>1</sup>‘Donor Controlled entity’ refers to ‘a charity registered under the Charities Act 2005, that is controlled by the donor, the donor’s family or their associates’ – p 13 Taxation and the not for profit sector, officials issues paper February 2025

- **Flexibility for Strategic Giving and Impact Investments:** Philanthropic funders often invest in long-term initiatives, capacity-building, and innovation. This may happen via granting but can also happen as a specific asset allocation within investment portfolios earmarked for impact investment. Any rigid minimum distribution rule must account for the need to build endowments, sustain funding over multiple years to maximise impact and allow for impact investments which can have both a financial and social return on investment. Any minimum distribution rule would need to be flexible enough to take into account wildly different returns in investment years and other vagaries of the market.
- **Avoiding Over-Regulation While Maintaining Integrity:** While tax integrity is important, overly complex regulations could create administrative hurdles that divert resources away from mission-driven work and towards compliance.
- **Utilisation of existing legislation and levers:** Provisions already exist to deal with charities acting illegally or undermining the integrity of the sector. These provisions sit within Charities Services. The most effective way to deal with any abuse of resources within the charitable sector is to ensure that the regulator is working effectively and resourced properly to do so. All registered charities are required to ensure our activities are in line with our charitable purposes, have annual public reporting accountabilities and cannot produce profits for individuals. In addition to Charities Services monitoring of a Charity, the Trusts Act and other relevant legislation already provides statutory duties for trustees that may be involved in the governance of an organisation – to support arm's length decision making.

### **General Process Concerns**

The J R McKenzie Trust has some general concerns regarding the process that IR has taken including:

- **Charities Act Review:** on 5 July 2023, the Charities Act 2005 was amended following a comprehensive review of the Act. The Issues Paper proposes significant changes to the charities regime that should have been raised during the review.
- **Short timeframe:** the timeframes for response have been very short (just over a month) and have not been widely consulted on. Charities should have been engaged with appropriately on such significant proposed amendments.
- **International comparisons:** Cherry picking International examples in other tax jurisdictions: Whilst it's useful sometimes to look at International examples for comparison, cherry picking examples without considering and presenting the full context is disingenuous. The levers identified in the Discussion Document do not operate in isolation – they sit alongside incentives for giving.

- **Impacts on Māori:** The Crown has an obligation under Te Tiriti o Waitangi to understand the impact of any proposed policy changes for Māori. Specific impacts on Māori charities do not appear to be considered in the consultation document.

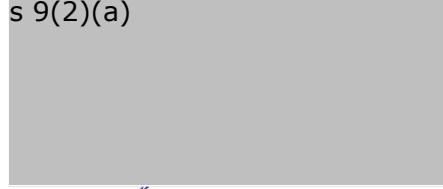
## Conclusion

The JR McKenzie Trust appreciates the opportunity to submit on this important consultation. However; we strongly urge IRD to reconsider both the substance of the proposed changes and the way in which the sector will be engaged. Any reforms must preserve the independence, flexibility, and sustainability of the charitable sector, and should aim to strengthen - not weaken - the impact of community-led solutions in Aotearoa. There is limited information about regulatory costs of various proposals, savings and financial modelling. This raises questions about the actual benefits that may occur as a result of possible changes – it's also unclear how the proposals and issues raised in the paper align with the government's stated priority of reducing regulatory burdens to unlock economic growth.

Alongside fellow Philanthropy NZ representatives we welcome the opportunity to meet with you to engage in the process in any way you see beneficial.

Yours sincerely,

s 9(2)(a)



Robyn Scott

Executive Director

JR McKenzie Trust

# Taita Home Trust Board

Incorporated under the Charitable Trusts Act 1957

6 Cooper Street, Taita, Lower Hutt Telephone (04) 567-1026 Fax (04) 567-6284

31<sup>st</sup> March 2025

To whom it may concern,

**Re: Submission on taxation and the not-for-profit sector**

This submission is on behalf of Taita Home Trust Board Group CC63051, compromising:

- Taita Home Trust Board CC31640
- Aroha Care Centre for the Elderly CC38819

The group was established by the Baptist and Presbyterian Churches in Taita, Lower Hutt and recently celebrated 50 years of providing quality care to its 75 permanent residents.

Despite the strong legacy of the aged care sector in New Zealand, persistent underfunding by successive governments has left the sector struggling to remain viable. Limited financial surpluses make it increasingly difficult to future-proof facilities for the next 50 years.

Taita Home Trust generates income through aged care services, rental properties, and a modest investment portfolio. However, our operations rely on tax-exempt rental and investment income to offset annual deficits. The proposed removal of these tax exemptions would further strain the sector, increasing pressure and reliance on government budgets to fund the sector to ensure sustainability.

The review of charitable tax status appears to be driven by the IRD's guesstimate of a \$2 billion gap between the income and expenditure of New Zealand charities.

Not all Charities are created equal, and the IRD's blunt instrument of across the board income tax is not functional.

Financial data reported in Annual Returns to Charity Services includes capital grants, donations, and other revenue—such as asset sales—which do not contribute to ongoing operational income. A more accurate assessment of the sector's financial position should exclude these capital items.

Furthermore, the aged care sector urgently requires significant investment in infrastructure to meet the growing demand for aged care rooms.

A charitable trust set up by the Wellington Baptist Association and Presbyterian Support (Central)

to administer the Aroha Care Centre for the Elderly

# Taita Home Trust Board

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Current daily funding rates do not include capital funding for facility development. Without targeted investment, the sector will struggle to accommodate the health needs and the demand of an ageing population.

If charitable tax exemptions were rescinded and income tax became payable, it would severely impact our ability to maintain high-quality care for elderly residents. The sector is already facing significant challenges, including workforce shortages, rising salary costs, and ongoing staff retention issues—further exacerbated by the recruitment of nursing staff by District Health boards.

Many small, aged care providers primarily deliver rest home and hospital-level care. The daily funding rate for aged care beds remains significantly lower than the cost of a hospital bed. If the proposed tax changes proceed, tax revenue generated would likely be far less than the additional government funding required to sustain and expand aged care services.

This could shift the burden of care to NZ Health, placing further pressure on the public healthcare system.

The introduction of income taxation would inevitably reduce the number of available beds, accelerate facility closures, and create a crisis for both the Government and the wider healthcare sector.

It is possible that The Aroha Care Centre which has provided aged care services for 50 years, could be financially forced to close beds due to the tax taken severely impacting on our ability to pay staff, and maintain safety and care standards for our residents.

Recent changes to Charity Services compliance requirements have already enhanced sector transparency, surpassing the reporting standards required by the IRD or Companies Office.

The IRD's consultation on tax settings appears to consider taxation in isolation—an approach that is, at best, short-sighted and, at worst, neglectful of the long-term care needs of New Zealand's elderly population.

A comprehensive review of the future of aged care in New Zealand is urgently required including;

- Future bed numbers and demand,
- The increasing aquity of permanent residents,
- Staffing shortfall and training, and
- capital build funding.

Ensuring the sector remains viable and capable of meeting the needs of our ageing population is the Governments responsibility, and must start now.

A charitable trust set up by the Wellington Baptist Association and Presbyterian Support (Central)

to administer the Aroha Care Centre for the Elderly

# Taita Home Trust Board

Incorporated under the Charitable Trusts Act 1957

6 Cooper Street, Taita, Lower Hutt Telephone (04) 567-1026 Fax (04) 567-6284

Yours sincerely,

**Patrick Knowles**

**Business Manager / Board Secretary**

**Taita Home Trust Board.**

[finance@arohacarecentre.co.nz](mailto:finance@arohacarecentre.co.nz)

s 9(2)(a)

A charitable trust set up by the Wellington Baptist Association and Presbyterian Support (Central)  
to administer the Aroha Care Centre for the Elderly

March 31, 2025

## **Submission:**

# **On the taxation and the not-for-profit sector charity tax settings**

*Presented on behalf of Te Rūnanga o Ngāti Whātua. Author Antony Thompson*

**Email:s 9(2)(a)**

### **INTRODUCTION**

1. Te Rūnanga o Ngāti Whātua welcomes this opportunity to present our submission on the Charity Tax Submission. Ngāti Whātua is a confederation of autonomous hapū with a collective of Marae and a membership of more than 12,000 uri. We are united by shared tātai and longstanding relationships across Tāmaki, Kaipara, and the wider Ngāti Whātua rohe.
2. Te Rūnanga was established to voice the collective hopes and aspirations of our uri, and to uphold and advocate for the rights and interests of Ngāti Whātua whānui. We also serve and support all Māori residing within the boundaries of Ngāti Whātua.
3. We wish to make it clear that Te Rūnanga o Ngāti Whātua is currently a Rūnanga under legislation and a Māori Trust Board under the Māori Trust Boards Act 1955. The Rūnanga does have charity status, and we are currently moving into settlement under the WAI303 Settlement with the crown, this settlement will mean we as a Rūnanga will have a charitable arm in a Post Settlement Governance Entity (PSGE).
4. Te Ha Oranga is the Hauora arm of Te Rūnanga o Ngāti Whātua and is a major provider of hauora services in the rohe of Ngāti Whātua and as such it relies on our Rūnanga status to deliver services to our uri, marae, hapu, and iwi.

## THE CONCERN

5. We are concerned that the tax settings suggested in the IRD info pack will increase the wealth divide especially for Māori thus reducing charity's ability to sustainably fund services that directly benefit our whanau. Our own Hauora services will be affected as a result to what degree we are still uncertain of at this stage.
6. Added to this the proposed tax changes could put pressure on already strained organisations like iwi providers and Māori providers whereby diverting revenue streams that directly awhi our uri, whanau, marae, hapu, and iwi away from where the real need is essential in our Māori communities. These are our whanau who rely on the services we provide.
7. As a Rūnanga we also have other subsidiaries who have unrelated activities (for example key commercial activities). While they do have income from unrelated activities any gains on these activities are put back into the charitable activities. Any additional tax would impact on the level of services that can be provided. This hindering our effectiveness to provide services to our communities.

## IWI AND MAORI PROVISION

8. If as an iwi provider we may have to change how we support our whanau based on the changes suggested by IRD we may have to reduce staffing and/or reduce services. Something that was and should never be intended. We believe this may force the closure of other Māori providers increasing the strain on the Māori network.

## LACK OF ENGAGEMENT

9. We are concerned we as an iwi and crown partner we have not been engaged or have been consulted with, especially considering the service we provide to whanau in our rohe. It was a RNZ news article that raised the concern with us therefore this lack of engagement with Iwi, hapu and Māori providers is not how our partnership agreements with the crown should occur. A genuine lack of engagement and consultation is a risk.

## LACK OF DEFINITION

10. 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.

