s 9(2)(a)

From: Jason Darwen [Clutha Vets] s 9(2)(a)
Sent: Monday, 31 March 2025 5:03 pm
To: Policy Webmaster
Subject: Taxation and the not-for-profit sector submission

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Hamish Moore, Jason Darwen, Annie Jackson, Steven Butler, Bevan Topham
Clutha Veterinary Association Inc
31st March 2025

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

Dear Sir/Madam,

As five experienced, practising veterinary surgeons responsible for the management of a rural Vet Club, we are writing to provide a submission in response to the consultation process regarding taxation and the not-for-profit sector. Specifically, we wish to advocate for the retention of the existing income tax-exempt status for veterinary service bodies operating under the not-for-profit model.

We have read submissions from Andrew Reid, Vetora Bay of Plenty and Steven Bamford, Clutha Vets. We agree with the benefits listed for maintaining the tax exempt status for not-for-profit veterinary services. We also agree with the risks listed for removing the tax exemption for veterinary services.

In addition, we would like to raise the following points:

Concerns About the Proposed Changes to the Tax Status of Vet Clubs
Historically, New Zealand's veterinarians were imported from the UK and Australia through the Vet Club system until local graduates started emerging from Massey University in 1968. To this day, veterinary clubs, like Clutha Vets, have played an essential role in providing care to rural communities, with Clutha Vets hiring its first vet in 1908.
As a Vet Club, we strongly oppose the proposed changes to the tax status of vet clubs. These changes would have significant negative impacts on the profession, our clients, and the provision of animal care.

The Rise of Corporate Veterinary Groups
New Zealand's veterinary sector is undergoing rapid change. Many small, privately-owned clinics are being bought out by multinational or large New Zealand-based veterinary groups. This is similar to trends seen in the UK, and it often leads to negative outcomes for clients animals and vets.
For example, large multi-vet practices often employ a large number of relatively inexperienced vets. These new vets are expected to run practices with limited supervision, which can lead to disillusionment and burnout. As experienced vets leave after clinics are acquired, young vets often struggle with the responsibility, reducing the overall quality of care and affecting farm productivity in rural areas.
We have also witnessed large veterinary groups buying up small animal practices in Dunedin and the subsequent closure of several clinics due to lack of staffing. This has meant very long wait times for sick and dying small animals, many of which we had to end up supplying veterinary services to.

Vet Clubs' Role in Maintaining Competition

Vet Clubs provide essential competition against these large corporate practices. If Vet Clubs' tax status is changed, it will only make it harder for them to compete, strengthening the power of large veterinary groups and further reducing competition. Vet Clubs hold these corporations accountable and ensure that the focus remains on service quality, animal welfare, and staff wellbeing rather than profit maximisation.

Commitment to Quality and Training

At Clutha Vets, like many other Vet Clubs, we prioritise providing the best care for our clients and ensuring our staff are well-trained. Our approach often means we're less efficient but better equipped to deliver high-quality service. For example, we continue to offer a high level of equine services, which many larger practices have all but given away as it is an unprofitable service to offer.

We invest significant time and resources in training younger vets in all aspects of veterinary care. We want our staff to be well-rounded, skilled, and confident in their abilities. This investment in training also benefits our clients, improving farm profitability and animal welfare.

Fair Compensation for New Graduates

Vet Clubs have also been instrumental in maintaining competitive salaries for new graduates. Up until recently the Vet Club Salary Scale, was used to set a benchmark for starting salaries, ensuring that larger private practices pay their staff fairly.

In summary, we believe that removing their tax exemption will hurt Vet Clubs, reduce competition, and negatively affect both the quality of veterinary care and the wellbeing of veterinarians. We urge lawmakers to retain the existing income tax-exempt status and recognise the important role Vet Clubs play in supporting rural communities and the veterinary profession.

Thank you for considering this submission.

Yours sincerely,

Hamish Moore
Jason Darwen
Annie Jackson
Steven Butler
Bevan Topham

<u>Taxation and the Not-for Profit Sector</u>

Name: John Robinson

I am a retired Member of the New Zealand Institute of Chartered Accountants (A.C.A

I have been involved in the establishment and/or administration of a number of charities since 1968.

I have had roles of Chairman, Secretary and Treasurer at various times over the years in all the charities.

All my work for charities has been voluntary.

Currently I am involved in 6 (six) Charities – all of which have been either Incorporated under The Charitable Trusts Act 1957 or The Incorporated Societies Act 1908. All are currently registered under the Charitable Trusts Act 2005.

The objectives of these entities are my primary motivation *enhanced* by the existing legislative/operational Charitable Trust environment recognising the contribution to society of charitable work and the consequential income tax exemption.

I note In particular the requirement that except under specific circumstances (appropriate remuneration for services rendered) no individual can either benefit from the on-going income or any capital distribution.

All of the current Charities above are in the Tier 3 and 4 categories of annual reporting under the Charities Act.

The Charities I am currently involved with fall into two categories:

1. Those established with integrated links to a Church or Churches and having a combination of income from investments (shares, bonds and property rentals) together with bequests and gifts and,
2. Those established through family connections promoting the advancement of religion and deriving its income from investments and business activity.
   I observe the term ‘Private Foundation’ is used to describe this type of charity.

With respect to the term ‘Donee Controlled Charities’ I am unsure whether that term is intended to be another way to describe ‘Private Foundations’ or whether it is a category within it.

I do understand that a ’Donee Controlled Charity’ is intended to describe a Charity that issues Donee Receipts for gifts made by the Trustees and/or related family members.

I advise that none of the Charities that I have been involved with, has issued Donee Receipts to its Trustees or related family members and therefore cannot be classified as ‘Donee Controlled Charities’.

If Donee controlled Charitable Entities are in any way ‘flouting’ the intention of the legislation then Charities Services should be able to monitor it.

Note 1: I have not responded to the particular questions raised by the Department in its Paper. There will no doubt be many contributors with the resources to respond to such questions. Rather, I have sought to ‘tell my story’. I urge the continuing need for income tax exemption for approved charitable entities.

Note 2: I observe that the Department’s Paper focuses on the ‘loss of income’ for the government but does not acknowledge the benefits of charitable activity that gave rise to income tax exemption.

Date: 31 March 2025

Save the Children New Zealand Submission on the IRD Issues Paper on Taxation and the not-for-profit sector

Save the Children:

Organisation Name:	Save the Children New Zealand (SCNZ)
Geographical location	National and international
Target group/focus	Children
Contact Person Name:	Jacqui Southey, Child Rights Advocacy and Research Director
Phone number:	s 9(2)(a) [redacted]
Email address:	
Date:	31 March 2025

Our Organisation: Save the Children was founded in 1919 and is the world's leading independent organisation for children. We work in 120 countries to save and improve the lives of children around the world.

Vision: Save the Children's vision is a world in which every child attains the right to survival, protection, development and participation.

Mission: We work to inspire breakthroughs in the way the world treats children and to achieve immediate and lasting change in their lives.

Save the Children New Zealand was established in 1947 in Christchurch. We work to uphold the rights of children both in New Zealand and overseas.

Our Ambition: We commit to doing whatever it takes to ensure by 2030 ALL children, especially the most marginalized, survive, learn, and are protected.

Save the Children believes every child deserves a future. In New Zealand and around the world, we work every day to give children a healthy start in life, the opportunity to learn and protection from harm. When crisis strikes, and children are most vulnerable, we are always among the first to respond and the last to leave. We ensure children's unique needs are met and their voices are heard. We deliver lasting results for millions of children, including those hardest to reach.

We do whatever it takes for children – every day and in times of crisis – transforming their lives and the future we share.

Introduction

Save the Children New Zealand welcomes the opportunity to provide a short submission on the IRD Issues Paper on Taxation and the not-for-profit sector.

Save the Children New Zealand (SCNZ) is a registered charity in New Zealand. Save the Children has more than 100 years' experience – and of these, 75 years here in New Zealand

– as an international charity organisation, bringing about lasting change to improve the lives of children and their families in Aotearoa New Zealand and around the globe.

Save the Children New Zealand is part of the not-for-profit sector (NFP) that delivers a broad range of quality programmes and/or services to mitigate serious social and development needs in Aotearoa New Zealand and globally, often for vulnerable and marginalised groups and communities.

We welcome the opportunity to provide a short submission on the Issues Paper published by IRD.

Save the Children New Zealand supports, in principle, the Government's tax and social policy work programme objectives to simplify tax rules, reduce compliance costs, and address integrity risks related to the NFP sector and taxation rules.

Specific issues in the Issues Paper

Specific issues that SCNZ wishes to comment on include:

1. Perception of charity related tax exemptions
2. Accumulated funds
3. Integrity and Simplification

1. Perception of charity related tax exemptions

It is our view that the NFP sector is extremely diverse, and this diversity is reflected in the existing Tiers 1-4 that help to establish a categorisation framework. Any changes to the current tax exemptions systems should consider that diversity and take care not to impose unintended consequences that could diminish or challenge charities' ability to deliver for public good here in New Zealand or in international settings.

Current tax settings provide incentives for individuals and organisations to make contributions to a cause in the form of financial donations. Tax benefits related to registered charities reflect the public benefits that directly result from the work of the charity.

The Issues Paper notes that (pg 4), *'Every tax concession has a "cost", that is, it reduces government revenue and therefore shifts the tax burden to other taxpayers.'* Tax concessions in isolation may be seen as a cost to government, however in the wider context of the charity sector, these concessions are designed to further empower and enable the public good that a charity delivers, and in turn is a saving in cost to the Government who may alternatively have to shoulder the full burden of these costs.

While we cannot speak for all charities, it is our view that charities quite often work in partnership with government to deliver much needed, and even critical social services to a high degree of quality and in a highly cost-efficient manner.

Additionally, charities have the ability to leverage public support that brings an additional benefit where people understand and care about the issues they are financially contributing to.

Save the Children

2. Accumulated funds

Taxation on the accumulation of funds, usually referred to as reserves, must be carefully considered.

Reserves are important to ensure the viability of a charity and the ability of a charity to ensure it can fully deliver on commitments to donors and beneficiaries. Reserves also ensure a charity can withstand significant economic or sector shocks that limit a charity's ability to receive the funding levels forecast to meet operational costs and to deliver on their charitable purpose.

Reserves can be a necessary requirement of a donor to ensure the charity has the business structures and capabilities to meet the requirements of the donor and deliver on the funding commitment, for example through multi-year programmes to a high degree of quality and efficiency.

Reserves levels should be viewed in the context of the overall business structure of the charity rather than as an isolated sum of funds.

3. Integrity and Simplification

Save the Children New Zealand is fully supportive of a simplified system that ensures strong compliance, accountability and transparency, and that encourages and upholds the integrity of the charity sector.

Ensuring the integrity of the sector is of benefit to all, the sector, the public, donors, supporters and government. High integrity is essential for trust building that the charity sector can deliver to meet the needs of individuals, communities or in protecting our planet.

The current system has a high degree of transparency and accountability that is critical to the integrity of the sector. Any changes to the current system must ensure that trust and integrity is upheld.

This submission has been prepared on behalf of Save the Children New Zealand by Jacqui Southey, Child Rights Advocacy and Research Director. To discuss this submission please contact Jacqui Southey, s 9(2)(a)

St Patrick’s Catholic Parish Akaroa

25 Rue Lavaud

PO Box 30

Akaroa

31 March 2025

Re: Consultation on taxation and the not-for-profit sector

I am writing on behalf of St Patrick’s Catholic Parish in Akaroa. We are a very small Parish with only about 50 parishioners and no resident Priest. We are 100% volunteer driven. St Patrick’s is one of the oldest catholic churches in the country with the parish being founded by Bishop Pompallier in 1840 and the current church built in 1860. It is a category 1 Historic Place and has recently been fully renovated. This was a daunting and hugely costly project funded entirely by donations and grants. We also have the Church of St John the Evangelist in Little River which was largely destroyed in the Christchurch earthquakes and which recent investigation has indicated is now beyond repair.

As a parish we are involved with the whole range of Catholic operations – Lay led services each Sunday, regular Masses when priests are available and a wide range of Pastoral and community outreach roles.

We support income tax exemption for not for profits such as us – volunteer orgainisations with a specific purpose. We also support the inclusion of a *de minimus* for smaller organizations and activities and suggest that this be done in line with the current tier system (as outlined in question 4 in the document).

As a very small volunteer organization the current system is already a complex challenge and adding income tax obligations would certainly mean we would need to engage professional assistance which would add costs as well as work. We certainly have no parishioners with the skills to do such tasks and time is always an issue with volunteers. Like many not-for-profits we operate on very tight margins and our ability to provide services and meet our obligations is already tight and any additional compliance costs would inevitably lead to reductions in what we can do.

In terms of the integrity and implications section we have no views on the FBT proposals and would oppose changing the way honoraria are treated as this would not only have major implications in terms of compliance costs and workload but also would fundamentally change the relationship between volunteers and organizations into employment relationships which would be counterproductive. If I may use myself as an example (although I choose not to receive an honorarium) I would not be interested in doing the volunteer work I currently do as an employee for an range of reasons but fundamentally because I do not see it as a job.