## RECOMMENDATIONS

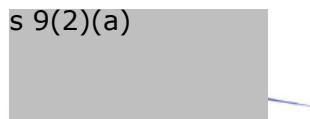
Te Rūnanga o Ngāti Whātua recommend:

1. Work with iwi who hold key roles in the not-for-profit charity space, we are a major factor due to our iwi and Māori provision services. We can comment on and collate feedback from like services regarding policy for iwi services.
2. We want to know what the final goal will be with examples we can take back to our collectives. This to better understand what the tax changes are and what they will mean for iwi and Māori providers.
3. 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.
4. We would like not to tax charities (for either related or unrelated activities). Any tax would be an additional cost to the organisation and would result in less funding available to support the charitable purposes of the Runanga.
5. Adopt an iwi-based approach as a genuine Te Tiriti partner of the crown.

On behalf of Te Rūnanga o Ngāti Whātua, we encourage the crown to ensure that information is directly provided to iwi. 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.

Nga Mihinui

s 9(2)(a)



**Antony Thompson**  
Chief Operations Officer



**ANTONY THOMPSON**

Te Rūnanga o Ngāti Whātua

Chief of Operations

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[www.ngatiwhatua.iwi.nz](http://www.ngatiwhatua.iwi.nz)

[www.facebook/ngatiwhatuarunanga.com](http://www.facebook/ngatiwhatuarunanga.com)





Thursday, 27 March 2025

Taxation and the not-for-profit sector  
Deputy Commissioner, Policy  
Inland Revenue Development  
WELLINGTON

By email: [policy.webmaster@ird.govt.nz](mailto:policy.webmaster@ird.govt.nz)

Tēnā koe

**Te Rūnanga o Ngāti Waewae response to the Taxation and the not-for-profit sector Officials' Issues Paper**

1. We, Te Rūnanga o Ngāti Waewae, 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 on the West Coast of Te Waipounamu, 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 Rūnanga o Ngāti Waewae charitable entities and charitable purposes**

6. Through the utilisation of charitable entities, we carry out important mahi in the Ngāti Waewae takiwā. We 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.
7. Over the past year, we have delivered a number of charitable activities and outcomes to meet our charitable obligations. We have a focus on driving regional growth and doing so allows us to generate revenue that is targeted at not only our whānau, but the wider community living in the Ngāti Waewae takiwā.

We provide for the well-being of our whānau members and our wider community through the following charitable activities:

### **Cultural and Spiritual:**

- We take an educational approach to uplifting the cultural and spiritual needs of whānau and the community. This includes:
  - Supporting our whānau and community to engage in traditional te ao Māori practices, such as Matariki celebrations.
  - Educating and supporting whānau and the community on appropriate te ao Māori practices and tikanga in relation to tangi. Where whānau are experiencing financial hardship due to the death of a loved one, we offer support (both culturally and financially) to those in need.
  - We provide educational cultural revitalisation programmes on te reo, kapa haka, pūrakau, tikanga and histories.
  - We uplift the cultural capacity in our takiwā by ensuring that appropriate tikanga is upheld at community events.
  - We advance our culture through providing access to whakapapa information so our whānau can connect with their cultural identity.
  - We encourage community participation in cultural sporting activities such as waka ama, which in turn promotes good health through sport. We have gifted our waka ama (canoe) to a community NGO who provide rangatahi waka ama events.
  - We assist our community by supporting whānau facing difficulties in the justice system. We support restorative marae justice work and work with the Police and other government agencies to ensure that processes are carried out in a mana-enhancing manner.

### **Environmental activities:**

- We pride ourselves on being a leader in the environmental space in our takiwā and take a kaitiaki approach, for the wider benefit of the community and Aotearoa. The charitable mahi we are involved in includes:
  - Collaborating with the Department of Conservation to support the release of native birds and taonga species;
  - Planting native trees and unveiling Pou Whenua in our takiwā; and
  - Supporting relationship management with local, regional and central government, that ultimately leads to better outcomes for the environment.

### **Educational activities:**

- We carry out various kaupapa that support the educational needs of the community within our takiwā. These include:
  - We have an education komiti that meets regularly to implement our Mātauranga Māori strategy and facilitate education wānanga throughout the year.
  - We have provided education scholarships to pēpi, tamariki, and rangatahi.
  - We implement by Māori, for Māori programmes that aid in the development of a school attendance programmes.
  - We assist disadvantaged whānau and educate them on their rights when dealing with issues within schools; and
  - We fund Fusion School Holiday programme and provide activities and learning for approx. 80 tamariki/rangatahi in the holidays.

### **Social and Health Activities**

- We engage in various initiatives to encourage good health among our whānau and wider community:
  - We have continued to ensure whānau are supported if they are dealing with the impacts of COVID – this is via care packs and ensuring they are linked into the right agencies to support their needs.
  - Provide kaumātua grants annually to support heating their homes.
  - We run exercise and socialisation programmes for kaumātua on the marae.
  - We have been the lead on the development of Te Whare Manaaki in Māwhera, a transition home for pēpi and tamariki.
- Supporting various whānau to engage in sports to promote physical health, social inclusion and community well-being.
- We engage whānau in sporting and recreational activities through our school holiday programme.
- We have supported whānau to access grant funding to address urgent oral health issues that are impacting their wellbeing.
- We have accessed funding to support our Rangatahi committee to run school holiday events at the Marae with a focus on suicide prevention.
- We provide regular weekly kai packs to whānau and kaumātua in need.
- Through the Poutini Waiora Trust (the only iwi Kaupapa Māori health and social service provider in Te Tai o Poutini) we assist the sick and infirm through government funded services.
- Advocating for better health and wellbeing outcomes for our community through relationship management with Crown entities.

### **Driving Regional Growth in the Ngāti Waewae takiwā**

1. At the heart of our investment strategy is our Ngāi Tahu tribal whakataukī *Mō tātou, a, mō kau uri a muri ake nei* (for us and our children after us). This means that we take an intergenerational approach to investment and ensure that returns on those investments are sustainable and beneficial for future generations. We are linked by whakapapa to our region and will never waiver in our commitment to its prosperity – we have no desire to move away and chase investments in the likes of Auckland or Australia. Our charitable businesses stimulate growth and create jobs in the Ngāti Waewae takiwā. Examples of these businesses and commercial projects in the past year include:

➤ ***Te Ara Pounamu Limited (Pounamu Pathways)***

Te Ara Pounamu opened two world-class experience centers this year sharing the region's rich and unique stories.

- Māwhera Pā opened 24 November 2023.
- The Museum of Kawatiri opened on 31 January 2024.
- Providing employment into our region.
- Enriching the cultural heritage of Te Tai Poutini through visitor experiences.

➤ ***Arahura Holding Limited***

Continues to invest in commercial activities with opportunities to allow us to create employment opportunities for whānau and the community.

- Punakaiki Visitor Center opened on 6 May 2024, with the exhibition area unveiling in November 2024.
- Providing employment into our region.
- Enriching the cultural heritage of Te Tai Poutini through visitor experiences.

➤ ***New Zealand Institute for Minerals to Materials Research Limited (NZIMMR)***

During the year, Te Rūnanga o Ngāti Waewae, through Arahura Holding, became the 100% shareholder of NZIMMR.

- The New Zealand Institute for Minerals to Materials Research (NZIMMR) was established in 2017 as part of a regional research initiative to drive innovation in mineral processing and value-added materials. This initiative aimed to ensure research opportunities were closer to and connected with mana whenua, industry, and the region where the activity occurred.
- NZIMMR operates across four key pillars: laboratory services, consultancy, research and development, and gold refining. It has developed world-class lab facilities in Greymouth, established a consultancy firm supporting the minerals sector, and initiated research projects focused on high-value applications of extracted minerals. Notably, NZIMMR has made advancements in carbon foam technology, gold refining, and sustainable mineral processing solutions.
- NZIMMR is positioned to support sector innovation, commercialisation, and workforce development.

➤ ***Tai Poutini Professional Services Limited***

NZIMMR owns and operates consultancy firm Tai Poutini Resources Limited, focusing on supporting and educating companies through resource consent, mineral permit, access arrangements and other professional services to support primarily the minerals sector.

**Closing Comments**

1. Our charitable entities play a crucial role in delivering essential services to vulnerable members of our community and protecting the environment. This reduces the demand on the Crown and ultimately prevents the widening of social and economic disparities and environmental degradation. Our intergenerational investment strategy, guided by our Ngāi Tahu tribal whakataukī, ensures sustainable and beneficial returns for future generations, contributing to regional growth and prosperity.

2. We consider ourselves to be a vehicle for regional development, through our commercial charitable entities we stimulate growth, create employment opportunities, pay PAYE and GST and return our profits into our charitable activities for the benefit of the community in the Ngāti Waewae takiwā.
3. 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.

Please feel free to contact me if you require any further information.

Nō reira, mauri tū, mauri oho, mauri ora, nāku noa

s 9(2)(a)



Nā Francois Tumahai.  
Kaiwhakahaere o Te Rūnanga o Ngāti Waewae.

Taxation and the not-for-profit sector  
C/- Deputy Commissioner, Policy  
Inland Revenue Department

Via email [policy.webmaster@ird.govt.nz](mailto:policy.webmaster@ird.govt.nz)

31 March 2025

**RE: Taxation and the not-for-profit sector response**

Dear Deputy Commissioner, Policy,

Please accept this letter as a submission from the North West Country Incorporated Business Association in relation to Question 12 of the “Taxation and the not-for-profit sector” Officials’ Issues Paper.

We are an incorporated society acting as a membership organisation (local promotional body) providing support to members to enable a thriving economic community. We are also a Business Improvement District, partnering with Auckland Council and controlled not only through the Incorporated Societies Act 2022 but through the Auckland Council Business Improvement District Policy 2022.

We are subject to assessments of rigour around risk, financial management, communications transparency, and value of delivery. Not only are we held accountable by Auckland Council, we are also held accountable by our members.

Managing cashflow and cash assets is one of the toughest activities we undertake, knowing that we have a need to deliver a higher value to our members than we receive financially. Our budgets are annually voted on by members and we must demonstrate a zero cash balance or small surplus, but more importantly no loss. Balancing this fine act, while also being asked to deliver more with a dollar worth less every year, we face the need to be innovative with our membership fees.

This may involve hosting ticketed events to generate additional funds that can be allocated to another project. Our board may choose to sell branded merchandise additionally to increase our income, reducing the need to increase membership fees, and allowing the service levels to be maintained.

**Direct Funding** – removing tax exemptions and moving to a funding policy will be a huge administrative cost for the government, and may mean that many NFP agencies cannot survive if they cannot access funds in this system. Tax exemptions allow us to continue to provide much-needed social value alongside the government rather than the government being involved administratively.