We are concerned that this set of proposals could be considered the “thin edge of the wedge” and signal the start of an overall reduction of support for the sector. The reality is that charities, such as ourselves, fill a wide range of important functions that otherwise would need to be provided elsewhere (probably by the State) and it is likely that the real costs would be much greater. Volunteers and charities are an important feature in our society and should be encouraged.

Finally I would like to comment on the relatively short timeline for such a significant consultation. Again, as a Volunteer, I have to balance a lot of tasks in my life and this is a technical matter which deserves deeper consideration and research.

Yours sincerely

Kevin McSweeney

Finance Chairperson

St Patrick’s Parish Church Akaroa Parish Council

Phone: s 9(2)(a)

Key points raised with officials verbally by Te Hunga Roia Māori o Aotearoa - 28/03/25

- A wide range of Māori organisations are potentially impacted by the issues covered in the Issues Paper and these impacts will need to be carefully considered to ensure no unintended consequences/disproportionate impacts for Māori. Further consultation with Māori is needed for officials to understand these impacts. Entities include PSGEs (and related trusts), MIOs, AHCs, pan-tribal entities, marae trusts / reservations, Māori social providers (health, social services, sport, otherwise), as well as charities set up for whānau, hapū and iwi and other Māori groups or issues. The definitions of related and unrelated business are particularly important for Māori entities and how they operate.

- Some Māori charities have unique circumstances that need to be carefully considered if any changes were to be made. For example, PSGEs that have received Treaty settlement assets and Mandated Iwi Organisations that receive fisheries quota.

- If the tax rules for charities were to change, officials should consider a carve-out for Māori charities particularly for PSGEs, MIOs and AHCs that have received Treaty settlement assets.

- The de minimis threshold for taxing charity business income should be set at a level that means small charities are not caught, for example an Urupā renting out its hall for Kai Hakari raise funds shouldn't be taxed on this. It also needs to be clear what the de minimus exemption relates to (ie. is it based on taxable income / profit).

- If charity business income is to be taxed to the extent that it is not distributed, officials need to consider the fact that Māori charities accumulate income to provide for future generations (likely beyond a financial year). That Māori are intergenerational investors and therefore have a legitimate reason to accumulate income was an issue identified by the Tax Working Group.

- Accumulation is required for long-term sustainable financial planning for future generations, particularly within PSGE structures.

- Any changes to the way charity business income is treated would cause a lot of issues for Māori charities and would see an increase in their administration and compliance costs. For example, the cost involved in changing accounting practices to distinguish between related and unrelated business income and how expenses for each would be apportioned between these.

- If charities are to be taxed on business income, officials should consider whether some of the restrictions on charities should also be lifted, for example the wholly or mainly requirement.

- Officials should consider how any changes that might be made should be transitioned in. Some Māori charities may decide the maintaining additional requirements to maintain charitable status is impractical. In these circumstances, a charity should not be required to apply to the High Court to change their status.

- The statement in the Issues Paper that charity tax concessions come at cost, is too simplistic and does not take into account the benefits provided by charities.

- As a general point, the paper lacks detail in relation to the issue that these changes are attempting to address. The proposal could create further cost and complexity for Māori entities without any real explanation of the reasons for it.

- If charity business income were to be taxed, the line between what is a passive investment income and actively managed business income will be very important, particularly in relation to income from Treaty settlement assets.

- Officials should consider any possible changes to the tax settings for charities and not-for-profits through the lens of the Social Return on Investment (**SROI**) framework. This framework is currently being applied by government agencies in the procurement of social services (particularly Māori social services). The SROI framework requires entities to demonstrate the broader value achieved from the investment of government funds through data and evidence. The government should apply this framework to its own proposals in the issues' paper, noting there is some likelihood of funds that would otherwise have been used for charitable purposes being diverted into the government's coffers.

- Finally, Te Hunga Rōia sought information on the problem definition, i.e. there is no clear problem definition articulated in the Paper, and no financial analysis provided to indicate the size of the problem. IRD confirmed there was some evidence regarding this problem existing, however, were not ready to release this and indicated that this information may continue to be withheld at future consultation rounds.

WEC International

To Whom it May Concern,

As people who have been involved in the not-for-profit sector or better called 'purpose driven', we have concerns about some of the suggested changes to the taxation of this sector.

I want to begin with a story. Part of our focus as an organisation, in collaboration with similar charities, is to *'serve alongside New Zealand churches in cross-cultural ministry to encourage immigrants, former refugees, international students and their families into flourishing and contributing communities.'* Our charities specialise in cross-cultural communication and relationship building and help churches throughout New Zealand to relate and support migrants from all nations and walks of life. By helping migrants to integrate into New Zealand society, these people will become positive contributors to New Zealand society. One of the tangible ways they will contribute is by paying tax. According to Forbes Magazine, 40% of Fortune 500 Companies were founded or cofounded by an immigrant, demonstrating what an asset it can be to a country when migrants integrate well. In contrasts, migrants that do not integrate well, especially those for whom English is not their first language, are less likely to find jobs and therefore make a positive contribution to New Zealand economy as taxpayers or otherwise. Therefore, while we are not able to put an economic figure on this activity, is likely to be significant.

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?

While the argument that businesses operated by registered charities have a competitive advantage sounds reasonable, this is not supported by evidence. In fact, research from Australia shows that there is no competitive advantage. We suggest that the best argument for not taxing businesses run by charitable services is that there is no good reason to do so.

In addition, as these businesses are using their business income for charitable services (as evidenced from the research in Australia), any money claimed by the government via tax, would be lost to the wider community. This would either result in more needs in our community or require increased government spending to meet these needs.

The best evidence we have suggests that charities are using their profits for charitable purposes. In light of this, I suggest that the last sentence of point 2.15 could be accurately rephrased to: *Tax concessions for unrelated charity businesses increase a charity's ability to fulfil its purposes resulting in reduction of* *government expense and therefore removing some tax burden to other taxpayers.* Where charities are meeting real needs in the community, whether that be integrating migrants or feeding the hungry, this is meeting a need and reducing government 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?

It would seem to be difficult to ascertain whether a business is actually unrelated to charitable purposes. Charitable purposes cost money, and this income has to come from somewhere. One way of raising funds is asking New Zealand taxpayers to support the charity. Another is for the charity to raise money by doing business. Thus, in any situation where the charity-run business generates funds, these are, albeit indirectly, related to the charity's purposes – assuming that the funds generated from the business are used for charitable services. As stated earlier, there seems no evidence that this is not the case. The most practical significant implications of taxing these businesses would be that the charity would either have to reduce its charitable activities or raise the finance from other sources – ultimately the New Zealand taxpayer. Alternatively, these services would have to be provided by the Government, again increasing the burden on the taxpayer. This would be a classic case of inefficiency, as we tax Peter to pay Paul.

In addition, taxation of charity run businesses is likely to result in these charities becoming more financially fragile.

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 noted in the Taxation and Not-for-profit Sector document : *Distinguishing between related and unrelated business activities could be difficult in practice unless the legislation and associated guidance is clear.* Without clear guidance this will create the situation where some charities are counting their business as related while others claiming an almost identical business as not. Via audit or other means, it would need to be determined whether business income is being used to strengthen the business, thus giving it a competitive edge, or whether it goes on charitable purposes. I would be concerned the burden of proof might fall on the charity and they would be expected to pay more of their funds on administration.

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 charity business income is used to support charitable purposes, then any threshold would damage the positive impact of the that charity. Given the evidence that businesses operated by charities are not gaining a competitive advantage over other businesses, this question seems moot.

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

I will answer this with a question. Is there any evidence that charity business income is being used for other than charitable purposes. Again, the Australian evidence (offered in the absence of New Zealand based evidence) would suggest that these charities are not using their tax-free status to gain a competitive edge over other businesses. A logical conclusion is that they are therefore using their business-generated income for their stated charitable purposes.

Pukekohe
Business Association

Consultation Paper on Taxing Charities & Not-for-Profits - Question 12

Submission on behalf of the Pukekohe Business Association Inc

To: Inland Revenue Department, Policy Team
policy.webmaster@ird.govt.nz

Dear IRD Policy Team,

This submission addresses Question 12 of the consultation paper regarding the potential removal or reduction of income tax exemptions, specifically the local and regional promotional body exemption (CW40).

We strongly advocate for retaining this exemption for Business Associations, as its removal would have significant negative impacts:

- **Community and Economic Development:** Business Associations drive local growth by promoting businesses, attracting investment, enhancing public spaces, and improving safety through initiatives like CCTV and security patrols. They also advocate for local issues such as parking and public transport to benefit the business community.

- **Reinvestment in Safety:** Funds that would otherwise go to income tax are reinvested directly into community security measures, creating safer environments for businesses and residents.

- **Sustaining Essential Services:** Without this exemption, Business Associations would struggle to provide vital services, weakening local economies and reducing quality of life. Our work strengthens town centres, improving commercial health and local employment.

- **BID Compliance:** As a Business Improvement District (BID), we operate strictly under city council BID Policy Guidelines. Our constitution, approved by the council's BID Policy team and registered with the Registrar of Incorporated Societies, prohibits private pecuniary profit and the distribution of property or funds to any person, including members or the executive committee.

- **Distinct from Charities:** Business Associations focus on economic development and business support, serving a different role than charities.

- **Impact on Small Businesses:** Many small businesses depend on Business Association initiatives. Increased tax burdens could hinder their growth and stability.

Removing this exemption would undermine local economies and community safety. We urge the IRD to maintain it to support these essential organisations.

Thank you for your consideration.

Kind Regards,
Shawna Coleman

s 9(2)(a)

General Manager
Pukekohe Business Association

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Manchester House

Te Whare O Manchester

Social Services Society Inc

31st 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

Tēnā koutou

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

Introduction

Manchester House Social Services (MHSS) was established in 1972 and is a medium sized not-for-profit organisation, whose four Service Centres are within the town of Feilding and Districts. MHSS provides integrated on-demand services to those in the community in times of need.

The Vision: focuses on nurturing 'resilient individuals and families empowered to respond to change'.

The Mission: 'Manchester House provides support and services to empower people with a sense of personal and social well-being to confidently take their place in the community'

In performing its role, the MHSS aspires to continuously improve the institutional governance and operations of MHSS, as appropriate for a humanitarian value based not-for-profit charitable organisation on behalf of their members and stakeholders.

Manchester House Social Services Society Inc is an Incorporated Society, registered under the Incorporated Societies Act 2022.

Registration CC28355
WN/218711

We would like to thank IRD for the opportunity to provide our feedback on the Issues Paper on taxation and the not-for-profit sector. We would also like to be contacted on the following submission.

Ngā mihi

s 9(2)(a)

Harvey Bell
Board Treasurer
Manchester House Social Services Society Inc

68 Aorangi St, Feilding 4702 · PO Box 349 4740 · (06) 323 7191
Email: em@mhss.org.nz
MHSS Charities Commission No. CC28355

s 9(2)(a)

From: Kevin O'Neill s 9(2)(a)
Sent: Monday, 31 March 2025 5:17 pm
To: Policy Webmaster
Subject: Taxation and the not-for-profit sector

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My concerns are there will be significant negative consequences for charities, government and our nation, if charities have to pay income tax and if FBT is applied. These consequences include:

- Costly complexity added to the tax system.
- Reduced service delivery by charities due to reduced income/increased costs.
- Increased cost to government that will need to meet service delivery gaps and increased costs to areas of health, justice and social welfare.
- Significant compliance costs for charities and for government.

Charities are setup to provided a charitable purpose and don't pay taxes so they contribute more of their funds to meet the charitable purpose which benefits the public. To reduce the delivery of charitable purpose is to reduce the benefit to the public. Reduce benefit to the public will have to be meet by either more government spending or reduction in service. For a number of charities this is the essentials of life that are being provided housing, food, health, and hope.

Any reduction in the public benefit offered by charities will be to the determent of the whole of New Zealand.

The important part is to make sure that charities are providing a public benefit as per their charitable purpose and the charities act has the power to do this task and if there are any changes it should be to the act or the resources to enforce the act.

Nga Mihi

Kevin Oneill
s 9(2)(a)

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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

Taxation and the not-for-profit sector

Thank you for the opportunity to comment on the Inland Revenue issues paper.

Summary comments

The stated objectives of the issues paper are described as "simplifying tax rules, reducing compliance costs and addressing integrity risks" which we concur are beneficial outcomes if achieved. However we are concerned that for the reasons included in our submission, the broad direction of the issues paper is not aligned with its stated objectives, and we believe, the proposed changes may result in several unintended consequences and disadvantageous outcomes for wider society in New Zealand.

In our view, the complete absence of supporting data and relevant costings/benefits to support the proposal to amend the charities income exemption is a significant shortcoming, including:

a) the fiscal cost of not taxing charity business income unrelated to charitable purposes and the likely increase in this cost
b) the government expenditure saved from having the charities business income exemption
c) the net revenue benefit of taxing unrelated business income derived by charities
d) the compliance costs that would be imposed on the charitable and not-for-profit sectors if the policy settings and rules were changed
e) the revenue risk from the inappropriate use of donor-controlled charities

Given the issues paper is framed as a stopping abuse/increasing tax revenue, we believe some underlying data and cost benefit analysis is essential to demonstrate this is the case.

Some of the proposed changes move us further away from a simple tax system, which is a key differentiator of the New Zealand tax system, and will certainly add considerable compliance costs to the charitable sector, which is already under significant fiscal pressure.

The issues paper does not address unintended consequences / longer term impacts, such as:

a) The proposed changes will make it significantly more difficult for charities and not-for-profits to achieve financial self-sustainability
b) How much additional revenue could be gained by the government vs how many additional services will the government need to fund as charities become less sustainable and the subsequent loss of volunteers and employees from the sector
c) How will the government fill the social need gap as many charities reduce their reach, services and longevity

Our comments addressing the specific questions in the Issues Paper

Please refer below to our responses to each of the questions raised in the issues paper.

Issues Paper Question	**Our Comments**
Q1. What are the most compelling reasons to tax, or not to tax, charity business income? Do the factors described in 2.13 and 2.14 warrant taxing charity business income?	• Taxing charity business income discourages charities and NFPs from being innovative and seeking sustainable income streams • It will increase compliance costs while not matching a commensurate increase of revenue for the government • It perpetuates an adverse view of charity that donations are their only domain for revenue raising • Removing business income of charities will most certainly adversely impact upon their financial sustainability. • The broad framework in the issues paper would result in little increase in the amount of tax revenue whilst imposing significant additional compliance costs. We struggle to see realisation of any meaningful economic benefit arising from the changes proposed in the issues paper.
Q2. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what would be the most significant practical implications?	• How to define what is “unrelated” would be very challenging and difficult to implement practicably. We see the definition and demarcation of unrelated business activity to be highly problematic.

	• It will most certainly increase compliance costs for both charities and government agencies IRD and DIA Charity Services.
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?	• It will be important and necessary to have very clear parameters around the criteria definition “unrelated” business. • How will a meaningful definition be made of non-business vs business income and also related and unrelated business. • How will passive income/investments be treated?
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 is removed, then we would support a de minimis threshold being set. An exemption for Tier 3 and Tier 4 charities is logical to reduce the cost impact on smaller charities. • It would be important to ensure if any changes are implemented, any taxation exemptions remain aligned with the statutory financial reporting tiers. This alignment would assist with compliance and provide consistency across the various regulatory regimes.
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 this were not allowed, then would it impact on charitable giving from non-charity businesses as well reducing the amount they give. • The issues paper concurs there are many good reasons why charitable organisations accumulate funds. It is financially prudent to do so and represents good governance, supporting longevity and sustainability. • There has not been adequate awareness and understanding in this space however. This was addressed recently through the implementation of additional reporting and disclosure requirements on charities regarding accumulations. • Registered charities are now required to explain how they plan to use their accumulated funds in future periods. • Given these reporting changes, it would be appropriate to delay any further work in this area and instead monitor developments and

	gather further data on accumulations to support any additional changes that may be needed or determine whether targeted intervention represents a more effective solution.
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?	• This will increase compliance cost for both government and charities, and will reduce funds available for charitable purposes. • The valuation of voluntary and pro bono services as input expenses. Labour cost is a significant input expense. Currently many organisations in the charitable sector receive voluntary or pro bono cost inputs. • 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 a further problem as to what is the appropriate fair value for these labour inputs. • There is not currently a level playing field for transparency of reporting with for-profit business as charities have to meet a higher level of public transparency. Failure to address this issue results in charities being at an unfair competitive advantage with for-profit businesses.
Chapter 3: Donor-controlled charities	
Q7. Should NZ 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?	• It is very unclear, and the issues paper does not identify, to what extent this is a major issue, or in actual practice are only a small number of issues involved? • It is difficult to answer the question due to a lack of clarity as to the scale of the issue. If the Inland Revenue is aware of significant abuse and this appears to be a growing problem, then a distinction would be valid. • It may make sense for there to be tax rules that specifically relate to donor-controlled charities. • Attempts to bring unsuitable distinctions or rules could disincentivize valid charitable activity in New Zealand.

	• It will be critical that any specific rules be appropriately targeted so as not to constrain the ability of the donor-controlled charity to carry out its charitable purpose.
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?	• Any concerns around tax abuse or avoidance would be better addressed through Inland Revenue enforcement action under the general anti-avoidance rules, or alternatively consider introducing new targeted rules.
Q9. Should donor-controlled charities be required to make a minimum distribution each year? If so, what should be the minimum distribution rate be and what exceptions, if any, should there be for the annual minimum distribution? If not, why not?	• We agree that accumulation concern is heightened in relation to donor-controlled charities as it is the area that could be most likely subject to abuse. • We note that DIA Charity Services has introduced disclosure requirements on charities to explain reasons for any significant accumulation. • Whether donor-controlled charities should be required to make a minimum distribution each year depends again on how real this issue is and evidence of any current abuse.
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?	• Many small charities, often volunteer-run, may not be aware of this consultation or do not have the capacity to submit on the points raised • We note the $1000 deduction has not been reviewed for a number of years and is very small. If this is designed to remove small scale NFPs from the tax system the amount will require increasing. A more appropriate threshold may be in the order of $10,000 to remove small not-for-profits from the tax system.
Q11. What are the implications of removing the current tax concessions for friendly societies and credit unions	• Our comments here relate to the wider issue of member-based organisations, which typically include member subscriptions, levies and member trading activities, which for example also include friendly societies. • This potentially impacts upon a large number of not-for- profit member-based organisations, comprising a wide range of

	sizes, activities and community-based groups. • Any changes are potentially far-reaching and existing tax treatment can be complex. There are inconsistencies with specific tax exemptions, such as credit unions and bodies which promote amateur games and sports. Therefore it is critical any tax changes for member-based organisations, are carefully considered and developed under the full generic tax policy process. • To achieve certainty and consistency we recommend that relevant law and regulations be reviewed and amended to clarify that membership subscriptions and levies are non-taxable income. • Any proposals to impose tax on member transactions, subscriptions and levies would be a disincentive to people joining these bodies, including volunteers, which would be detrimental to the charitable sector.
Q12.	
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?	• We understand the rationale for introducing and maintaining the FBT exemption for charities as it allows the sector to offer more competitive renumeration packages at a lower cost allowing them to attract appropriate labour resource. • Changing the FBT exemption will increase compliance costs for charities in accounting for any fringe benefits that may be provided. • The likely implications of removing or reducing the FBT exemption for charities will be significant for charities (where applicable) in their ability to compete for labour resource with the for-profit sector, which generally offers greater renumeration to like-for-like employees.
Q14.	
Q15. What are your views on the DTC regulatory stewardship review findings and policy initiatives proposed? Do you have any	• These are sensible suggestions which will add benefits to the existing donation tax credit system.

suggestions on how to improve the current donation tax concession rules?	• The DTC policy recommendations are a good initiative and will help taxpayers to more easily access and make use of donation tax concessions.

Please feel free to contact me on any queries you may have on our submission.

Yours sincerely,

s 9(2)(a)

Errol Burn

Managing Director

Lynch & Associates Limited

Manawatu
New Zealand Riding for the Disabled

March 31, 2025

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

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

Attached please find our submission in relation to the Not-for-profit-sector consultation paper on taxation.

The writer is prepared to be contacted on relation to this submission.

Ngā mihi
s 9(2)(a)

Harvey Bell
President

Manawatu Riding for the Disabled Association (Inc)

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Taxation and the not-for-profit sector
Consultation response

INTRODUCTION

Manawatū Riding for the Disabled Association Inc operates under the auspices of NZ RDA, offering therapeutic riding to mainly children. It resides on the outskirts of Feilding at a 5.9 ha property it owns on which stands a 30m x 60m indoor arena and an adjacent 'clubrooms'/office building.

BACKGROUND

The timing of this 'Taxation and the not-for-profit sector' review is far from ideal given the current complex and challenging environment, particularly for those involved in providing essential social services, requiring volunteers.

The COVID-19 pandemic has left lasting impacts, with increased demand for services and significant operational challenges, including staff and volunteer burnout and reduced capacity to respond to future crises.

Compounding these issues, lower interest rates have reduced the income of funders, limiting the financial support available to NFPs.

Furthermore, spiralling cost rises in areas such as insurance premiums—driven by severe weather events and reinsurance costs—and local government charges have added to the financial strain.

As NFPs navigate these challenges, they must also contend with broader economic uncertainties and the upcoming requirement for incorporated societies to re-register under the 2022 Act by April 5, 2026.

This backdrop underscores the need for careful consideration of any additional regulatory changes that could impact the sector's ability to deliver vital services to communities.

OVERVIEW

We understand the rationale for reviewing the taxation regime in relation to the Tier 1 and 2 reporting entities in the charitable sector. However, we are mindful of the possibility for unintended consequences in the cases of funder entities.

We are of the view that changes for smaller entities, particularly those involved in delivering social services, at a time of extensive financial fragility, could be terminal for many.

The implementations of any changes would come hard on the heels of those operating as incorporated societies getting to grips with the much greater governance responsibilities of the 2022 Act, a realisation that is going to see many people depart the sector.

The specific issues include the following:

- greatly increased complexity;
- increased compliance costs;
- taxation would further deplete funding resources;

In summary, the above issues are challenging for many volunteers without professional expertise,

who give their time to the community by their involvement in these small charitable purpose entities. It is neither fair nor reasonable that increased complexity is imposed upon them without very good reasons.

We submit that the current tax exempt status for Tier 3 and Tier 4 reporting entities remains.

Taxation and the not-for-profit sector
Consultation response

UNINTENDED CONSEQUENCES

In the financial environment referenced above, a major concern is the implications for the larger funder entities. We would be very concerned to see their compliance costs escalate and their revenue eroded by being subjected to taxation. The imposition of these changes would be detrimental to the whole non-for-profit sector and as a result, to communities needing as much help as possible.

We submit that bona fides charitable purpose funder entities continue to have tax exempt status.

Conclusion

The above points are not attempting to cover the full spectrum of the consultation but rather the sphere impacting the entities with which the writer is involved.

A final consideration: are the tools already available under current legislation being fully utilised, particularly in the more public cases where there is at least a perception of aggressive use of charitable status? In other words, are the proposed changes fully warranted, or could some of the objectives be achieved through better application of existing provisions?

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Submission to:

Deputy Commissioner, Policy
Inland Revenue Department

On: Taxation and the not-for-profit sector

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

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Introduction

The charitable sector in New Zealand is significant, with a total annual income of over $27 billion and more than 100,000 people working in the sector full time[1]. Tax concessions are provided to registered charities (and other not for profits) to support them in providing a public benefit.

While we do not think the proposals in the issues paper will have a significant impact on Greenpeace Aotearoa, we are concerned about the impact on the wider charitable sector and the significant contribution it makes to society. If the government is worried about the activities and financial operations of a few large charity owned businesses, then these organisations should be investigated under current laws and regulations. In addition we would be concerned at the impact of taxing the membership income of organisations such as trade unions, due to the significant public benefit that they provide.

The issues paper implies that tax concessions to charities are a government cost that "shifts the tax burden to other tax payers". However, charities provide public benefits and receive tax concessions in order to direct more of their funding to the public benefit they provide. Rather than a cost, tax concessions to charities provide a benefit, by allowing more funding to be directed to charitable purposes, reducing government expenditure in those areas, and therefore reducing the tax burden to other tax payers.

As stated in the paper the government's tax and social policy work programme includes reviewing elements of charities and not for profits. The work programme's objectives include simplifying tax rules, reducing compliance costs, and addressing integrity risks.

The proposals in this paper do not simplify the tax rules or reduce the compliance costs for charities. In fact, quite the opposite. Identifying related vs non related business income, business income vs non business income, applying fringe benefit calculations, completing tax returns etc will all add to the complexity and compliance costs for charities.

Registered charities are already restricted by the Charities Act to apply all of their income and accumulated funds towards their charitable purpose. If the government or Inland Revenue are concerned that registered charities are not applying their funds to their charitable purpose then they should be investigating those possible integrity breaches

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[1] Charities Services | Ngā Ratonga Kaupapa Atawhai [Charities Services Annual Review 2023/2024]

under the current law, rather than introducing a blanket approach that reduces the impact that law abiding charities have.

Introducing the taxation of business income and other proposed changes will reduce charities' abilities to fund themselves diversely and sustainably, putting pressure on organisations who are already struggling to survive.

This submission follows the format of the issues paper "Taxation and the not-for-profit-section", responding to each discussion question that is relevant to Greenpeace Aotearoa.

Charities business income tax exemptions

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

Charity business income should not be taxed. Taxing charity business income will take funds away from essential services and charitable purposes, potentially requiring increases to government expenditure to fill the gap. If unrelated business income is taxable, but unrelated business and passive income remains tax exempt, charities may close down unrelated business operations, making their income streams less diversified. This would make them less financially sustainable in the long term, putting more reliance on individual donors, and would also reduce the anticipated increase in tax revenue to the government.

Do the factors described in 2.13 and 2.14 warrant taxing charity business income?