**Delivering a Range of Activities**

Our income annually ranges from \$180,000 to \$200,000 depending on event ticket sales and sponsorship that we can attract. We need to balance cashflow across the year and deliver a range of activities for our members such as a Business Awards event, WESt Business Magazine, networking events, training events, business coaching sessions, and funding key events such as Santa Parades and A&P Shows.

### **Surplus is not profit**

If we are able to post a surplus at the end of the year from our membership fees this is a good thing, as it means we have not overspent throughout the year. A surplus is not considered profit, however, but more of accumulated funds that may be allocated to a project in a following year. Should surplus funds be taxed as profit this will completely undermine our long-term projects and ability to deliver dynamic work programmes that meet the needs of our members.

### **Income Types**

As the General Manager of the business association, I am tasked with diversifying our income streams so that we are not forced to increase membership fees in line with inflation. These increases can damage an already struggling membership base and are not considered a responsible way to manage our work programme.

The types of income we receive range from membership fees, sponsorship, hireage fees of our boardroom space, and ticket sales for events we host, to grants and donations. It could be argued that some of this income is commercial and from a business activity and should not be tax exempt however we disagree with that. All of the income is placed back into the community through our work programme. Any cash assets are accumulated to either fund large projects or generate income through interest payments.

### **Core Activities Benefit Community**

Our core activities benefit the community and that is the basis of our organisation and for any business association or local promotional body. This is different to other charitable or faith-based organisations that are primarily a commercial entity who distribute their profits to their community. Our organisation provides benefits through economic development, investment in community safety, improvement of services through relationships with local and central government, reducing transport costs through providing local jobs, supplying emergency facilities for business continuity, and providing ways for our community to network and support each other.

Our organisations provide local services on behalf of government, in a form much cheaper than could be achieved by a government organisation. Allowing us to maintain our tax exemption enables us to continue to deliver these high quality services.

Kind regards,

s 9(2)(a)

Danielle Hancock  
General Manager  
North West Country Business Association



village with a view

31 March 2025

[policy.webmaster@ird.govt.nz](mailto:policy.webmaster@ird.govt.nz)

Regarding: Consultation Paper on Taxing Charities and Not-for-Profits – Question 12

Dear IRD Policy Team,

This submission addresses Question 12 of the consultation paper regarding the potential removal or significant reduction of income tax exemptions, specifically concerning the local and regional promotional body income tax exemption (CW40 in the Income Tax Act).

We strongly believe that the income tax exemption for Business Associations should remain. Our reasons are as follows:

- **Community and economic development:** Business Associations play a crucial role in fostering local economic development. They invest significantly in activities that benefit the wider community, such as:
  - Promoting local businesses and attracting investment.
  - Enhancing the attractiveness of the area through beautification projects specifically focussing on areas of graffiti walls and fences in the case of Birkenhead we have 15 activations that have turned ugly graffiti prone surfaces into art works which assist with mental wellbeing and attractiveness of the area and reduces crime and graffiti activity positively impacting on small businesses and customers sense of safety and wellbeing.
  - Improving public amenities such as historic trails lifting the sense of pride and safety in the area. Since its inception in 2009 Birkenhead now has 3 heritage trails that increases foot traffic and safety under CPTED principles (crime prevention through environmental design)
  - Enhancing security and safety through initiatives like CCTV and security patrols( our funds in Birkenhead has provided an addition to the police who are underresourced and focused on what they perceive as greater crime issues, however our experience was while Birkenhead was historically a lower priority the security issues were on the increase until we introduced a security company to assist and address issues for the local community public and the businesses).
  - Providing community engagement and wellbeing through running small local events that provide a sense of community for local communities as well as foot traffic which as previously stated make an area safer and a place more people naturally visit hence keeping it vibrant and safer.



village *with a view*

- **Reinvestment in community safety:** As highlighted by our auditor, funds that would otherwise be directed towards income tax are reinvested directly into community safety measures, including CCTV systems and security personnel. These investments create a safer environment for both businesses and residents and are a vital service that would be significantly reduced if the exemption was removed.
- **Maintaining local services:** Removal of the exemption would severely limit the ability of Business Associations to provide essential services to their members and the community. This would negatively impact local economies and reduce the overall quality of life.
- **Distinct role from charities:** While some entities may apply for this exemption when unable to register as charities, Business Associations serve a distinct purpose focused on local economic development and business support to which CPTED and security initiatives are key to safety for communities and which is different from core functions of charities.
- **Impact on small businesses:** Many small businesses rely on the activities of Business Associations. The proposed change would place a greater burden on these small businesses, negatively impacting their financial stability and growth potential.
- **Commercial Health of Town Centres drives local employment**

Further we improve the commercial health of town centres, which in turn helps with local employment,

In conclusion, the removal of the income tax exemption for Business Associations would have detrimental effects on local economies and community safety. We urge the IRD to maintain this exemption to ensure the continued support of these vital organisations.

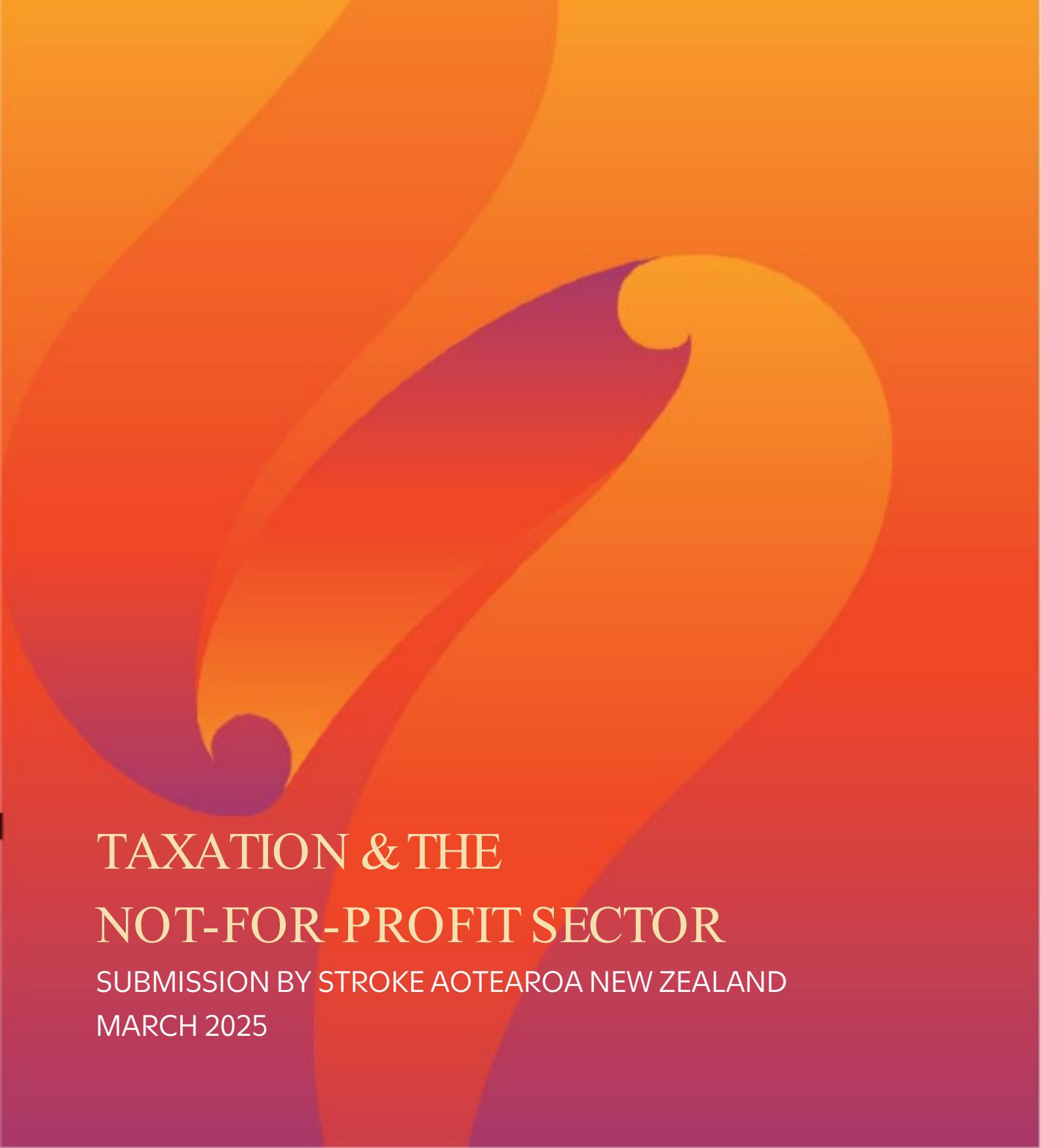
Thank you for considering our submission.

Sincerely,

Kae Condon  
Birkenhead Town Centre Manager



village *with* a view



# TAXATION & THE NOT-FOR-PROFIT SECTOR

SUBMISSION BY STROKE AOTEAROA NEW ZEALAND  
MARCH 2025

## About Stroke Aotearoa New Zealand

Stroke Aotearoa New Zealand is the leading organisation in New Zealand focused on the prevention of stroke and achieving improved outcomes for stroke survivors and their loved ones. With over 40 years' experience we have developed best practice in prevention and life after stroke support. We have close collaborative relationships with communities, health practitioners, healthcare leaders and other NGOs. Our commissioned research directly informs policy to improve the health of the country and we are a trusted Government partner.

We receive 19% of our income from Government contracts and rely heavily on the generosity of individual donors, philanthropic organisations, and grant givers to carry out our mission to prevent stroke and improve lives in Aotearoa.

## Contact information:

For more information on the content of this submission, please contact:

Jess Winchester, GM Marketing & Fundraising

E: [s 9\(2\)\(a\)](#)

Marg Jenner, GM Compliance & Risk

E: [s 9\(2\)\(a\)](#)

Stroke Aotearoa New Zealand

PO Box 12-482, Thorndon, Wellington 6144

Level 1, Thorndon Rise Building, 95-99 Molesworth Street, Wellington 6011

Freephone 0800 45 99 54

[www.stroke.org.nz](http://www.stroke.org.nz)

Charities Services Number CC49490



## Discussion questions

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?**

The most compelling reason **not** to tax charity business income is that this “advantage” and the funds that are generated as a result, are intended to be used to further the charitable purposes of the charitable entity and enable it to do more social good.

The comparison between charities and non-charitable trading entities is not fair nor correct. The definition of a charity is an organisation that exists for public benefit, not for the profit of individuals. Taxing the business income of a charity would not level the playing field but would serve to reduce the amount of funds available for charitable work. In turn this would ultimately place a greater financial burden on the Government to provide the services that were previously funded or risk the withdrawal of critical support from some of the country’s most vulnerable and in-need population.

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

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

The most significant practical implication would be the loss of funding to carry out charitable purposes.