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

While most charities currently do not face the compliance costs associated with an income tax obligation, they do still have high compliance costs including those that non charity businesses do not have. Charities are required to complete GST returns, payroll returns, reports on grant spend, annual returns, audited annual performance reports etc. In addition, many charities are also completing income tax returns based on funding being applied overseas. Therefore, it is not correct to imply that currently the cost of doing business is lower for charities just because most do not complete an annual income tax return.

If the non refundability of losses for taxable businesses gives an unfair advantage to tax exempt businesses then the non refundability of losses should be reviewed. However, taxable businesses actually have an advantage in that they can carry losses forward to offset against future profits.

It is difficult (near impossible) for charities to raise any type of finance other than retained earnings. Charities have no access to capital finance, and no or extremely limited access to debt finance as they often do not meet lending criteria. Therefore, non charity businesses also have an advantage here as they do have access to external 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 practical implications would be additional complexity and compliance costs for the charity. These issues should not be underestimated as many charities do not or cannot employ full time accountants. Additionally, donors want their money to go towards the charitable purposes they are donating to, so any increase in a charity's administration costs could have a negative impact on their supporter income, as well as reducing the "profit" available to spend on their purpose.

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

Drawing a line between related and unrelated businesses would be complex, and would require charities to engage professionals to determine if their business activities were related or unrelated to their charitable purpose, thereby redirecting more funds away from their purpose.

Under the current law all profits from charity businesses must ultimately be put towards a charitable purpose, so a distinction to tax some and not others seems absurd and is detrimental to a charity's financial sustainability.

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?

It would make sense, and be simple to use the financial reporting thresholds to exempt small charities. In addition, a % threshold could be used to exempt unrelated business income that makes up a small part of a charity's overall income e.g. where unrelated business income forms less than 25% of a charity's total income.

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, business income distributed for charitable purposes should remain tax exempt. However, all profits from a charity's businesses must already be put towards the charity's charitable purpose. Requiring tax to be paid on profits when they are made, and then crediting that tax when profits are used, is adding an unnecessary layer of complexity and cost to charities.

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 value of volunteer time, donated goods or services, peppercorn leases, pro bono professional fees etc would all need to be measured and accounted for to ensure that charities are not at an unfair disadvantage when calculating their taxable profit. This is another layer of complexity and cost for the charity.

Charities currently have to meet a higher level of public accountability and transparency through reporting than non charitable businesses. Taxing charities on top of this would put them at an unfair disadvantage with non charitable businesses.

The territorial rule should be reviewed to determine whether it is still relevant. Many global issues affect New Zealand and are important to New Zealanders (e.g. climate change, biodiversity, biosecurity, pandemic risk, human rights violations, global safety and stability). New Zealand charities are currently not supported in their efforts to address such issues unless they operate primarily in New Zealand.

New Zealand does not exist in isolation and Greenpeace Aotearoa supports global projects by making annual contributions to Greenpeace International. However, what is not considered with the territorial rule is that Greenpeace Aotearoa also receives funding from outside of New Zealand to work on projects within New Zealand.

Integrity and simplification

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 the FBT exemption for charities will increase costs further, and make it more difficult for charities to attract and retain staff.

No evidence is provided in the paper that charities are negotiating non cash remuneration as a way for employees to pay less tax. Pay in the charitable sector is lower than in the for profit sector and most people moving into the charitable sector take a pay cut to do so.

In order to attract and retain staff Greenpeace Aotearoa offers some benefits on top of a base salary. The base salaries are as competitive as can be afforded but they are certainly not in the range of the for profit sector. Adding the FBT cost to the benefits provided would simply make the benefits unaffordable, making it harder to attract and retain staff.

If the current exemption lacks coherence, then those anomalies should be reviewed and fixed, rather than requiring all charities to pay FBT.

Even if the current review of FBT aims to reduce compliance costs, the costs would still be significant for charities that have never had to account for FBT before and for those that are not able to employ accounting professionals.

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?

The FENZ simplification seems a sensible proposal to reduce compliance costs for volunteers as many volunteers who are paid honoraria are not self-employed, and therefore would not otherwise need to pay ACC levies or file an income tax return. However, this may increase compliance costs for smaller charities who do not employ staff as they would not otherwise be filing PAYE returns, but would need to do so if honoraria is treated as salary or wages.

Other suggestions would be to exempt honoraria from income tax, or allow volunteers to claim expenses/time as tax deductions.

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?

The recommendations in the paper seem sensible to simplify the donation tax credit scheme.

Conclusion

In summary Greenpeace Aotearoa:

- Opposes the taxation of charity and NFP business income.
  - It is unlikely to have the desired effect of increasing government revenue.
  - It will increase the complexity and cost of compliance for charities, taking funds away from their charitable purposes.

- Opposes the removal of the FBT exemption for charities.
  - Providing benefits to staff would become unaffordable, making it more difficult to attract and retain staff in the sector.
  - It will increase the complexity and cost of compliance for charities, taking funds away from their charitable purposes.

- Advocates for the removal of the territorial rules.
  - Many issues important to New Zealanders are global.
  - The rules do not consider funding received from outside of New Zealand.

- Agrees with the proposals to make claiming the donor tax credit easier.

About Greenpeace Aotearoa

Greenpeace is a global, independent campaigning organisation that acts to protect and conserve the environment and to promote peace. Greenpeace is one of the world's largest and oldest environmental organisations, operating for more than half a century, since 1971, and now works in more than 55 countries.

The New Zealand branch of Greenpeace (Greenpeace Aotearoa) was founded in 1974 and has grown to represent 32,000 financial donors and tens of thousands of supporters. Our mission is to ensure Earth's ability to nurture life in all its diversity.

Greenpeace Aotearoa recognises Te Tiriti o Waitangi, signed in Te Reo Māori on 6 February 1840, as the foundation for the relationship between the Crown (and so the New Zealand Government) and the indigenous hapū of Aotearoa. Greenpeace Aotearoa recognises that Te Tiriti o Waitangi affirmed the sovereignty of the tangata whenua, which has never been relinquished despite the violent colonisation of Aotearoa.

Shape the future
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31 March 2025

Sent via email to: policy.webmaster@ird.govt.nz

Dear David

Submission on taxation and the not-for-profit sector

We refer to *Taxation and the not-for-profit sector*, an Officials' Issues Paper ("the Paper"). We appreciate the opportunity to make a submission and set out our comments below.

Overall comments

We act for a number of charities and not-for-profit (NFP) organisations and are aware of the law in this regard. While we broadly support reforms aimed at improving the integrity of the tax system, there is a real risk that the proposals in the Paper will result in considerable overreach, including significant implications for the Māori sector.

We are concerned that the Paper mixes three distinct principles: charities (including donor-controlled charities), NFPs, and the principle of mutuality. Each of these principles require different considerations and should be approached as three separate projects. Considering them together in a single paper risks inadequately identifying and assessing the wide-ranging and complex issues that arise when proposing reforms in these areas.

It is crucial that any reforms are not rushed and are carefully thought through. There are many different charities and NFPs in New Zealand which comprise of a variety of sizes. It is important to give those in the sector and other stakeholders sufficient time to provide input to ensure that any reforms are well targeted, take into account the implications of the proposed reforms and do not impose unnecessary compliance costs.

As demonstrated by our more detailed comments below, proceeding with the proposals as they currently stand is likely to cause considerable disruption to the entire charitable and NFP sector and may result in an outcome that is less desirable than the status quo. Imposing tax and compliance burdens on organisations legitimately providing significant benefits to the community is not desirable and may have a substantial negative impact on society as a whole.

The proposals may shift the cost of providing much needed services onto the government if charities are unable to provide the same level of services or require increased government funding as a result of any reforms. There is a risk that the proposals may impose significant compliance and administrative costs without raising a large amount of revenue. It is also important to appreciate that many charities provide benefits under more than one of the traditional heads of charity. Any changes to the current rules may therefore potentially have a broader impact on the community than might be apparent on first level analysis.

In light of the above, the 5-week consultation period is inadequate, and the proposals require a significant amount of further thought. The proposals should not be progressed under urgency without the opportunity for additional consultation, including in relation to the principle of mutuality which needs time for full consideration of the correct policy position.

Should it be considered necessary to proceed with any changes under urgency, only changes considered essential to maintaining the integrity of the tax system should progress at this stage. We also recommend a post-announcement review of any final decisions. In addition, the implementation date of any reforms should allow time for impacted organisations to be adequately educated on the changes and to adopt any necessary systems changes and compliance processes.

We set out our detailed comments on the Paper below.

1. Charity business income tax exemption

1.1. The Paper does not adequately define the issue that it is trying to resolve in proposing removal of the charity business income tax exemption. As acknowledged in the Paper, economically speaking the exemption does not provide charities with a competitive advantage. The issue Officials are concerned with appears to be one of timing/accumulation – i.e., the length of time between when exempt business income is derived, and when it is applied to a charitable purpose.

1.2. Focusing on the concept of "unrelated business" income therefore risks addressing a symptom rather than the key issue. The key issue relates to what a charity needs to do to demonstrate it is applying its business income to a charitable purpose. We consider it would be more appropriate for this question to be contemplated by the Charities Commission, as opposed to through the tax system.

1.3. It is also hard to see the relevance of distinguishing between "related" and "unrelated" business income for tax purposes in cases where business activities are undertaken by charities merely as a form of funding to enable them to carry out their charitable purpose. Further, we note parts of the Paper reference rules from other jurisdictions; it would be useful to understand the behavioural response to those rules and the experience of those jurisdictions to help inform the New Zealand consideration of these types of measures.

1.4. Should changes to the charity business income tax exemption proceed, a plethora of issues will need to be carefully worked through, including:

- **Clearly defining "unrelated business" income** – this will be crucial to prevent overreach. The definition should leverage the use of criteria rather than a single test to help address boundary issues. Clear Inland Revenue guidance should be provided early on to support comprehension and certainty. Activities carried out within a charitable group should not be captured where the activities are all well aligned with the group's charitable purpose, and the treatment of inherited assets and any related income will need to be considered.

- **Carving out certain activities** – the Paper notes that in countries where unrelated business income is taxed, certain activities remain tax exempt (such as businesses primarily engaged in selling donated goods or services). We agree that these and other activities should be carved out to ease compliance and help ensure any reforms are appropriately targeted. Officials should investigate rules and experiences overseas on this issue and take into account submissions by stakeholders. Any carve outs should be listed in a schedule to the legislation which can be more easily amended by Order in Council/regulation to provide administrative flexibility should further carve outs need to be added over time.

- **Carving out activities funded by government** – consideration should also be given to carving out any activities carried out by charities where those activities are funded by government grants or money received through government agencies, such as from the Ministry of Foreign Affairs & Trade. Government funded activities should be viewed differently from other commercial activities and should not be captured within "unrelated business" income. Similarly, there is a strong case for carving out registered Community Housing Providers, as their activities are not in the nature of normal commercial activities.

- **Recognising the value provided by volunteers** – charities often rely heavily on unpaid volunteers in carrying out their activities. It needs to be recognised that if these roles were paid positions, many charities in a profit position would in fact be operating at a loss. A proxy for the "cost" of unpaid volunteer work should be considered when calculating the total profit of any "unrelated business" activities.

- **Determining an appropriate de minimis threshold** – a workable threshold will be necessary to prevent significant compliance costs for smaller charities. The Paper suggests basing the de minimis on the charity's financial reporting tier, with a tax exemption for Tier 3 and 4 charities. However, this approach could potentially capture small charities that report on a group basis. Accordingly, the current de minimis proposal may encourage charities to fragment their businesses. This is not desirable and will result in increased compliance costs, directing funds away from charitable purposes**.**

- **Accumulation can occur for good reason** - the Paper itself recognises that accumulation of funds can occur for many valid reasons. We note that some charities need to accumulate funds because they are unable to raise additional equity or seek bank lending in the same way that businesses can. Charities may wish to grow an investment for a specific purpose such as capital asset development, or hold funds for use in emergency events. In some cases, accumulation is required to help maintain the balance sheet in order to secure or retain third party funding. While ultimately the funds are applied to a charitable purpose, tracking the use of the funds may prove to be a difficult and costly exercise.

  We agree that additional rules should be considered to enable charities to accumulate funds for charitable use in later years. It will be important to consider the impact of different charitable structures when designing such rules, to ensure that tax credits for income taxes paid can appropriately flow through and be refunded at the charity level.

- **Relief for distributed business income** – will also be important to prevent overreach. The Paper refers to the option of allowing a deduction for distributions paid to the parent charity, such that income provided to the parent charity for charitable purposes during the tax year would effectively remain tax exempt. We suggest a "beneficiary income" type rule be considered, where unrelated business income remains tax exempt if paid to the parent charity or a related charity within six months of year end.

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- **Careful consideration of implementation date and administrative burden** – the implementation date of any reforms should allow sufficient lead in time for impacted charities to be adequately educated on the changes and to adopt any necessary systems changes and compliance processes. This will be particularly important for charities that may not have previously been required to file income tax returns.

  Permitting optional group level filing to allow for consolidation could also help ease the administrative burden. In addition, the data needed to file returns should be captured at the lowest possible cost, such as sourcing this information from Charities Services where possible. It is also important to recognise that any changes are likely to be difficult to administer. Many charities may consider the use of legitimate alternative structures, resulting in administrative costs and directing funds away from charitable purposes.

2. Donor-controlled charities

2.1. While we broadly support changes aimed at improving the integrity of the tax system, it may be preferable to address any concerns through more regular application of the existing general anti-avoidance rule as opposed to additional specific rules for donor-controlled charities.

2.2. Should the creation of new specific rules for donor-controlled charities proceed, there are several factors to consider, including:

- **The risk of over-reach** – it will be necessary to carefully define what amounts to a "donor-controlled" charity to ensure any reforms are appropriately targeted and do not impact legitimate charitable structures. By way of one example, charitable groups where funding flows from various registered charities up to the registered charitable parent entity to support the group's charitable purposes should not be captured.

- **Care is needed with any restrictions on investments** – and any changes should not be broader than necessary. In particular, requiring an arms-length standard similar to transfer pricing for associated persons transactions within a charitable group that has the same charitable purpose would be inappropriate. It will also be necessary to consider section YB 16 of the Income Tax Act 2007 when contemplating the concept of association for charities, which provides an exception from the associated persons rules for charitable organisations.

- **There can be good reason behind the "accumulation" of funds** – accumulation should not of itself be enough for any proposed reforms to apply. As noted above, accumulation can occur for many legitimate reasons.

- **A minimum distribution rule could restrict the use of charities funds** – and negatively impact on their ability to carry out charitable purposes. Should a minimum distribution rule be pursued, a "rolling average" approach should be considered instead of adopting an annual test. For example, donor-controlled charities could be required to distribute a certain percentage of funds over a certain number of prior periods. This approach may allow for a more 'macro' view of distributions rather than driving behaviour to fit within tax years.

Shape the future
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- **Other options may be worth exploring** – such as the opportunity for a broader reconsideration of the interaction of donation tax credits and donor-controlled charities with a view to considering other options which may help ensure the use of funds for charitable purposes.

3. Principle of mutuality and related implications

3.1. We strongly recommend that consideration of the issues in this area be deferred. It is inappropriate for this matter to be included in the Paper when the draft operational statement discussing the application of the common law principle of mutuality and the related impact on the taxation of member transactions has not yet been publicly released.

3.2. The principle of mutuality is a separate and fundamental issue. Adequate time needs to be dedicated to considering the correct policy position. Simply strengthening the current de minimis without robust consultation on the underlying policy position is not the right approach.

4. Removal or reduction of FBT exemption for charities

4.1. Any consideration of changes to the FBT exemption should be deferred until after consultation on the current review of the FBT regime. Removal or reduction of the FBT exemption could result in extensive compliance costs for charities. However, it is hard to comment until there is a clearer picture as to how compliance costs may be reduced as part of any changes proposed by the current FBT review.

4.2. Should removal of the FBT exemption proceed, the FBT rate will need to be adjusted to reflect that the cost of the FBT will remain non-deductible for any income tax exempt charities.

5. Other issues

5.1. We support work being undertaken to provide clarity and reduce compliance costs in relation to the tax treatment of honoraria. We also support further work on the donation tax credit regime with a view to improving integrity and providing simplification for taxpayers.

Thank you for the opportunity to comment. Please contact Sarah-Jane Leslie s 9(2)(a) [redacted] s 9(2)(a) [redacted] f you wish to arrange any further discussions on the points raised.

Yours faithfully

s 9(2)(a) [redacted]

Paul Dunne
Partner – New Zealand Tax Policy Leader
Ernst & Young Limited

CATAS

31 March 2025

Deputy Commissioner, Policy
Inland Revenue Department

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

Dear Sir / Madam,

Submission on Taxation and the not-for-profit sector

CATAS Limited specialises in accounting and payroll services for over 340 charities around New Zealand. Our extensive experience and close engagement with these charities directly informs the submission, focused on the selected questions 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 no compelling reasons to tax charities operating within the scope of their defined charitable purpose, including any legitimate means they use to raise funds to support their work.

A better approach would be to ensure that all aspects of a charity's operations are directly or indirectly aligned with its stated charitable purpose. Alternatively, it may be worth reviewing and refining the existing categories of charitable purposes to ensure they are fit for the modern charitable landscape.

Through our work with 340 charities, we see firsthand the incredible impact these charities have within their communities. At the same time, we see the financial challenges they face – the majority operate with either deficits or minimal surpluses each year. They struggle to secure consistent funding for operations, let alone growth to assist and support more people their services.

Many have found innovative ways to become more self-sustainable, including generating income through activities that could be classed as unrelated business income. This additional source of funding reduces their reliance on government grants and declining donations. However, this proposal would undermine that progress and stifle innovation within the sector, ultimately leading to reduced sources of funding and fewer services to the community.

Sections 2.13 and 2.14 do not provide justifiable grounds for taxing charities. The perceived advantages outlined are either immaterial or do not apply to the majority of the 29,000 charities in New Zealand. Specifically, charities are at a competitive disadvantage when it comes to capital raising due to their restrictions in distributing profits to individuals. The focus of this legislation appears to be on larger commercial operators, rather than the small and medium-sized charities that make up the bulk of the sector.

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

Compliance Costs – To confidently apply any new tax rules, the majority of charities will need to engage accountants or face a significant increase in their standard accounting fees to cover the additional work required. Applying this across the entire sector shifts a large amount of spending from charitable purpose to compliance-related expenditure.

Cessation of services – Some charities who run small-scale operations may choose to cease certain services or even shut down entirely if they perceive these changes as too complicated or unaffordable. This will lead to loss of social benefits for the community that are unlikely to be taken up by government agencies.

Conflicting financial standards – There are several incompatibilities between income tax rules and the charity financial reporting standards. For instance, charities are required to depreciate buildings, and donations are treated as a full expense. These types of discrepancies create complications in application, room for misinterpretation and potential for inconsistencies.

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 what is unrelated is complicated and may result in a range of inconsistent applications. Every determination would require subjective analysis, interpretation and potential dispute.

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?

Assigning a threshold that aligns with the existing tiered reporting system, as suggested in the consultation paper, would be a straightforward approach. Implementing this for Tier 2 and above may address some concerns regarding the potential cost and compliance burden that any tax changes could impose on smaller, resource-limited Tier 3 and 4 charities.

However it important to note this could still impose a significant administrative and compliance burden on the smaller end of Tier 2 charities. We recommend considering an annual income threshold within Tier 2 and above, such as $15 million, to mitigate these impacts.

Further clarification is needed regarding consolidations, where a group reports at a Tier 2 level, but the individual entities are otherwise Tier 3 charities. Our recommendation is that the threshold should apply only at the individual entity level, as the broad definition of a control relationship requires many charities to consolidate for various reasons.

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

We agree that charity business income distributed for charitable purposes should remain tax-exempt. However, this raises an inconsistency. Both unrelated business income that is distributed and what which is accumulated by a charitable business ultimately serves the charitable purpose.

As noted in section 2.32, the sector has informed the Government in previous consultations that accumulations of funds can occur for a variety of valid reasons.

The Charities Act requires that a charity is not operated for the private pecuniary benefit or profit of an individual. Therefore, no distributions of funds can distributed to individuals. Accumulated funds will either be reinvested into the charitable "business" in some form and continue to provide a benefit for the parent charity or be distributed to a parent charity at a later date—both actions contribute to the charitable purpose. We see no reasonable argument for why accumulated income should be treated differently from distributed income.

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?

The administration and compliance costs for small charities to implement this would be significant. Many small charities lack the personnel and the necessary software to handle such tasks. While a threshold limit for larger charities could make this feasible for them, an opt-in system might put pressure on smaller charities, as donors could push them to comply with these requirements.

Summary

Our position on this consultation paper can be summarised as follows: removing the tax exemption would increase compliance costs, reduce services provided in the community and raise minimal meaningful revenue. We urge Inland Revenue and the government to reject this proposal in full.

With regards,
s 9(2)(a)

Cameron Fisher
Chief Executive
CATAS Limited

SPORT
NEW ZEALAND
IHI AOTEAROA

IMPLICATIONS OF IRD TAX ISSUES PAPER FOR PLAY, ACTIVE RECREATION AND SPORT SECTOR

Sport NZ has a leadership role for the play, active recreation and sport sector in New Zealand. We have considered the impact that the proposals outlined in the recent 'Taxation and the not-for-profit sector' Issues Paper could have on our sector. This document provides our understanding of the key implications that these proposed changes could have for our sector if implemented.

While the proposals do not appear intended to impact on the play, active recreation and sport sector, they do have the potential to reduce funding for at least some sector organisations. The play, active recreation and sport sector has been under significant financial pressure in recent years which shows no sign of easing. Research commissioned by Sport NZ has illustrated the financial pressure that the play, active recreation and sport system is already under with a real-term decline of approximately $540 million (14%) between 2018 and 2022[1]. Given this financial pressure, we have concerns about any proposals that could further reduce the funding available to the sector and/or lead to further administrative costs.

The sector plays a key role in improving health outcomes for New Zealanders by providing opportunities for people to be physically active. Any reduction in funding for sector organisations may end up reducing these opportunities and ultimately increase longer-term costs for government through the health system.

Two key points emerge from our review of the proposals:

- **The income tax exemption for amateur sports organisations under section CW 46 of the Income Tax Act 2007 is critical for our sector**. The Issues Paper and accompanying FAQs note the income tax exemption that many amateur sport and recreation clubs benefit from. We are pleased to see that there is no proposal to remove this exemption and would like to emphasise the importance of this exemption being retained. If the proposal to remove the tax exemption for business income received by a charity where this income is '*unrelated to the entity's charitable purpose'* is implemented this would remove one existing tax exemption that some sports organisations may currently benefit from. Our understanding is that some of these organisations would still be able to rely on the income tax exemption under section CW 46 (provided they met the relevant criteria). This would place increasing importance on the retention of the existing income tax exemption.

[1] https://sportnz.org.nz/resources/funding-our-play-active-recreation-and-sport-sector-an-analysis/

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- **The proposal to remove the '*unrelated business income'* exemption will need to be carefully designed.** The definitions of business income and unrelated business income, and the income or expenditure threshold above which this will apply will need to be carefully designed to avoid unintended consequences. This proposal is one that could affect some organisations in the sport and recreation sector. This change could affect registered charities who were unable to meet the separate income tax exemption noted above (section CW 46 of the Income Tax Act 2007). We note the proposal that this would only apply to those organisations with annual accounting expenditure of $5 million or more (the largest 1,300 of charities, making up approximately 11% of all charities, according to IRD figures). Careful consideration will need to be given to designing this threshold to ensure that the proposal does not unduly increase administrative and compliance costs for organisations that may not be considered as large-scale. Similarly, definitions of business income and unrelated business income will need to be carefully considered.

We have shared the Issues Paper with our sector and would be very interested to understand the feedback you have received from organisations in the sport and recreation sector.

We would be happy to discuss any of our comments in this document and would also appreciate the opportunity to contribute to the policy development process if these proposals are taken further so any potential impact on the play, active recreation and sport sector can be understood and mitigated as necessary. Please contact Jon Saunders, Policy Lead s 9(2)(a) for any further discussions.

"TAXATION AND THE NOT-FOR-PROFIT SECTOR" Consultation

Submission prepared by LIFE NZ (parent organisation C.L.C Auckland Trust)

LIFE NZ / C.L.C Auckland Trust comprise various charitable entities which are committed to the promotion of faith and to bringing help and hope to our community, through the provision of places of worship, education, and care. As such, we engage with a wide variety of people across numerous communities and locations.

To help us outwork our charitable purposes, we employ approximately 275 full-time and 71 part-time staff, and are grateful for the dedication of over 6,000 incredible volunteers who between them give over 160,000 hours of voluntary service every year.

We welcome the opportunity to comment on Inland Revenue's recently released issues paper "Taxation and the not-for-profit section", and hope that this consultation will highlight the important role charities play in society and contribute to constructive dialogue.[1]

General comments

Charities which work towards relieving poverty, advancing education or religion, or promoting other purposes beneficial to the community, have long been valued as playing an important role in our society. Their contribution towards public benefit, as well as the fact that they must direct their income towards charitable purposes rather than private gain, are rightly recognised by the concessions applied to them under New Zealand's tax system.

The statements in the issues paper around the "significant" fiscal cost of not taxing charity business income unrelated to charitable purposes and that such tax concessions "reduce government revenue and therefore shift the tax burden to other taxpayers" appear to ignore the significant net benefit to the quality of our society delivered by charities and the services which they provide.

The 2024 report *Faith in Action: The State of Christian Charities in Aotearoa New Zealand* offers a comprehensive, data-driven insight into the impact of charities based in the Christian faith.[2] In the introduction to that report, the authors[3] note that faith-based organisations are:

> *"integral to the fabric of New Zealand society, providing spiritual guidance, community support, and address[ing] critical social issues … [with] immense potential … to create a positive impact on their beneficiaries and society as a whole."*

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[1] Noting that we have only provided comment on the questions posed by the issues paper which we consider most applicable to us and our activities.