Removing the tax exemption for charity business income unrelated to charitable purposes could significantly affect New Zealand charities. It would impose a higher financial burden on charities, reducing the funds available for critical work. It may result in the need for charities to reassess their business models, potentially scaling back unrelated income-generating activities or restructuring operations into taxable entities, adding costs and complexity. Administrative compliance with new tax rules would likely increase, again diverting valuable resources from charitable work. Smaller charities, which may rely heavily on unrelated income to support their initiatives, could be particularly vulnerable.



In addition to this, charities in New Zealand contribute over \$18 billion each year to the economy (Stats NZ, 2018) – providing employment and utilising services. Taxing a proportion of their income will not result in a net gain.

**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?**

Defining an "unrelated business" for tax purposes in New Zealand would require clear criteria to distinguish activities aligned with a charity's mission from those that are not. A business could be considered unrelated if it does not directly further the charity's purposes or if its primary focus is profit over delivering charitable outcomes. Additionally, income not reinvested into the charity's core mission might also qualify as unrelated. Exceptions could be made for activities run predominantly by volunteers or reliant on donations, such as charity shops, as well as certain fundraising efforts aimed at supporting the charity's objectives. Small-scale trading activities might also be exempt under a de minimis rule to reduce the compliance burden. These guidelines would need to balance fairness, practicality, and the ability of charities to sustainably fund their mission.

**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?**

Thresholds should be based on the proportion of total income derived from unrelated business activities, ensuring that charities that can show funds are used to further their mission are not penalised.

**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 with the suggestion to maintain tax exemption for charity business income that is used for charitable purposes. Charities are already required by law to provide rigorous compliance and accountability reporting to Charity Services and are held to far higher expectations by the public in comparison to the for-profit sector. We believe that the

accountability for using tax exempt funds for charitable purposes can be managed as an extension of current reporting requirements.

**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?**

The issue is not taxation of charity business income. The issue is ensuring that charities use these funds to further their lawful charitable purposes.

It is too simplistic to try and apply a “territorial rule” on charities that carry out work outside of New Zealand. The loss of funding that would directly impact on humanitarian and overseas aid / development work should be considered. It could limit the work itself, and could also have an impact on the overseas aid charities’ ability to employ staff and pay for services in New Zealand reducing contribution to the economy.

### **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?**

New Zealand could consider distinguishing donor-controlled charities from other charitable organisations for tax purposes to ensure fairness and prevent misuse of charitable status. Stroke Aotearoa New Zealand, as a leading charity focused on stroke prevention and recovery, exemplifies how charitable organisations can operate transparently and effectively for public benefit. A donor-controlled charity might be defined by the extent of influence a donor, their family, or associates have over governance and operations, such as appointing board members or directing funds. Relationships between donors' businesses and charities could also be scrutinized, especially if transactions occur at non-market rates or funds are not actively applied to charitable purposes. Stroke Aotearoa New Zealand's commitment to reinvesting resources into its mission highlights the importance of ensuring charities genuinely serve public benefit. Measures like minimum annual distributions could help maintain trust in the sector while addressing concerns about donor-controlled entities. This approach could strengthen the integrity of New Zealand's charitable landscape – and again, it is how to effectively manage compliance that will be the most significant issue.



**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?**

We support the approach of the UK, where anti-avoidance rules are used to tackle any abuse 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?**

We support the approach used in Australia and the US where a minimum distribution is set at 5% of the market value of the donor-controlled charity's assets.

#### **Chapter 4: Integrity and simplification**

Stroke Aotearoa is not a membership organisation so Q10 and 11 are not relevant to us.

##### **Income tax exemptions**

We do not wish to submit on Q12.

##### **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?**

Charities typically pay lower salaries than similar roles in the commercial sector which can create challenges in attracting high calibre employees. Removing or reducing the FBT exemption for charities in New Zealand would mean they may no longer be able to offer non-financial benefits to individuals. Alternatively, charities continuing to offer these benefits would have increased costs to cover FBT – the losers here would be the charity beneficiaries as vital funds would be diverted from mission-critical work.

##### **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?**



Honoraria payments are a way of encouraging people of diverse socioeconomic backgrounds to volunteer, removing a cost-barrier that prevents people from being able to donate their time to charity. These should be tax exempt for all volunteers, but particularly those in governance positions where they are taking on significant legal and financial liabilities.

**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 agree with the recommendations of the DTC review findings to allow for real-time payments, streamline the claims process, and introduce the three-month grace period for claims relating to donations made to a de-registered charity.

The fact that only 57% of those surveyed were aware of the DTC regime represents a huge opportunity for charities to engage with their donors to increase their charitable giving. For example, Stroke Aotearoa encourages its donors to consider claiming the tax credit and then donate it back to the charity. One suggestion we have is that a process is introduced whereby people claiming their tax credit are able to indicate at the time they submit their claim to IRD for their tax credit to be sent to their preferred charity.



31 March 2025

**Submission from Manurewa Business Association and Papakura Business Association**

[policy.webmaster@ird.govt.nz](mailto:policy.webmaster@ird.govt.nz)

**Re: Consultation Paper on Taxation and the Not-for-Profit Sector - Opposition to Tax on Incorporated Societies and Not-for-Profits**

Dear IRD Policy Team,

This submission, presented by the Manurewa Business Association and the Papakura Business Association, addresses the consultation paper regarding the potential imposition of income tax on incorporated societies and not-for-profit organisations, particularly concerning the local and regional promotional body income tax exemption (CW40 in the Income Tax Act).

**The Manurewa Business Association Incorporated: A Driving Force in the Community**

The Manurewa Business Association is a cornerstone of the Manurewa and Clendon Town Centres, dedicated to championing the growth and success of local businesses. Beyond providing essential resources and advocacy for its members, the association operates a diverse portfolio of brands that enhance the vibrancy and vitality of the community. Each brand operates independently under the association's guidance, allowing for focused pursuit of their individual objectives while leveraging the collective strength of the Manurewa Business Association. The Manurewa Business Association is dedicated to cultivating a flourishing and supportive business environment, playing a pivotal role in driving business success, enriching community life, and creating a brighter future for the region.

**Papakura Business Association: Fostering Economic Prosperity**

Papakura Business Association (Inc) is the organisation that promotes the economic development and prosperity of Papakura Town Centre on behalf of all businesses and the wider community. Papakura Town Centre is a Business Improvement District (BID) and is identified as a future metropolitan centre. The PBA is a non profit and non-political organisation driven by a voluntary executive committee dedicated to furthering economic development for Papakura. Together with the businesses, landlords and the community of our town, we are working to enhance prosperity, economic wellbeing, safety and security in Papakura.

We strongly oppose the proposed taxation of incorporated societies and not-for-profits, including Business Improvement Districts (BIDs) and similar organisations. Our reasons are as follows:

**Community and Economic Development:**

- Business Associations, including BIDs like ours, play a vital role in fostering local economic development. We invest significantly in activities that benefit the wider community, such as:
  - Promoting local businesses and attracting investment.
  - Enhancing the attractiveness of the area through beautification projects.
  - Improving public amenities.
  - Enhancing security and safety through initiatives like CCTV and security patrols.
- We improve the commercial health of town centres, which in turn helps with local employment.
- We advocate for local issues such as parking and public transport for the benefit of the local business community.

#### **Reinvestment in Community Safety:**

- Funds that would otherwise be directed towards income tax are reinvested directly into community safety measures, including CCTV systems and security personnel.
- These investments create a safer environment for both businesses and residents, providing a vital service that would be significantly reduced if the exemption was removed.

#### **Maintaining Local Services:**

- Removal of the exemption would severely limit the ability of Business Associations to provide essential services to their members and the community.
- This would negatively impact local economies and reduce the overall quality of life.

#### **Distinct Role from Charities:**

- While some entities may apply for this exemption when unable to register as charities, Business Associations serve a distinct purpose focused on local economic development and business support, which is different from the core functions of charities.
- As BIDs, we operate strictly under city council's BID Policy Guidelines, ensuring accountability and alignment with community needs.

#### **Impact on Small Businesses:**

- Many small businesses rely on the activities of Business Associations.
- The proposed change would place a greater burden on these small businesses, negatively impacting their financial stability and growth potential.

#### **Governance and Non-Profit Nature:**

- Our constitution, which is approved by city council's BID Policy team and registered with the Registrar of Incorporated Societies, forbids any private pecuniary profits and distribution of property and funds to any person, including any members or members of the executive committee.

- We operate strictly under city council's BID Policy Guidelines, reinforcing our commitment to serving the community rather than private interests.

**Conclusion:**

The removal of the income tax exemption for Incorporated Societies and Not-for-Profits, including Business Associations and BIDs, would have detrimental effects on local economies and community well-being. We urge the IRD to maintain this exemption to ensure the continued support of these vital organisations.

Thank you for considering our submission.

Sincerely,

s 9(2)(a)



Neil Punja Town Centre Manager  
For the Manurewa and Papakura Business Associations  
[www.manrewabusiness.co.nz](http://www.manrewabusiness.co.nz)  
[www.papakura.co.nz](http://www.papakura.co.nz)

**From:** Gemma Donaldson s 9(2)(a)  
**Sent:** Monday, 31 March 2025 12:56 pm  
**To:** Policy Webmaster  
**Subject:** Taxation and the not-for- profit sector

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

### **SUBMISSION FROM SOUTH KAIPARA GOOD FOOD (SKGF)**

Charitable organisations, such as South Kaipara Good Food (SKGF), receive funding from different organisations and individuals to address food insecurity in the community. SKGF does not use this funding to earn revenue and without this funding, SKGF would not be able to carry out its activities.

The funding that SKGF receives each year from its funders has been dwindling year-to-year. Should this funding be considered as “revenue” and taxed, it would force SKGF and similar organisations to wind up and close down – which would have the domino effect of pushing back to the Government the responsibility of addressing food insecurity in the community.

SKGF is happy to present fully to Select Committee or any governmental committee on this.

Nga mihi nui,  
Gemma Donaldson



**Gemma Donaldson**

Chief Executive

s 9(2)(a)

82 Mill Road, Helensville, 0800

s 9(2)(a)

[www.skfg.org.nz](http://www.skfg.org.nz)

# Consultation Submission

## Taxation and the not-for-profit sector

31 March 2025

## Introduction

Organisation Name: Trust Investment Management Charitable Trust / Trust Investments Management Ltd

Legal Status: Charitable Trust

Group: Member of The Diocese of Auckland Group

Charitable purpose: To promote, protect and further the advancement of education and religion with New Zealand in accordance with the mission and ministry of the Auckland Diocese or the Anglican Church or both; to advance such purposes of, or associated with the Auckland Diocese or the Anglican Church within New Zealand as are charitable.