[2] *Faith in Action: The State of Christian Charities in Aotearoa New Zealand.* August 2024, Retrieved from https://faithinaction.org.nz/.

[3] The report was authored by a multi-discipline project team comprising representatives from Christian Savings, the Wilberforce Foundation, the Auckland Church Network, World Vision, the Laidlaw Centre for Church Leadership, Parry Field Lawyers, JBWere, and Gemelli Consulting.

From an economic perspective, their research found:

> *"The Christian faith-based sector continues to grow in both size and impact, with registered Christian charities contributing an estimated $7.3b to the NZ economy each year (2% of total GDP)."*

The author of the foreword to the *Faith in Action* report, Dr Juliet Chevalier-Watts, is – in addition to being an Associate Professor at Te Piringa Faculty of Law, University of Waikato – a self-confessed "atheist academic". Nevertheless, she notes in her foreword to the report:

> *"[R]eligious outworkings and undertakings should be nurtured and encouraged because of benefits are far reaching, assisting a myriad of diverse communities … Christianity still has a vital role to play within our modern world, and [that] we as a country would be much the poorer without its influence, its spirituality, and its love."*

More recently (in the context of the current debate), in an op-ed first published in the *Waikato Times* on 22 March 2025,[4] Dr Chevalier-Watts shared the opinion (arrived at after more than a decade of research into religion and charity law) that:

> *"Without churches, New Zealand would plunge into irreversible poverty and chaos overnight … Simply put, without charities, our taxes go up, and disproportionately. This is especially the case with churches, because churches help people in far greater ways than the Government could for a lot less money."*

In her view, the economic contribution of religious charities and churches is:

> *"worth more to GDP than entire industries such as commercial fishing and forestry combined—and this excludes numerous indirect benefits and flow-on effects across health and wellbeing, life-expectancy, employment, finances, education, social cohesion and pro-social behaviour."*

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?

Charity business income of any kind – whether related or unrelated, passive or active – should remain untaxed per current exemptions. Taxing charity business income will reduce the amount of funding available to charities to deliver their charitable purposes while increasing their compliance costs, and in turn restrict the public benefit charities are able to provide.

Yet although they are known for achieving much good on a tight budget – thanks largely to the dedication of passionate staff and volunteers – charities cannot outwork their purposes without the resources to do so. And while many charities fund a large portion of their work by means of donations, this can be an uncertain and fluctuating income stream, relying as it does on goodwill and generosity. Generating business income and using it towards the charity's purposes is often a more secure and self-sustaining option, enabling the charity to do even more good in the community.

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[4] Chevalier-Watts, Dr Juliet. "Why an atheist academic changed her mind on churches' tax status." *Waikato Times*, 22 March 2025, Retrieved from https://www.waikatotimes.co.nz/nz-news/360623004/why-atheist-academic-changed-her-mind-churches-tax-status.

Being generally “close to the ground”, charities are in many cases much better-placed to meet community need than equivalent public/private sector entities, and do so more efficiently and cost-effectively. Taxing charity business income will not only reduce the good they can do, but it may discourage innovation, diversification, and sustainability. Rather than supporting charities to flourish, the proposed changes risk them having to spend more time and energy seeking handouts than being able to meaningfully help others, or even having to compete with each other for available funds. And if the ability of charities to meet need is reduced, who will step in to fill the gap?

The suggestion that the current tax treatment of charities affords them a competitive advantage over for-profit organisations is completely without merit and unsubstantiated by evidence. Not-for-profits have the same pressure to deliver on the bottom line pressures as for-profits; the difference being that “not for profits” require surpluses to fund their charitable purpose as opposed to “For profits” needing to make a return to their shareholders.

Other factors negating any supposed advantage include the high level of reporting required under New Zealand’s charitable regime as compared to comparable for-profit entities. For example, in addition to financial reporting/audit requirements, large charities must complete Statement of Service Performance reporting on key operating outcomes (including both quantitative and qualitative measures explaining how resources have been used to fulfil the charity’s purpose), involving significant compliance costs.

Neither does the question of accumulated profits warrant a change in tax approach. Not only is the ability to accumulate an important way for charities to provide for longer term initiatives or to acquire needed assets or facilities requiring capital and funding, the additional disclosure requirements around the reasons for any significant accumulations which were recently introduced by Charity Services provide a high level of transparency.

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, we do not consider that the tax exemption for any charity business income should be removed for the reasons already mentioned (i.e. the likelihood of a reduction in the amount/type of funding available, increased compliance costs, a disincentive to innovation and self-sustainability, and overall a reduced ability to provide public benefit to the detriment of the wider community).

We suggest that the focus should be on how any income is used (i.e. that it is directed towards the purposes for which the charity was established), rather than narrowly defining where such income can come from. As noted above, we consider that good mechanisms are already in place to ensure this.

More specifically, the issue here is the definition of “business” income and the boundary between “related” and “unrelated” business income. Requiring charities to determine which of activities might be classified as related or unrelated would be very challenging in practice. It is difficult to see how a workable definition could be implemented, or where lines would be drawn in terms of degree of connection between a business activity and a charity’s purposes.

Many business activities which might appear unrelated may on closer consideration have strong underlying links to the ultimate purpose the charity seeks to outwork. The attribution of costs between related and unrelated business activities will be an administrative challenge for charities as it will create transfer pricing-type issues e.g. how do you allocate staff or facilities costs if these are used for both related and unrelated purposes?

Again, having to make such determinations would likely require charities to seek professional advice and thus incur additional compliance costs, thus diverting needed funds away from the charity's purpose.

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

As above, we do not consider that the tax exemption for any charity business income should be removed, nor that distinguishing between "related" and "unrelated" business activities will be workable in practice.

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 above, we do not consider that the tax exemption for any charity business income should be removed, and note that thresholds are notoriously difficult to set, need to be clearly justifiable, would again likely result in increased compliance costs.

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?

As above, we do not consider that the tax exemption for charity business income should be removed. However, if it were, the same reasons advanced above would support an argument that charity business income distributed for charitable purposes should remain tax exempt.

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

As above, we do not consider that the tax exemption for charity business income should be removed. However, if it were, factors to be considered might include how to appropriately value pro bono services/labour costs (so that these could be claimed in income tax returns), and aligning charitable entity reporting requirements with those of comparable for-profit businesses so that charities are not competitively disadvantaged by having to meet the cost of higher levels of transparency.

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?

All market salary surveys show that there is a significant discount in the average salary for a role in the not-for-profit sector compared to a similar role in the private sector. The current FBT exemption rules (particularly in regard to provision of motor vehicles and health insurance) are accordingly vital in assisting charities to attract and retain staff in the face of higher salaries offered by for-profit organisations. Even so, while helpful, it still does not come close to bridging this gap.

Removing the FBT exemption would be a major blow to charities' financial ability to operate and will make it even harder to attract and retain good staff, while also adding a new cost if FBT returns then needed to be filed. The end result will be to significantly reduce charities' ability to provide benefit to their communities and New Zealand society as a whole.

Tax simplification

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?

Allowing for donation tax concession claims to be made sooner than the end of financial year would be a positive step, and could encourage more input back into the charitable sector.

Concluding remarks

While we fully support integrity and transparency in any system, we consider that New Zealand's tax and charity laws (as regulated by Charities Services) are already robust and fit for purpose, with comprehensive obligations around registration, financial reporting, audits, and transparency.

Caution should therefore be exercised before implementing additional measures which may have unintended consequences and risk reducing positive outcomes for our communities.

As Dr Chevalier-Watts put it (in the *Waikato Times* article noted above):[5]

> *"You know it's dire when atheists are sticking up for churches. But if it were up to me, I would establish a taskforce examining how churches can be better empowered to help people in need. I'm confident it would find churches should pay even less tax and receive more government assistance."*

We wholeheartedly agree, and consider that New Zealand should be doing whatever we can to ensure this sector continues to flourish.

[5] Chevalier-Watts, Dr Juliet. "Why an atheist academic changed her mind on churches' tax status."

To:
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

From:
Northland Community Foundation
Sophie Lane
Chief Executive

31 March 2025

RE: Taxation and the not-for-profit sector

About Northland Community Foundation

Northland Community Foundation is Northland's philanthropic hub - focused on inspiring generosity for our special region of Aotearoa New Zealand. We connect with people to build deep funds that will be available to charitable or community causes in Te Tai Tokerau, Northland, forever. We support many different sectors including health, education, sport, environment, and community services. The Foundation is staffed by five permanent part-time staff members (1.55 FTE) and a board made up of nine volunteers, as well as six volunteer ambassadors and volunteer grants committees.

Northland Community Foundation was founded in 2004 and has delivered over $7M in charitable funding to Northland. The Foundation is working hard to inspire generosity for our community through endowment funds and living giving. We exist to help Northland to grow and prosper – and one of the ways to do that is by encouraging giving to charitable or community causes that are dear to people’s hearts. The foundation now holds over $2M in donated funds, the interest from which is delivered each year to charitable causes.

In the year to end September 2024, the foundation distributed a total of over $750,000 - $52,330 to 15 organisations from endowment funds, $154,679 to 48 organisations from pass-through funds, and $546,336 to 42 health projects supporting Northland’s hospitals.

For Northland Community Foundation and the other 17 Community Foundations across Aotearoa, our charitable purposes are clear, our ability to grow philanthropic giving is second to none in NZ, our tax exemption is justified, and our value to community is immense. Any direct change to, or unintended consequential change to our tax burden or compliance requirements could seriously undermine years of future value to communities.

Northland Community Foundation
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General Comment

The introduction to the issues paper states that, “Every tax concession has a “cost”, that is, it reduces government revenue and therefore shifts the tax burden to other taxpayers.” However, this does not consider the valuable work undertaken in New Zealand by the charitable sector, much of which would otherwise need to be provided by government.

New Zealand’s charitable sector is large, effective, and should be encouraged to innovate by seeking sustainable income streams that reduce reliance on grants from gaming trusts and enable growth. Some of the proposed changes would instead have the opposite effect - reducing the sustainability and self-sufficiency of charities and impacting their ability to do their charitable work.

The exemption charities have from income tax is not an error or a loophole, it’s a recognition of the massive societal benefits they provide. It’s not clear what the financial benefit in terms of government tax income the proposed changes would provide, or how the changes would affect charities’ ability to carry out their work on behalf of New Zealand society.

Submission Points

1. Supportive Tax System Changes

Although a tax policy shift on imputation credits has not been included in the paper, we believe it should be considered.

Community Foundations invest the donations they receive through Craigs Investment partners, using the income from the investments to support charitable causes in their region. The original donation is retained and grown to match inflation, while investment income above inflation is delivered out as grants to charitable organisations and individuals. Maximising the investment income by enabling the tax-exempt charities to claim imputation credits would significantly increase their charitable impact.

One of the principles underpinning the imputation system, is that shareholders should, as far as possible, be treated as if the income earned by the company were earned by them directly. However, since charities don’t pay income tax, they are unable to claim back the credits. Tax-exempt organisations are effectively taxed at the company level on dividends received, discouraging investment in New Zealand-based, dividend paying, businesses and reducing the charity’s income and therefore its charitable output.

2. Definitions are critical to avoid unintended consequences

The definition of donor-controlled charities should specifically exclude Community Foundations, to avoid negative impacts on their effectiveness through controls intended to solve a different problem.

3. Avoiding Unintentional Negative Impact

It is vital that the proposed changes do not negatively impact the great work of many charitable organisations in New Zealand just to prevent misuse of the system by a few. Enforcement of, or amendments to, the Charities Act may be more suitable to capture the few who are using the allowances without charitable intent.

4. Donation Tax Credits

We support any changes that make it easier and faster for donors to claim a tax credit for their donation. This will incentivise more and larger donations, which allows the charity to do more good work.

Northland Community Foundation
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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?

Community Foundations should be specifically excluded from the definition of donor-controlled charities to avoid confusion. Northland Community Foundations is not donor-controlled, although our donors are often involved in directing the focus of the grants delivered from their donation. We are a place-based, locally led community funder, and we work with donors and community to create a positive impact. If the proposed changes (particularly the minimum distribution rule), which are intended to eliminate tax-avoidance and the misuse of funds, were also applied to Community Foundations, this could have a large negative effect on their ability to function effectively. Accumulating funds is what enables Community Foundations to provide long-term support in their communities and the current reporting rules for charities ensure that this is transparent and justified.

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?

Donation tax concessions provide an incentive to potential donors, and the incentive would be increased if the credit is provided soon after donation (or immediately in the case of payroll giving). While awareness and uptake may currently be fairly low, we are supportive of any changes that streamline and speed up the process of claiming a donation tax credit. Such changes will likely increase the value of donations from donors who are incentivized by a tax rebate, encouraging them to make a donation or to increase their donation. These increased donations directly and positively affect the charitable outcomes.

Conclusion

In conclusion, Northland Community Foundation urges you to carefully consider any proposed changes to the taxation framework for the charities sector in NZ, noting the potential for direct implications, or unintended consequences, on legitimate charities relative to the expected increase in government tax income. The potential negative consequences on service delivery, administrative burden, philanthropy, economic contributions, fiscal agency, and equity, far outweigh any benefits that may arise from such changes. The potential for greater enforcement of Charities Law should be considered as an alternative to tax changes, in cases where charities are misusing the benefits provided. There are also improvements that could be made to the imputation credit system by allowing charities to claim the credits and removing the double-taxing of company profits, which negatively impacts charities who invest to increase their impact.

Thank you for considering our submission.

Sophie Lane
s 9(2)(a)

Chief Executive
Northland Community Foundation
s 9(2)(a)

TE RŪNANGA O
TOA RANGATIRA

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

Sent via email: policy.webmaster@ird.govt.nz

Taxation and the not-for-profit sector

Tēnā koe, David

By way of background, Te Rūnanga o Toa Rangatira (**TROTR**) was established in 1990. It is the mandated iwi authority for Ngāti Toa Rangatira, and the administrative body of iwi estates and assets.

Te Rūnanga o Toa Rangatira manages political and public interests on behalf of Ngāti Toa Rangatira including Tiriti claims and settlements, commercial and customary fisheries, health services (including primary mental health and residential care services), social services, central and local government relationships, and resource and environmental management. It is also responsible for commercial interests including property assets. Te Rūnanga O Toa Rangatira Incorporated is a non-profit incorporated society with charitable status.

The rohe of Ngāti Toa extends from the Whangaehu River south along the ranges to Turakirae. It then crosses Raukawa Moana (Cook Strait) to Marlborough and Nelson. This is encapsulated in the tribal pepeha: Mai i Miria te Kakara ki Whitireia, whakawhiti te moana Raukawa, ki Wairau, ki Whakatū.

Opening comments

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

As a general comment, the Paper lacks a clear policy rationale to support the changes proposed, perhaps with the exception of the tax avoidance concerns raised. In particular, the Paper confirms that there is little economic advantage for charities under the current tax settings therefore in the absence of another compelling policy argument, the only motivation we can see would seem to be one of reducing fiscal costs. The Paper asserts that “tax concessions for unrelated charity businesses reduce revenue, and therefore shift the tax burden to other taxpayers.” This argument is fundamentally flawed. TROTR and other iwi organizations make significant contributions to the rohe, including in health, education, housing, regional economic development, and environmental sustainability. These are all areas where the Government relies on iwi partnerships to deliver outcomes. If the Government removes tax exemptions for iwi charities, it will reduce our ability to contribute in these areas—forcing increased reliance on government funding rather than self-sustaining iwi initiatives. This would ultimately create a greater fiscal burden, not reduce it.

While our overarching view is that the current general settings for charities should remain in the absence of clear evidence of widespread abuse by the sector, most importantly, we consider it is critical that special consideration is given to charities established by iwi and other Māori collectives. If changes are to be made to the tax settings for charities, it is critical charities of iwi and other Māori collectives are not adversely impacted. Given charities are a common feature of iwi groups, we are disappointed that there has been no meaningful engagement with iwi regarding these potential changes, and the timeframe for providing feedback and submissions is extremely limited.

Treaty commitments and the government's obligations

We want to emphasise that iwi charities like ours, especially those that are post-settlement entities (**PSGEs**), are part of the ongoing redress to address intergenerational breaches. Iwis continue to recover from historical losses and work towards fulfilling their aspirations. The coalition government included a clear commitment to uphold Treaty Settlements, yet these proposed policies directly contradict that promise. TROTR urges the Government to honour its commitment and ensure that any tax policy changes do not undermine Treaty Settlements, including the structures that iwi have developed in good faith to uphold their settlements and promote intergenerational wellbeing.

Further, IRD has a departmental obligation under Te Tiriti o Waitangi to understand the impact of proposed policy changes on Māori and mitigate any negative or unintended effects. However, the Paper does not address the specific impacts on iwi charities or PSGEs, nor does it acknowledge the Treaty relationship. The failure to meaningfully engage with iwi on these proposals is a fundamental Treaty issue. Treaty settlements established a framework for iwi self-determination and economic development. Any unilateral changes to taxation settings that impact iwi charities undermine that framework and risk creating new grievances.

The Ngāti Toa settlement was a significant milestone in our iwi's journey toward redress and justice. However, it is vital to recognise that the settlement was not an end point but rather a beginning—a foundation upon which we continue to rebuild, restore, and uplift our people. Ngāti Toa Rangatira faced profound injustices following colonial land confiscations, invasions, and economic disenfranchisement. The displacement of our people and the alienation from our lands left deep and lasting scars, eroding the cultural, social, and economic fabric of our iwi. These historical grievances are not simply matters of the past; they have shaped generations, influencing the opportunities and challenges faced by our whānau today.

The settlement, reached after extensive negotiations, was a formal acknowledgment of the injustices inflicted upon Ngāti Toa. It included financial compensation, cultural redress, and land returns, aiming to provide a foundation for our iwi to rebuild. However, the settlement did not and could not fully compensate for what was taken. No financial or legislative resolution can truly measure the depth of loss our people endured.

The Crown's apology, while necessary, serves as a reminder of the magnitude of past wrongs. The settlement was a crucial step toward healing, yet it remains just one part of a much larger process of recovery and regeneration for our iwi. While the settlement provided essential resources, its true value lies in how we leverage it to restore the mana and prosperity of Ngāti Toa. Our investments in education, economic development, and cultural revitalisation are central to this ongoing journey. Through initiatives such as whenua restoration projects, business enterprises, and the revitalisation of te reo me ōna tikanga, we continue to build a future that reflects the strength and resilience of our people. While the Treaty settlement was a significant step forward, it did not erase the socioeconomic disparities resulting from past injustices. The responsibility now lies with us to use this redress as a catalyst for long-term growth and empowerment.

TROTR and our other charities are unique in nature as outlined above and it would be inappropriate to change the tax settings of our organisations. TROTR has been in existence for many years. Its primary activity is the provision of assistance by way of relief of poverty, promotion of health, wellbeing and advancement of education for all members of Ngāti Toa Rangatira and the community. Most of our charities were formed to facilitate the acquisition of treaty settlement assets, which in some cases was a legislative requirement. Other charities were formed not just to isolate financial risks, but to recognise iwi investment strategies designed to preserve, maintain, and enhance the economic resilience of Ngāti Toa. These investments ensure that future generations—our mokopuna—can benefit from the economic growth of our iwi. They are not about short-term commercial gain but about intergenerational wellbeing and sustainability. Our investments extend beyond financial returns. We reinvest in our uri, creating opportunities for education, employment, and cultural revitalisation. Any tax policy that undermines this long-term approach is misaligned with the broader goal of economic and social development for iwi.

Appendix 1 provides a list of our charities and overview of their purpose.

It is apparent that our activities are not of the type that have been identified in the Paper. Furthermore, as noted above, it would be inappropriate for the Crown to change the tax status of our charities especially in the context of the treaty settlement that was reached between Ngāti Toa and the Crown and the fact that it was a legislative requirement for some of the charities to be established in order to facilitate the acquisition of treaty settlement assets.

We also note that the Charities Act 2005 was amended to specifically introduce an exemption from the blood tie disqualification under the public benefits test in specific contemplation of iwi charities recognising the uniqueness of them. This provides further support and recognition of the need for separate consideration for charities of iwi and other Māori collectives and that the Paper's current broad-brush approach could result in those charities being adversely impacted without cause. In our view, if there are concerns around the activity and integrity of certain charities, then this should be addressed through the charities framework and regulations, rather than through the tax system.

Finally, New Zealand charity law, including the definition of "charitable purposes," remains rooted in an English legal framework that does not fully accommodate iwi governance and economic structures. While iwi and PSGEs have worked within the constraints of this framework, the proposed changes would unilaterally shift the goalposts. This is a direct breach of Treaty principles. Instead of imposing restrictions on iwi charities, the Government should undertake a first-principles review of the role of charities and PSGEs in modern Aotearoa New Zealand, similar to the Law Commission's review of Incorporated Societies. Such a review should assess how charities contribute to society and whether the current legal framework supports their role effectively. This approach ensures that any policy changes, including taxation proposals, are grounded in robust evidence, tailored to their purpose, and aligned with the broader social, economic, and Te Tiriti obligations that underpin PSGEs.

We provide more detailed comments to each of the chapters of the Paper below.

For completeness, we also request that portions of our submissions which provide details of our business operations are not to be released to the public or under the Official Information Act 1982 given the commercial sensitivity of the information.

Charity business income tax exemption

A significant portion of TROTR's business activities are carried out in taxpaying / non-charitable entities (companies, trusts, limited partnerships, Maori Authorities etc), however our Kimihia entities are charities. These entities were established to acquire land from the Crown as part of our treaty settlement, which includes settlement assets valued at more than $600 million. The charitable status of the entities was an important part of the funding arrangements entered into to enable the acquisition of treaty settlement assets. This land now generates lease income as the land is leased back to the Crown so that the Crown can continue to operate the schools that are located on the land.

Based on the discussion in the Paper, it appears that the lease income may cease to qualify for the business income tax exemption due to it not being related to charitable purposes of the Kimihia entities. This would have an immediate impact on TROTR as it could result in us breaching our debt covenant requirements which are all dependent on free cashflow. This would constitute an "event of default" on the outstanding loan and result in the debt being immediately payable. This would have a significant adverse impact on TROTR, potentially resulting in a need to dispose of settlement assets. Ngāti Toa has been actively reclaiming its rohe as part of the treaty settlement process, where the Crown acknowledged past wrongs and provided redress. Losing these settlement assets would be a backwards step and have a significant impact on future generations of Ngati Toa and TROTR's ability to contribute to the wellbeing of its iwi members and the community.

On this basis, to the extent the scope of the charity business income tax exemption is narrowed, that change should not apply to charities of iwi or other Māori collectives, especially where treaty settlement assets are involved.

As a more general point, in our view, taxing "unrelated" business activities will undermine the ability of iwi charities to deliver services and will have a detrimental effect on the charitable sector, particularly in relation to economic growth.

Donor-controlled charities

The Paper raises a number of examples whereby Inland Revenue has concerns around tax avoidance that is occurring in the sector due to the control the donor has over the use of the charity's funds. The discussion over the potential definition of what may constitute a "donor-controlled" charity is brief, but based on the limited details available it is possible that iwi charities could be captured. For example, a proportion of the funding that is provided to TROTR's charities may come from non-charity entities which undertake commercial activities. On the basis that the entities are all associated, we are concerned our entities could be inadvertently captured.

As noted already, TROTR is not engaged in the types of arrangements outlined in the Paper and it would be significant overreach if any changes impact the tax treatment of our entities, including imposing restrictions on our ability to choose how and what we want to invest in as well as decisions around distributions made by our charities.

In particular, we have significant concerns over any minimum distribution rule being applied to charities of iwi or other Māori collectives. A key part of TROTR's purpose is to maintain our assets for generations to come and as part of that the accumulation and growth of wealth for intergenerational benefit is critical to that purpose. A requirement that a portion of the TROTR group's assets must be distributed annually runs contrary to TROTR's purpose.

The intergenerational focus of maintaining assets for future generations will be a common theme amongst iwi organisations and not only unique to TROTR.

In addition, depending on the minimum distribution measure, it may result in a need for TROTR to dispose of some of its assets (e.g. for cash) as we have significant holdings in illiquid assets (including land). It is important to note that in some instances there are also legislative limitations on our ability to dispose of certain assets (e.g. fisheries settlement quota), which further supports the inappropriateness of having such a rule apply to TROTR.

We therefore submit that there should be no new restrictions imposed on iwi charities like TROTR and our other charities.

Integrity and simplification

The Paper proposes the removal of the FBT exemption for charities on the basis that due to upcoming changes to the FBT regime, the policy grounds of reducing compliance costs will diminish and also on weak efficiency grounds because it distorts the labour market.

We disagree with that analysis. We are not convinced that there will be significant reduction of compliance costs in the absence of a wholesale change to the FBT regime.

Further, many charities will have financial challenges and most of their funding will likely go to delivering their charitable purpose. As such, the removal of the FBT exemption will result in less financial means to offer competitive salaries to potential employees. The ability to offer benefits without attracting FBT is a useful tool for charities to enhance the financial attractiveness of working for one.

As such, we do not support the proposal to remove the FBT exemption for charities.

General

While marae may not fall directly under the authority of TROTR, our settlement and charitable purposes extend to supporting marae as vital cultural and social hubs. The tax exemption must explicitly include marae to recognise their integral role within our iwi structures and ensure they remain sustainable for future generations.

TROTR strongly opposes the proposed tax policy changes. We call on the Government to reconsider its approach and collaborate with iwi to develop policies that uphold Te Tiriti, protect Treaty settlements, and foster iwi-led economic development.

We appreciate the opportunity to submit our views and welcome further discussions on this important matter.