Contact Person: Rachael McDonald, CEO | Renée Tourell, GM Client Services

Contact Email: **s 9(2)(a)**

1. At Trust Management our mission is to serve the for-purpose sector supporting them to fulfil their charitable mission. We do this in two ways. First, we provide Investment Funds and Management Services (property and accounting) to the for-purpose sector. Second, all surplus from Trust Management business go back to The Anglican Diocese of Auckland.
2. Everything we do is for public benefit and not for private or individual gain.

## Timing, lack of detail and clarity of issues.

3. We appreciate the opportunity to provide feedback on the proposed changes in taxation and the not-for-profit sector consultation paper.
4. We are concerned about the tight timeframes that have been outlined for this consultation and the significant risks to the charitable and for purpose sector as a whole with follow on consequences to local communities that are associated with rushing through this type of change without fully understanding the outcomes.
5. The charitable sector is woven into the fabric of society in Aotearoa New Zealand and embedded into everything we do including education and health services to a range of other community services, providing necessary tenets of life such as shelter, counselling, food banks, budgeting advice, to name a few, and with local and appropriate cultural solutions in fitting with our diverse cultural and localised requirements.
6. We are conscious that there are a range of issues that have been raised in the discussion document without a lot of detail nor full explanation of the issue sought to be addressed by the consultation. After careful consideration, we are able to respond to chapter two and the charity business income tax exemption.
7. Our response based on own experience and perspective as a specialist service provider to the charitable sector, on behalf of a number of our clients and our ability to share real world examples.

## Charity business income tax exemption

8. We oppose the proposed change to tax charity business income whether this is related or unrelated income. We believe such a move would undermine the sector's ability to achieve its

public benefit objectives and risk causing disproportionate harm to community wellbeing, particular in vulnerable and underserved areas. We set out our reasoning below.

9. Sustainability of Business and community good: The sustainability and resilience of the for-purpose sector are not just important – they are imperative. The sector has already felt the profound impact of fluctuating government funding and lasting unfavourable economic conditions for the giving of donations. To safeguard against such uncertainties, it is essential for these organisations to establish sustainable and diversified revenue streams and be innovative in their ability to do so, such as the creation of businesses. We need our charitable sector to be innovative, self-reliant as much as possible and to be fully able to focus on positive impact.
10. Business income is reinvested into delivering services, supporting beneficiaries, and maintaining financial sustainability. For many charities, particularly those with limited access to donations or government funding, business income provides a critical stream of alternative funding. Taxing business income would directly reduce the resources available for charitable purposes. This could lead to service cuts, job losses (especially in social enterprises that employ marginalised groups), reduction in volunteer hours given a lack of resource to co-ordinate through a central function. These amount to materially reduced support for communities with knock on societal wellbeing consequences that are very difficult to fully quantify.

*Real World Example 1*

If Trust Management paid tax on business income, this would reduce any distribution available to our beneficiary, The Anglican Diocese of Auckland. The Church alleviates poverty and hardship in the community. If deprived of these revenue sources, those needs would not be met or in turn would need to be met by the government – which they are not currently. This includes providing temporary accommodation, food and clothing to those in dire need.

There would be an increase in the costs of the Trust Management business (both the tax payment itself and the added costs into the business to resource the increased compliance burden (accounting, audit, compliance, filings, additional reporting). The business may need to consider what services it can afford to provide if costs become too high. If our ability to deliver services were reduced or otherwise impacted by rising costs, we would then be reducing the positive impact and niche expertise the Trust Management business can bring to this sector.

*Real World Example 2*

Maintaining heritage buildings like churches is currently the responsibility of local parishes. This can be costly, especially given the age of the buildings, and heritage-listed status. A lot of churches are already struggling to cover ongoing repairs and maintenance costs, particularly with the current economic climate and declining donations. Some, for example, have to run opportunity shops to generate extra income. If these income sources were taxed, it would certainly impact the ability to afford long-term repairs and maintenance. This could put some of New Zealand's beautiful heritage buildings at risk, potentially losing them for our future generations.

*Real World Example 3*

A charity that provides supported housing for individuals recovering from addiction may run a second-hand furniture store as a social enterprise. The profit generated is reinvested in housing, counselling, and rehabilitation services. Taxing this income would reduce funds available for these services, potentially forcing the charity to scale back its impact or close altogether with direct onward impact for those communities in need of this support.

11. Accumulated Income There are valid and legitimate reasons for accumulating funds:
  - (a) building a capital fund for investment purposes from which draw sustainable cash income to fund charitable activities,
  - (b) creating reserves for difficult years, ensuring the organisations sustainability and resilience,
  - (c) covering the ongoing maintenance of facilities,
  - (d) growing the outreach of the particular organisation,
  - (e) funding long-term projects.
12. Having reserves allows for-purpose organisations to focus on their mission rather than cash flow concerns. Unlike for-profit business, the charitable sector faces challenges in accessing both income and capital, making it even more critical to adopt prudent financial practices.

*Real World Example 4*

Since its inception Trust Management has proudly distributed 100% of its surplus to The Anglican Diocese of Auckland since its establishment. It is prudent financial management for any entity to retain and where appropriate, accumulate an appropriate amount of income for both reserving and re-investment into the business. This enables the business to continuously improve operations, ensuring continued quality services and products to clients. It provides reserves for volatile market conditions to ensure sustainability of services. For Trust Management this also ensures ongoing support for the community sector and ensuring our impact continues in tough times for the sector.

*Real World Example 5*

Purewa Cemetery and Crematorium Charitable Trust is dedicated to honouring, and maintaining, a place of rest for the departed and a space to reflect for those left behind. They have a strategic focus to save forward with a long-term target for accumulated funds. These accumulated funds are to ensure that the cemetery will continue to exist as an important community space in perpetuity. The accumulation of funds goes to maintenance of the property and ensuring health and safety obligations are met with a goal of not being a burden on the government. Public cemeteries and services like those of Purewa are a cost to the government today.

13. Temporary nature of tax relief: There is suggestion in the paper of taxing income and rebating when distributions are made to beneficiaries. There are considerable overheads for processing this which most charities cannot afford. There is a lack of clarity on how these changes could be made or implemented, it also raises a concern that this becomes a free facility for the government to borrow from the charitable sector.
14. Impacts of this change include increased operational costs reducing the funds available for programmes and services; reduced savings and reserves; shift of strategic approach for community support initiatives with focus on immediate spending vs long-term investments; donors could be less inclined to contribute if they believe donations are taxed.
15. Practical Implications and increased compliance costs: Implementing and complying with new tax regulations for all or part of the charitable sector will create significant practical challenges with high administrative and compliance burdens on entities that generally do not have the resource or expertise to manage this effectively or efficiently. The sector already has significant reporting and accounting transparency requirements under the charities legislation. This is not something that for-profit businesses of similar sizes need to contend with. This would divert

further funds, on top of taxation, away from the charitable purpose and to understanding and managing this compliance instead.

#### Real World Example 6

A Church Diocese typically has a large number of Parishes - each parish will have its own income streams, some related and some unrelated to the charitable purpose. While there are consolidated accounts and audit for the Diocese as a whole, as they all have their own GST number any tax return would need to be done at the Parish level, adding time, complexity and cost which may be unaffordable. Revenue streams for parishes are limited and declining and costs, such as insurance, stipends, building maintenance, electricity, water, IT equipment and systems are only increasing.

16. Government and Public compact: The existing tax exemption is a recognition of the public benefit charities provide in place of the government and also in support of its broader social policy objectives. This is a core element of the implicit "charitable compact" between government and civil society. Undermining this compact by taxing business income would signal a shift away from valuing this role, which in Aotearoa NZ would be a very significant shift. Again, very hard to quantify the impact this would have but we it would be material.
17. The charitable sector is also supported by the public in part because it operates on the basis of trust and transparency. Introducing taxation on charitable business income risks eroding the public's perception of the sector's independence and purpose. It is difficult to quantify the impact and erosion in trust of the sector would have as regards the impact on communities and the viability of certain charities, especially the many smaller charities which would be more heavily impacted, possibly being forced to close or significantly reduce services. While some consolidation of activities may be achieved, the potential loss of tailored local support will also have impact.

## Key areas of concern

18. Lack of clarity on the problem definition: The consultation paper has no clarity on the problem definition or what the desired outcome is. There is a lack of financial modelling outside of that which has been published in news articles and based on information from the charities register comparing profit and expenses. We request that the problem definition is clearly articulated.
19. Change to taxation or an adjustment to what is a charity: Without a clear problem statement it is easy to assume the government may be motivated in change tax to generate revenue. A rigorous process to be accepted as charitable by law already exists and is managed by Charities Services. There is a high level of regulation and requirements to be met for an organisation to maintain that status. Would an adjustment to these checks and balances catch the small percentage of charities that are taking advantage of the income tax exemption? Is this where the focus should be rather than changes to taxation?
20. Clarity on related business income versus unrelated business income: The consultation paper discusses income related to directly to the charitable purpose and unrelated business income. There is no clear understanding presented on how to distinguish between the two. The paper references the treatment of this in other countries. Can we have more clarity please.
21. Clarity on the definition and treatment of passive income. Investments such as shares and bonds, have been raised as passive. We believe property investments, regularly bequeathed to

charities, in particular when a property manager is in place, should be treated in the same manner as investments. This ensures that charities are not unfairly disadvantaged based on the form of their assets and allows them to maximise financial support for their charitable mission.

22. The good that the for-purpose sector does; The consultation paper doesn't discuss or aim to quantify the economic value of the good that the for-purpose sector does. It is important to evaluate the potential impact tax changes would have on the for-purpose sector in terms of the public benefit they deliver. A reduction in funding due to tax payments, operational and compliance costs would decrease the impact this sector has. There is a need to assess whether the money the government would benefit from through a tax take outweighs the potential long-term costs of public service that the government would have to take on due to the negative impacts on the for-purpose sector.

23. Question of tax exemption being a competitive advantage – We agree with consultation paper that the tax exemption doesn't affect competitiveness. In the Trust Management context this is true given we are in a performance driven client service industry and our clients judge us and what we do through a commercial lens and have a choice as to other providers.

24. Blanket approach will bring severe consequences: Charities are vital contributors to New Zealand's social, cultural, and environmental wellbeing. Business income is not a profit-driven sideline, but a mechanism woven into "how we do things" to increase resilience, independence, and mission delivery of the sector. A blanket approach to taxation of the sector's business income as a whole would severely risk weakening the entire sector and reducing outcomes for the very people and communities that government and society rely on charities to support. We propose a clear definition of the mischief the government/ IRD seeks to remedy so that appropriate solutions targeted to solving that mischief are identified.

31 March 2025

[contact@tide.org.nz](mailto:contact@tide.org.nz) s 9(2)(a)

policy.webmaster@ird.govt.nz

Tēnā koutou katoa

**Consultation Paper on Taxing Charities and Not-for-Profits - Question 12**

This submission addresses Question 12 of the consultation paper regarding the potential removal or significant reduction of income tax exemptions, specifically concerning the local and regional promotional body income tax exemption (CW40 in the Income Tax Act).

We strongly believe that the income tax exemption for Business Associations should remain. Our reasons are as follows:

**Community and economic development:** Business Associations play a crucial role in fostering local economic development. They invest significantly in activities that benefit the wider community, such as:

- Promoting local businesses and attracting investment.
- Enhancing the attractiveness of the area through beautification projects.
- Improving public amenities.
- Enhancing security and safety through initiatives like CCTV and security patrols.

**Reinvestment in community safety:** Funds that would otherwise be directed towards income tax are reinvested directly into community safety measures, including CCTV systems and security personnel. These investments create a safer environment for both businesses and residents and are a vital service that would be significantly reduced if the exemption was removed.

**Maintaining local services:** Removal of the exemption would severely limit the ability of Business Associations to provide essential services to their members and the community. This would negatively impact local economies and reduce the overall quality of life.

**Distinct role from charities:** While some entities may apply for this exemption when unable to register as charities, Business Associations serve a distinct purpose focused on local economic development and business support, which is different from the core functions of charities.

**Impact on small businesses:** Many small businesses rely on the activities of Business Associations. The proposed change would place a greater burden on these small businesses, negatively impacting their financial stability and growth potential.

In conclusion, the removal of the income tax exemption for Business Associations would have detrimental effects on local economies and community safety. We urge the IRD to maintain this exemption to ensure the continued support of these vital organisations.

Thank you for considering our submission.

Yours faithfully

Linda Nicolson, Manager  
TIDE New Brighton Business Association

31 March 2025

David Carrigan  
Deputy Commissioner, Policy  
Inland Revenue  
C/- [policy.webmaster@ird.govt.nz](mailto: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.

Waikato Rugby has been a cornerstone of our local community for over 100 years, delivering not only rugby but also social and community development. Our mission extends beyond the rugby field. We enrich lives, promote wellbeing, 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 organisations in New Zealand, we play a crucial role in fostering community engagement, social connection, and personal development.

Our organisation, like many others across the country, supports individuals of all ages and backgrounds coming together to engage in physical activity while also contributing to the local community and forming lifelong friendships and support networks - all of which are key enablers of health and wellbeing.

Beyond playing rugby, we support charitable causes and fundraising initiatives for community organisations who target youth development, disability support and awareness. We are also at the forefront of addressing important societal issues in our communities. For example, we deliver mental health education training through our network of clubs and into our communities.

### **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. Waikato Rugby 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, as well as our network of partner clubs.

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,

s 9(2)(a)

Dr. Amy Marfell  
Chief Executive  
Waikato Rugby  
Email: s 9(2)(a)



# Kereone Rugby and Sports Club

355 Thames street, Campbell Park, Morrinsville  
Po Box 143

25 March 2025

David Carrigan  
Deputy Commissioner, Policy  
Inland Revenue  
C/- [policy.webmaster@ird.govt.nz](mailto:policy.webmaster@ird.govt.nz)

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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.

Alongside both junior and senior rugby, we provide netball, and beach volleyball alongside social events such as quiz nights and fundraising events for our various sports. Our clubrooms are often regularly utilised by other organisations in the community such as floral art, dancing, fitness classes and for seminars or workshops. These activities bring communities together and generate economic activity for local businesses throughout the year, not just on game day.

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Yours sincerely,

Dylan Harrison  
President  
Kereone Rugby and Sports Club  
s 9(2)(a)

**From:** s 9(2)(a)  
**Sent:** Monday, 31 March 2025 1:06 pm  
**To:** Policy Webmaster  
**Subject:** Taxation and the not-for-profit sector

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

I am requesting that my personal details will not be disclosed publicly or on any documents accessible to the public and other government agencies for privacy purposes.

**MAJOR POINTS OF MY SUBMISSION:**

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

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

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

CHARITABLE ORGANISATIONS (CHURCHES) DISCOURSES USE OF DRUGS, ALCOHOL, GAMBLING,

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

THE CHURCH TEACHES TO BE PRODUCTIVE LIKE WHAT THE BIBLE TEACHES ON: 1

THESSALONIANS 4:11 And that ye study to be quiet, and to do your own business, and to work with your own hands, as we commanded you; That ye may walk honestly toward them that are without, and that ye may have lack of nothing.

**RECOMMENDATION:**

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

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

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

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

## **Officials' Issues Paper "Taxation and the not-for-profit sector"**

### **Joint Submission of Nurse Maude Association and The Nurse Maude Foundation (together "Nurse Maude")**

Nurse Maude is a prominent healthcare organisation based in Christchurch, dedicated to providing comprehensive care services across Canterbury, Nelson/Marlborough, and Wellington. It was established with a mission to care for those in need, Nurse Maude offers a wide range of services, including district nursing, hospice care, personal care, and medication support. The organisation also operates a Simulation and Assessment Centre to assess the competency of overseas qualified nurses to work in New Zealand.

The Nurse Maude Association was established as an incorporated body with charitable purposes under the Nurse Maude District Nursing Association Act 1967. Its charitable purposes were reaffirmed and modernised in the Nurse Maude Association Act 2000. Through its charitable purpose, Nurse Maude aims to alleviate distress and improve the quality of life for individuals requiring healthcare, ensuring that essential services are accessible to the most vulnerable members of the community.

#### **Responses to Discussion Questions**

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

###### *Compelling reasons to tax charity business income*

The reason commonly advanced for taxing business income derived by charities is that an income tax exemption provides charities a competitive advantage over taxpaying businesses, as it allows charities to engage in predatory pricing, and to accumulate more funds so they can expand more quickly than taxpaying businesses. However, the theory that an income tax exemption for charity business income provides a competitive advantage to the charitable business has been considered on a number of occasions in both Australia and New Zealand and has consistently been rejected. For this reason, we submit that there is no compelling reason to tax business income derived by charities.

###### *Compelling reasons not to tax charity business income*

We submit that the proposal to tax charity business income overlooks the key reason why there is an income tax exemption for charities, which is to provide an incentive for charities to advance their charitable purposes. Focusing on the means by which charities raise funds to advance their charitable purposes (whether by soliciting donations and bequests, deriving income from investments, or deriving business income) detracts from the real issue, which is the effectiveness of the charitable sector in advancing charitable purposes.

To that end, we note that charities are bound by their constituting documents (in our case the Nurse Maude Association Act 2000 and the Trust Deed of The Nurse Maude Foundation) to act only in the furtherance of their documented charitable purposes. Charities, including Nurse Maude, undertake a variety of activities to raise funds to further their charitable purposes, including carrying on businesses. These fundraising activities are necessary for charities to be in a position to further their charitable purposes, and are carried out solely for that purpose.

We submit that the fundamental issue is not how a charity raises funds for its charitable purposes, and whether business income derived by charities should be taxed, but rather whether the Government remains satisfied that it is appropriate to support charities through tax concessions. This may involve a review of the nature of the purposes which the Government accepts are charitable purposes, and consideration of the value to the Government of supporting charities, in the light of the fact that charities provide welfare services which, if not provided by charities, would shift the burden for such services having to be provided by the Government potentially less efficiently and at a greater cost.

We assert that the primary issue this proposal aims to address is the misuse of charitable status under the Charities Act. Therefore, it would be more prudent and advantageous to evaluate the fundamental charitable objectives of the organisations that are of concern to ascertain their eligibility for such status. This approach would enable the government to enhance tax revenue while mitigating potential harm to the charitable sector and avoiding unintended detrimental consequences for society and the public finances.

*Factors described in 2.13 and 2.14 of the Officials' Issues Paper*

While charities do not face compliance costs associated with their tax obligations, other than GST, they face compliance costs in relation to their registration as a charity. In particular, charities are required to prepare financial statements, and file annual returns with Charities Services. We submit that there is no advantage in charities not being required to submit income tax returns, when they face similar compliance costs to maintain their status as a registered charity. Indeed, if charities became subject to FBT and income tax on business income, they would be disadvantaged relative to taxpaying businesses, as they would face additional compliance costs associated with meeting their tax obligations along with compliance costs associated with maintaining registration as a charity.

We further note, as acknowledged in the Officials' Issues Paper, that any perceived advantage in charities being able to accumulate funds more quickly (and therefore avoid costs associated with raising external capital), is offset by the fact that charities cannot raise equity capital, and are more reliant on income generated from their own activities, including carrying on businesses, to fund their operations and expansion of services.

***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 the income tax exemption for business income derived by charities is removed, charities may cease carrying on business as a means of raising funds for their charitable purposes. Instead, they may raise funds through other means, including fundraising, passive investment, and soliciting donations and bequests. It is therefore possible that removing the business income exemption for charities will not result in a significant increase in the Government revenue, and may adversely impact on productivity and wellbeing in the community through reducing employment and volunteering opportunities.

If charities continue to carry on businesses, either because the business itself furthers their charitable purposes (such as operating the Nurse Maude hospices), or to raise funds to further their charitable purposes, then taxing business income would reduce the funds available to apply to their charitable purposes. Further, funds that would otherwise be applied to charitable

purposes would need to be spent in meeting the increased compliance obligations associated with taxing charities' business income, including:

- determining whether the charity meets the definition of carrying on a business and, if so, which activities of the charity's operations constitute a business;
- assessing whether any business activities are "related" or "unrelated";
- calculating the charity's taxable income (including the apportionment calculations which would be required to identify the extent to which expenditure relates to the business); and
- preparing and filing income tax returns.

In practical terms, the taxation of Nurse Maude's business income (and the associated compliance costs) would reduce Nurse Maude's capacity to deliver services in the furtherance of its charitable purposes. This may result in more people being unable to access Nurse Maude's end of life care and other community nursing services, and the public health system would be forced to meet those fundamental needs.

Any further taxation income derived by the Government as a result of taxing the business income of charities would, at least in part, need to be applied to meet the health needs which Nurse Maude is no longer able to meet. We submit that the Government should consider whether it would be preferable for Nurse Maude to continue to provide this care, particularly in the light of the fact that Nurse Maude operates within the community it serves, and has the ability to be flexible, reactive, and creative in the way it performs its role in the community.

***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?***

As a preliminary point, we submit that no income derived by a charity is "unrelated to charitable purposes". The very nature of a charitable organisation is that it is established for charitable purposes and all of its activities, fundraising or otherwise, are limited by the overriding requirement that they must be in the furtherance of the charity's charitable purposes. As noted above, focusing on the means by which charities raise funds to advance their charitable purposes detracts from the real issue, which is the effectiveness of the charitable sector in advancing charitable purposes.

If, however, the proposal to tax "unrelated business income" derived proceeds, we submit that "unrelated business" should be defined to exclude:

- businesses which directly or indirectly contribute to the charitable purposes;
- businesses which do not have competition, so the issue of competitive advantage (including the ability to accumulate funds for growth more quickly) does not arise; and
- businesses where all or most of the competition is other charities.

#### *Businesses which directly or indirectly contribute to the charitable purposes*

New Zealand Nursing Council and Nurse Maude provide New Zealand's "Simulation and Assessment Centre", which is required by the government to introduce internationally qualified nurses to nursing practice in New Zealand, and to undertake clinical assessments to qualify internationally trained nurses to work as nurses in New Zealand.

This service diversifies Nurse Maude's revenue profile and support its charitable purposes and services. The availability of trained nurses is crucial for Nurse Maude to fulfill its charitable objectives, and the Simulation and Assessment Centre directly contributes to increasing the number of nurses available in New Zealand. This ensures that Nurse Maude can obtain the staff needed for hospices, care homes, in-home care, and district nursing as well as increasing the pool of nurses available to the public sector. By increasing the availability of qualified nurses in New Zealand, the Simulation and Assessment Centre also helps control the market remuneration for the nurses, which means that both Nurse Maude and Te Whatu Ora can employ more nurses and / or use funds elsewhere in their organisations.

While the Simulation and Assessment Centre generates income for Nurse Maude (which is applied to its charitable purposes), Nurse Maude operates the Simulation and Assessment Centre to enhance its ability to carry out its charitable purposes by providing nursing care, as nurses are the key input in providing this care. As such, even if the Simulation and Assessment Centre is not considered to be directly carrying out Nurse Maude's charitable purposes, it is only one step removed. We submit that businesses which directly or indirectly relate to carrying out charitable purposes should be excluded from the definition of "unrelated business".

#### *Businesses which do not have competition*

Many charities, including the Nurse Maude Foundation, hold significant investments to generate income. This income helps to offset the shortfall from inadequate government funding and provides for capital improvements, such as Nurse Maude's under-construction hospice facility that has been the focus of fundraising efforts for many years.

To manage these investments prudently (in accordance with the obligations imposed on trustees under section 30 of the Trusts Act 2019), a certain level of activity, including changes in investments, are required.

Removing the business income exemption for charities would introduce boundary issues on whether investment activity carried on by charities (and, in particular, larger charities) constitutes a business of investing. The boundary between passive investment activities and a business of investing is unclear, and removing the income tax exemption for charities' business income would result in funds that could otherwise be applied for charitable purposes being used to pay fees to advisers to determine whether the charity is carrying on a business of investing.

We note that the apparent driver for the removal of the income tax exemption for charity business income (i.e. to remove the competitive advantage that charities allegedly enjoy over taxpaying entities) does not arise in relation to investment activities, as a charity's business of investing has no competitors. As such, we submit that it would be appropriate to exclude the business of investing from "unrelated businesses" which are subject to income tax.

Imposing income tax on the business of investment carried on by charities would unfairly disadvantage large charities that hold significant funds which need active management to manage the funds responsibly. It may also result in charities changing their investment strategy to invest their funds in a single investment. Adopting a single-investment strategy so a charity is not subject to income tax on the charity's business income may result in trustees being liable for breaching their duty to invest prudently. Further, choosing to invest in a non-diversified portfolio may increase risk and / or lower returns, resulting in charities having less funds to apply to their charitable purposes. This further supports Nurse Maude's position that the business of investing should be excluded from "unrelated businesses" which are subject to income tax.

*Businesses where all or most of the competition is other charities*

We submit that the definition of "unrelated business" should exclude businesses where all or most of the competition is other charities. As the apparent driver for the removal of the charity business income exemption is the perceived competitive advantage that charities enjoy, there is no need to remove the income tax exemption for businesses where the competition is other charities. For example, Nurse Maude operates hospice shops which sell donated clothing and donated household goods. Most competitors of this business are "op shops" operated by other charitable organisations. We submit that it is not appropriate for these businesses to be subject to income tax, where competitive advantage arguments are largely irrelevant, and the only result of imposing income tax on such business income would be to reduce the funds available to be applied to those charities' charitable purposes.

***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?***

If the income tax exemption for charity business income is repealed, Nurse Maude supports the inclusion of a monetary threshold under which business income derived by charities continues to be exempt, but submits that a monetary threshold should not be the only exclusion, and further exclusions should apply to businesses which directly or indirectly contribute to the entity's charitable purposes, businesses which are typically carried on by charities, and businesses where there is no competition, as set out in question 3 above.

***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 submit there is no sound basis to disincentivise the accumulation of funds in charities. Charities operate under considerable restrictions, which limit their activities to those that further their charitable purposes, require that all funds be applied to further the charities purposes, and prohibit the application of funds for the private pecuniary profit of any person. In this context, all of a charity's business income, whether distributed or retained, is held or applied for its charitable purposes, and should be exempt from income tax.

If, contrary to the above, the proposal to remove the income tax exemption for charity business income proceeds, we submit that business income should remain exempt from income tax where it is distributed or applied for charitable purposes. The requirement that funds be

“distributed” for charitable purposes presupposes that the business is carried on by a separate entity to the entity that directly advances the charitable purposes. That is not always the case.

If the business carried on by the charity is itself fulfilling the charity’s charitable purposes (which is the case for any nursing care business carried on by the Nurse Maude Association, which furthers its charitable purposes by providing care and nursing services in hospices, care homes, nursing services, home aid services etc) then there is no “distribution” of funds, as such. Rather, the business income is applied directly to the charitable purpose by the entity which carries on the business. We submit that business income which is applied in this way should continue to be exempt from income tax. This outcome may be achieved by allowing a deduction equal to the amount of income applied to charitable purposes.

Further to the above, we submit that business income is “applied” for charitable purposes, and so should be exempt from income tax, where it is “earmarked” for a specific charitable use, and where is it held for future use for a charitable purpose which is not specifically identified. For example, if Nurse Maude is raising funds to build a new hospice, and accumulating business income for this purpose, these funds are “applied” for the charitable purpose by being set aside to be spent at some future date on a charitable purpose. This is consistent with the definition of “applied” in IS 18/05 “Income tax — donee organisations — meaning of wholly or mainly applying funds to specified purposes within New Zealand”. Similarly, funds held for an unspecified future use for a charitable purpose are “applied” to the charitable purpose, under the definition of “applied” used in IS 18/05.

We note that it is prudent for charities to retain funds so they are protected from unexpected charitable purpose deficits, capital reinvestment purposes, unforeseen liabilities, downturns in business etc, so they can continue to further their charitable purposes on an enduring basis. A tax system which encourages a charity to spend and / or distribute all of its business income rather than retaining funds when it would be prudent to do so would encourage an irresponsible approach and increase the risk of charities ceasing to exist (and, as a result, a greater need for Government to provide services which are no longer provided by charities).

It is further submitted that, if the income tax exemption for charity business income is removed, but a deduction is allowed for funds applied for charitable purposes in an income year, a mechanism would be needed to address situations where taxed business income is distributed or applied for charitable purposes in a subsequent income year. This may be achieved, for example, by a memorandum account with refundable credits which can be claimed in an income year when the funds are applied to a charitable purpose.

***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?***

If the FBT exemption for charities is repealed, charities which are currently providing fringe benefits to employees will have less funds to apply to their charitable purposes, either because of the requirement to pay FBT on fringe benefits provided to employees, or because they will cease to provide fringe benefits so will be required to compensate employees by increasing their cash remuneration. Either way, reducing the funds available for charitable purposes will reduce the services that are provided by charities, which in turn will increase the burden on Government to provide these services (at a greater cost and less efficiently).

In line with its charitable focus Nurse Maude does not provide fringe benefits to its employees.

To provide community care, Nurse Maude operates a fleet of vehicles. Personal use of vehicles is not permitted, and they are assigned to individuals only on a temporary basis. To facilitate efficient and cost-effective morning care provision, some vehicles are taken home by care providers the night before. If this practice were subject to FBT, Nurse Maude would take steps to minimise the tax exposure, the likely practical impact being that vehicles would be picked up from a Nurse Maude location before proceeding to the first visit. This change could increase staff travel time and therefore potentially reduce the number of visits able to be undertaken each day to provide care services in the community.

31<sup>st</sup> March 2025

Taxation and the not-for-profit-sector  
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### **Taxation and the Not-For-Profit Sector**

On behalf of **New Progress Enterprises (trading as Progress to Health)**, we strongly oppose the proposals outlined in the consultation paper.

#### **Background**

Progress to Health is a community based charitable trust supporting people with long-term mental health conditions and/or disabilities throughout the Waikato, Taranaki, and Taupō rohe. Established on 24<sup>th</sup> November 1995, we have been working to enhance mental and physical wellbeing, helping individuals achieve personal goals and reconnect with their communities.

#### **1. Fundamental Misunderstanding of Charities**

The paper inaccurately frames tax exemptions for charities as a "cost" to the government, rather than a recognising them as essential mechanisms that enable charities to fulfil their charitable purposes. Charities exist to address societal gaps that governments and private sectors cannot fully resolve, often providing critical services that would otherwise fall to the government.

These concessions allow charities like ours to reinvest limited resources into our communities, amplifying our ability to deliver public benefits. Without these concessions, many charities, including ours would struggle to sustain operations, leading to unmet needs for our clients who require the support from our services.

It will also likely lead to increased pressure on the government to step into more of our social, mental health and disability service space contradicting the very intent of this paper. This would result in greater fiscal and political costs than the current system of supporting charities through tax exemptions, leading to greater gaps in our mental health and disability sector.

# Communities without barriers

## **2. Burden-Shifting and Flawed Premises**

By taxing unrelated business activities and investments, the proposal in the paper incorrectly shifts fiscal responsibility onto charities, which already operate under significant financial constraints. Progress to Health:

- Relies on diverse income streams to offset unreliable government funding. This is also a well understood good governance practice not just for companies, but also charities. As a board, we are obliged to consider our duties to diversify income streams and make prudent decisions on investments.
- We operate under strict governance frameworks to ensure all funds serve our charitable purposes.

## **3. Unrelated Business Activity (UBA) and Investment Realities**

The paper's approach to UBAs fails to acknowledge:

- **Sustainability Needs:** Government funding is insufficient and unstable. Investments and UBAs are often the only way charities can generate sufficient income to maintain operations.
- **The Accumulation Principle:** Charities must build reserves to ensure long-term viability. For instance:
  - Reserves safeguard against funding gaps (e.g., delayed contract payments).
  - Strategic reserves enable capital projects (e.g., facility upgrades) that benefit communities.
- **Good Governance:** Our investment strategies are guided by rigorous governance frameworks.

**Proposal Impact:** Taxing these activities would penalise prudent financial management and force charities to divert funds from services to compliance costs, thus severely impacting their ability to deliver those services.

## **4. Disproportionate Harm to Vulnerable Communities**

Progress to Health supports individuals with mental health conditions and disabilities—groups already facing systemic inequities. Reduced financial capacity due to taxation would:

- Limit access to life-skills programs, housing support, and community integration services.
- Increase reliance on taxpayer-funded crisis interventions (e.g., hospitalisations, emergency welfare).

This contradicts the government's own goals of reducing inequality and advancing wellbeing and equity.

## **5. Misplaced Focus on Integrity Risks**

While the paper raises concerns about integrity, these issues fall under the mandate of the Charities Regulator, not the IRD. The Charities Act 2005 already requires:

- Annual reporting on activities and finances.
- Transparency about reserves and investments.
- Demonstrating how all funds advance charitable purposes.

**Recommendation:** Strengthen the Regulator's capacity to address misconduct rather than imposing broad tax penalties that harm compliant organisations.

## **6. Recommendations**

1. Retain tax exemptions for charitable income, including UBAs and investments, recognising their role in sustaining public-good services.
2. Clarify the accumulation principle to allow charities to build reserves for long-term sustainability.
3. Address integrity concerns through the Charities Regulator to identify and manage any charities who have unrelated businesses with the obvious intent to subvert the usual, corporate tax system.
4. Engage and consult directly with each sector more meaningfully and with appropriate time frames (four-weeks is an inconsiderate amount of time to provide responses to the paper) to design solutions that balance accountability with operational realities.

## **Conclusion**

Taxing charities undermines their ability to serve as critical partners in advancing social and economic wellbeing. We urge the IRD to withdraw these proposals and collaborate with the sector on measures that support—not penalise—organisations delivering essential services to New Zealand's most vulnerable.

## **Contact:**

Karen Covell

Chief Executive

New Progress Enterprises (Progress to Health)

Email: [s 9\(2\)\(a\)](#)



31 March 2025

To whom it may concern,

Ngā Haerenga New Zealand Cycle Trails Inc, as the overarching governing body for Ngā Haerenga New Zealand Cycle Trails including the 23 Great Rides of NZ (which are Not For Profit organisations), supports and adopts on behalf of the 23 Great Rides the attached Submission made by the Mokihinui – Lyell Backcountry Trust.

Ngā mihi

s 9(2)(a)

Janet Purdey



[nzcycletrail.com](http://nzcycletrail.com)



**Taxation and the not-for-profit sector**

**A submission by the Mokihinui-Lyell Backcountry Trust (registered Charitable Trust) in response to the Officials' Issues Paper (IRD, 24<sup>th</sup> February 2025)**

**Date: March 2025**

***Summary position***

We are strongly opposed to the removal of an income tax exemption for registered charities in New Zealand that are delivering public benefit, that are not unfairly profiting (against tax-paying businesses), and that are meeting all the reporting and disclosure obligations required by law.

Our Trust does have concerns about abuse of income tax exemption privileges by presumably a small minority of registered Charities who are not operating in the spirit of public benefit or on a level financial playing field. Our Trust encourages action to address these injustices and inequalities, whether by tax reform or more targeted compliance/oversight. Efforts to address these outlying entities in the national not-for-profit sector should not impinge on the efforts or viability of the vast majority of hard-working and well-intentioned charities. In fact, we encourage more thinking and action on how to further support well-meaning and well-performing charities.

***Background and rational for position***

We are a registered Charitable Trust that has been in existence for 17 years. We are purpose-driven organisation that exists to deliver social and environmental benefits. We believe we achieve this in a far more efficient manner than an equivalent government bureaucracy would, and we have leveraged massive volunteer input over the course of our existence (more than 50,000 hours) because our purpose is grounded in community and borne from passion. To propose imposing income tax on charities feels seriously uninformed and vexing and seems to lack an appreciation of the critical role charities play in New Zealand's well-being and function.

Charities provide goods and services where for one reason or another, government has not, cannot, or has failed to do so. Whilst charities perform a heroic role in New Zealand's societal fabric, the vast majority (88%) are small (Tier 3 and 4 charities) and financially fragile/unsustainable. Those that are able to have often diversified their income streams to support their charitable purposes. To remove tax exemptions from registered Charities is short-sighted and fails to acknowledge the massive societal benefits delivered by Charities. It would seemingly penalise and stifle innovative thinking and efforts by charities to address their financial sustainability and self-sufficiency by creating enduring income streams. In essence, and for seemingly negligible benefit, it would threaten to topple a critical system that helps hold New Zealand together and that enhances the social, human, and natural capital of the country.

Notwithstanding the above, if there is a concern that a minority (of the 29,000 registered charities in New Zealand) are unfairly profiting/competing and/or not operating in the public good (i.e. driving division, hate etc), then we do support action to address this issue. The discussion paper does not make it clear what the problem is that is trying to be solved however, so we consider our duty is to advocate for the vast majority of registered charities and make it clear that any action to address outliers must not compromise the efforts and existence of the well-meaning majority. Better resourcing Charities Services to monitor and scrutinise the minority of entities you may be concerned about rather than threaten the function and survival of all the other registered Charitable Trusts that collectively power New Zealand may be an alternative option. Clarifying and better describing what the issue is that is trying to be fixed and providing clear and specific examples of what related and unrelated income is would go someway towards hopefully alleviating the concerns of well-meaning charities operating for public benefit.

That charities don't pay tax on income is not an aberration, it's a recognition of the massive societal benefits we all gain since such money must ultimately be used to advance charitable purposes. The system has safeguards to ensure that happens. It's hard to become a registered charity, and there are annual transparent disclosures of financial statements and breaches that can be investigated and remedied.

By eroding charities' tax position, even in a small way, their income will reduce – which means less funds available to do all that good work they do in society. Charities know their local communities and their needs, they have untold volunteer hours which go unnoticed, and they have the relationships and history to know how to get things done.

Charities are also more efficient than the infrastructure of government, so taxing them would likely prove to be a massive 'own goal' if the government has to step in and provide these services at a higher cost.

Charities often make do with little, and they should be applauded for seeking income streams for sustainability so they can advance their charitable purposes (and often such initiatives themselves advance purposes too).

Most fundamentally, the innovation we need from charities is discouraged if we look for ways to tax them in order to make up funding deficits that result from other recent policy such as tax cuts for the wealthy.

Lastly, we believe any change surrounding charities should be how to support and amplify their outcomes and existence more, not threaten them. Do we want New Zealand's NFP sector to continue to be innovative, increasingly financially self-sufficient, and better able to deliver positive impact, or do we wish to further constrain and undermine them, compromising New Zealand's future?

***Perspective on specific consultation questions asked?***

Where we feel qualified or able to respond to the often detailed and specific consultation questions posed, we have done so below.

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

There are compelling reasons NOT to tax the business income of well-meaning charities operating for public good and not gaining unfair advantage. There is a case to address and rescind these privileges for registered charities that are not fulfilling this purpose or meeting these thresholds.

There is no appreciation or acknowledgement of the massive benefits charities provide for New Zealand, what the actual issue/problem is that is trying to be solved, any clear understanding of how charities operate and the already tenuous financial existence of many (an existence that is tolerated because charities are purpose-driven, existing because of the love and passion for a cause), and any meaningful discussion and quantification of the risks to charities and fate of the NFP sector in New Zealand if this was to happen, including through increasing complexity and compliance costs.

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

As above, including the threat/likelihood of significant unintended consequences by way of charity failure (either via untenable financial existence or a drop off in charity impact/effectiveness) and a loss of contribution to the social, environmental, and economic well-being of New Zealand.

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

No comment. Not supported for well-intended charities operating for public benefit and without unfair advantage. Furthermore, for such a far-reaching proposal, this consultation is unhelpful and de-stabilising in that is it unclear (beyond inference and words) precisely what the distinction is between unrelated and related income. In the case of our own Trust, we have taken on at great effort and risk additional business activities to try and financially sustain our primary charitable objective. Would these active undertakings be seen as related or unrelated activities/income? The fact that this consultation provides no clarity or certainty about this is highly concerning and regrettable.

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

No comment. Not supported.

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

Of course. However, our observation is that charities diversify their income stream to improve financial viability/sustainability and increase impact, so just how income would be determined as being related or unrelated to the charitable purpose is unclear? Charities often take on other separate business activities to raise funds to serve the underlying charitable purpose. It feels like an unworkable and fraught proposal to try and throw a blanket approach over such instances or grossly inefficient and disproportionate (relative to the opportunity) to try and sort that out appropriately on a case-by-case basis. Furthermore, and just like superannuation, supporting and encouraging New Zealander's/Charities to save for the future to enable larger investments and renewals is important instead of penalising them for retaining funds (assuming they are fortunate enough to be able to).

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

No comment. Not supported. We think this misses the point and fails to recognise the broader benefits and efficiency which with Charities deliver their objectives and is looking to take something further from an already highly contributing and hard-working sector with no acknowledgement of what we would stand to lose or give up.

**Q7: Should New Zealand make a distinction between donor-controlled charities and other charitable organisations for tax purposes? If so, what criteria should define a donor-controlled charity? If not, why not?**  
If the underlying concern is that donor-controlled charities are exploiting loopholes for personal gain, then address that issue via enforcement and resourcing rather than a blanket change that threatens the viability and existence of innocent and hard-working charities.

**Q8: Should investment restrictions be introduced for donor-controlled charities for tax purposes, to address the risk of tax abuse? If so, what restrictions would be appropriate? If not, why not?**

If tax abuse exists, then resource and deal to the issue meaningfully without conflating other issues and using a blunt implement to beat up on the tens of thousands of registered Charities that are pouring their hearts into bettering New Zealand every day.

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

As above.

**Q10: What policy changes, if any, should be considered to reduce the impact of the Commissioner's updated view on NFPs, particularly smaller NFPs? For example:**

- increasing and/or redesigning the current \$1,000 deduction to remove small scale NFPs from the tax system,
- modifying the income tax return filing requirements for NFPs, and
- modifying the resident withholding tax exemption rules for NFPs.

No comment.

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

No comment. Defer to others more qualified to comment on such a specific tax matter.

**Q12: What are the likely implications if the following exemptions are removed or significantly reduced:**

- local and regional promotional body income tax exemption,
- herd improvement bodies income tax exemption,
- veterinary service body income tax exemption,
- bodies promoting scientific or industrial research income tax exemption, and
- non-resident charity tax exemption?

No comment. Defer to others more qualified to comment on such specific tax matters.

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

No comment. Defer to others more qualified to comment on such a specific tax matter.

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

No comment. Defer to others more qualified to comment on such a specific tax matter.

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

No comment. Defer to others more qualified to comment on such a specific tax matter.