APPENDIX ONE

Charity	Core operations	Comment
Ika Toa Ltd	Fish quota leasing	*This entity is an asset holding company for Maori fisheries assets and was formed as a requirement of Maori Fisheries Act 2004. All income from its activities must be applied only to the charitable purposes of its parent entity (TROTR).*
Ora Toa PHO Ltd	Primary health care	*This entity was formed under the New Zealand Public Health and Disability Act 2000 that established Primary Health Organisations (PHOs) to manage primary care, including general practitioners and their services. All funding is transferred to its shareholder (TROTR) to deliver health services to meet the charitable purpose of the parent entity.*
Kimihia No. 1 Ltd	Investment property leasing	*This entity was formed to acquire and hold Treaty settlement assets (MOE school properties) and serve as a special purpose vehicle entity (SPV) to isolate financial risks associated with a significant syndicated bank loan used to acquire settlement assets. The returns from the settlement assets are used to support the charitable purposes of the shareholder (TROTR).*
Te Tumu Whakatupu Ltd	Holding company of Kimihia Number 1 Ltd	*This entity was formed to hold assets for the benefit of the charitable purposes of its shareholder (TROTR), such purposes to be promoted by the payment of dividends or other revenue or capital distributions to the shareholder.*
Kimihia No. 2 Ltd	Property Leasing	*This entity was formed to acquire and hold Treaty settlement assets and to isolate financial risks associated with bank loan to acquire settlement assets. The returns from the settlement assets are used to support the charitable purposes of the shareholder (TROTR).*

Tiaki Toa Ltd	Captive insurance	*Not yet operational, but this entity was formed to isolate risks and to hold assets for the benefit of the charitable purposes of its shareholder (TROTR).*
Kimihia Number 3 Ltd	Investment property leasing	*This entity was formed to acquire and hold Treaty settlement assets (MOE school properties) and serve as a special purpose vehicle entity (SPV) to isolate financial risks associated with significant syndicated bank loan used to acquire settlement assets. The returns from the settlement assets are used to support the charitable purposes of the shareholder (TROTR).*
Te Tumu Whakatupu No. 2 Ltd	Holding company of Kimihia Number 3 Ltd	*This entity was formed to hold assets for the benefit of the charitable purposes of its shareholder (TROTR), such purposes to be promoted by the payment of dividends or other revenue or capital distributions to the shareholder.*
Ngāti Toa Ltd	Holiday park operations	*This entity was formed to hold assets for the benefit of the charitable purposes of its shareholder (TROTR), such purposes to be promoted by the payment of dividends or other revenue or capital distributions to the shareholder.*
Toa Developments Ltd	Property development management	*This entity was formed to hold assets for the benefit of the charitable purposes of its shareholder (TROTR), such purposes to be promoted by the payment of dividends or other revenue or capital distributions to the shareholder.*
Toa Kenepuru SP Ltd	Limited partner to Kenepuru LP (property development)	*This entity was formed to hold assets for the benefit of the charitable purposes of its shareholder (TROTR), such purposes to be promoted by the payment of dividends or other revenue or capital distributions to the shareholder.*

To: Deputy Commissioner, Policy
Inland Revenue Department
PO Box 2198, Wellington 6140
Email: policy.webmaster@ird.govt.nz
Subject: Submission – Taxation and the Not-for-Profit Sector

Dear Sir/Madam,

Thank you for the opportunity to submit to the consultation document "Taxation and the Not-for-Profit Sector".

[Please withhold my private information from OIA requests. These are in *italics* in the document]

s 9(2)(a) [redacted]

s 9(2)(a) [redacted]

Considering my range of experience, I write to express my concern to the proposed changes outlined in the consultation document. These reforms risk undermining our (New Zealanders) ability to serve vulnerable New Zealanders and jeopardise the long-term sustainability of many charitable missions.

1. Charity Business Income Tax Exemption

Taxing unrelated business income:

- **Retention of the current exemption is essential.** Many charities rely on unrelated business activities to generate sustainable income to fund their core services. Examples: Op shops (which actually encourage circular economy and help reduce carbon foot print by facilitating recycling); a café (that encourages disadvantaged members of the society to have a privileged experience), a social supermarket (that restores mana to the those who otherwise rely on food handouts/ food banks).

- Removing this exemption would undermine their financial autonomy and compromise their ability to serve communities. The suggestion that these activities are "unrelated business" ignores the reality that these can be core to NFPs operational model and survival as a charity.

- A tier-based tax system may possibly increase risk of charities cutting their service offerings to fit into tiers with lower administrative burden.

- Many charities end up diversifying their service offerings to provide a 'wrap around' service to their communities to help address the cause of the problem rather than addressing the symptoms. For example, a health advocacy group may offer educational services to corporations & schools; a foodbank may provide counselling services for domestic abuse sufferers.

- **Charitable reinvestment should be prioritised over tax collection.** Even if income is derived from unrelated business activities, as long as the profits are used for charitable purposes, taxing such income defeats the purpose of promoting public good through charity.

- **New Zealand's model encourages innovation and self-reliance.** Unlike countries that tax unrelated business income, New Zealand's approach encourages charities to build robust business models to support charitable work, reducing reliance on government grants and donations. Example: recent grant cuts by the government (such as Ministry of Social Development) have compromised going concern for many charitable organisations. Some charities are actively exploring social enterprises and investing in businesses to sustain their charitable purpose.

- **Unfair comparisons with for-profit businesses.** Charities have fundamentally different missions and obligations. They often operate in high-risk or underserved areas where private businesses would not, and they reinvest monies into the public good.

2. Donor-Controlled Charities
Increased regulation and proposed restrictions:

- **Existing charity law already provides safeguards.** Charities Services, under the Charities Act 2005, enforces transparency and public accountability. Adding another layer of regulation specifically targeting donor-controlled charities is unnecessary and risks stifling philanthropic giving.

- **For example:** Foodbank/ Social Supermarket: Philanthropic supporters help acquire premises, assist with fit out payments and secure ongoing access to supplies/ bulk food at wholesale rates. They do not benefit personally but are engaged stewards of NFPs impact.

- **Restrictions may deter major donors.** High-net-worth individuals and philanthropic trusts often want assurance that their gifts are aligned with their values. Introducing heavy-handed rules on investment decision-making and distributions could discourage long-term giving and investment in public good.

- Many of our donors are involved precisely because they want to ensure their giving is used efficiently and ethically.

- Any concerns about misuse or private benefit can be managed under existing governance requirements, financial disclosures, and Charities Services oversight. Adding new barriers for donor-controlled charities would risk punishing the majority for the behaviour of a few.

- **One-size-fits-all policy risks harming legitimate charitable endeavours.** Many donor-controlled charities fund innovative or niche causes that larger institutions overlook. Overregulation would risk suppressing such diversity and agility in the sector.

3. Integrity and Simplification Measures

a. Tax Treatment of Member Transactions:

- **Reclassifying member benefits as taxable.** Membership-based charities (e.g., sports clubs, cultural groups) deliver social benefits through access and community, not financial return. Treating low-cost or subsidised services as taxable would be punitive and administratively complex. These are not "benefits" in a taxable sense, but tools of empowerment and inclusion.

b. Income Tax Exemptions for NFPs:

- **NFP exemptions are well justified.** These organisations address systemic gaps that government and private entities do not. Taxing them reduces their ability to do so effectively and increases demand for public funds in other areas. Many NFPs operate in an unequitable playing field (i.e. addressing systemic societal/ generational gaps). Tax exemptions do not come close to levelling the playing field for many of these charities.

c. FBT Exemption:

- **The exemption reflects the unique workforce realities in the sector.** Charities and NFPs often use non-monetary benefits to attract and retain talent, especially when they can't offer competitive salaries. Removing this exemption would reduce morale and further strain already tight budgets.

- FBT calculation and tax returns is highly administrative and inefficient (arguably ineffective).

d. Simplification Efforts:

- **Support for simplifying compliance, but not through taxation.** Many small NFPs already struggle with compliance and lack administrative capacity. Simplification should reduce burden, not introduce new tax obligations or reporting standards.

In closing, I strongly urge Inland Revenue to maintain the current tax exemptions and avoid introducing measures that will ultimately reduce the capacity of New Zealand's charitable and NFP sector to serve communities.

I see all the different types of charities that I am part of with increased immediate and growing needs around, I urge Inland Revenue to preserve the current tax settings that enable community organisations to operate effectively. New Zealand's existing framework empowers local solutions to complex social problems.

Reforming it in a way that treats community-led charities like commercial enterprises would be deeply counterproductive and socially harmful.

These organisations are vital partners in delivering public good, social cohesion, and long-term societal wellbeing. They support New Zealand's pledge to various international commitments, such as, climate change targets and United Nations Sustainable Development Goals.

I ask you to retain the current charitable business income exemption, avoid penalising donor engagement, and focus reform efforts on simplifying—rather than increasing—regulatory burdens.

"Every tax concession has a 'benefit', that is, it reduces government expenditure by enabling charities to deliver targeted services/ benefits to the society and therefore reduces the tax burden to other taxpayers".

Yours sincerely,

s 9(2)(a)

s 9(2)(a)

From: s 9(2)(a)
Sent: Monday, 31 March 2025 5:41 pm
To: Policy Webmaster
Subject: Taxation and the not-for-profit sector submission

Hi

Q1. Charities have been tax exempt in our culture since 1601. This is because charities provide a whole lot of necessary services government doesn't and it has always been acknowledged that it would cost the government more to do these itself than tax it would raise by taxing them (which would reduce the charitable work they do). This is because tax would be approximately 1/3 of the surplus with the charity's operating costs being much higher. I don't find the "second order imperfections" compelling. You have already listed some of the counter arguments.
Q2. The cost of operating charities would increase if the tax exemption for unrelated business activities is removed, and tax revenue raised would not enable the government to replicate the services the charity provides. Sanitarium is often raised as an example in favour of taxing unrelated business activities, however taxing this would reduce the ability of the Seventh-day Adventist Church in performing it's role in ensuring it's members are well behaved citizens and providing counselling and religious services to help them stay happy and well behaved. The government currently spends a lot on mental health funding. Reducing religious charity income will result in the need for government funding for this to increase.
Q3. You could define an unrelated business as being a separately incorporated entity.
Q4. I support the $5M expenses threshold proposed under 2.29 as this will target the top 11% only. Failing this it should be at least $140,000 expenses, however you would then be forcing 66% (6,600) charities to comply which seems excessive.
Q5. Yes, I believe Charity business income that is distributed for charity use should be tax exempt as charities provide a whole lot of necessary services government doesn't and it has always been acknowledged that it would cost the government more to do these itself than tax it would raise by taxing them (which would reduce the charitable work they do). This is because tax would be approximately 1/3 of the surplus with the charity's operating costs being much higher.
Q6. No thoughts on this.
Q7 -Q9. I don't think anything is required as the 1601 Statute of Elizabeth 1 requires a certain "reach" of a charity to qualify as a charity. Apart from the inclusion of Maori hapu in NZ addition this remains quite broad. I believe that most donor organisations that were tailoring their distributions for their own benefits would fail their registrations with Charities on this basis anyway, making tax legislation unnecessary.
Q10. The idea of removing the income tax exemption on subscriptions and levies for 9,000 Not for Profits (NFP) would cause many problems for NZ's not for profits and possibly the demise of a large number of these, without increasing tax revenue significantly. The negative effect on society would

outweigh the increase in government income. I suggest that you repeal the changes to the ITA 2007 to cancel out the overriding of the mutuality common-law position. This would remove any need to design any mechanism to reduce the impact of this legislation on small NFP's. Failing this you should consider increasing the $1,000 deduction (which has not changed for many years) to a higher limit (say $15,000). Or you could apply the $5M expenses (or the $140,000 expense) threshold proposed under 2.29 (see Q4.)

Q11. The same argument applies to friendly societies and credit unions. Building societies and credit unions exist to cater to members who can't get finance from mainstream banks. Removing the tax exemption for these will increase borrowing costs for the lower end of society, who cannot afford an increase in borrowing costs. Many Maori and Pacifica people are included in the members of these institutions and current government policy is to not disadvantage this sector any more.

Q12. While little tax gain would come from removing the tax exemption this section of NFP's, the negative effect on NFP's would be far less than the 9000 NFP's contained in Q10.

Q13. The FBT on charities was removed in order to reduce compliance costs. Reinstating it would still mean non taxable entities having to do tax (FBT) returns which adds to the costs of charities. The government relies upon charities in NZ to deliver many outcomes the government chooses not to fund itself, e.g. Ambulance and Fire services. Adding to their costs reduces what these charities can do, making the negative outcomes outweigh the potential FBT gains.

Q14. Treating Honorium as payroll adds the onerous weekly/fortnightly or monthly online wage returns for an NFP. If they want to do this they can just pay these as wages currently. The way to reduce compliance costs here would be instead to make Honoraria exempt from ACC levies instead.

Thanks for the opportunity to contribute.

Ngā mihi, Glenn

Glenn Sullivan
DIRECTOR / ACCOUNTANT / AUDITOR

s 9(2)(a) [redacted]

www.glennsullivanca.co.nz

s 9(2)(a) [redacted] v7

Philanthropy New Zealand
Tōpūtanga Tuku Aroha o Aotearoa

31 March 2025

Submission from Philanthropy New Zealand to IRD on Taxation and the Non-Profit Sector

Executive Summary and Recommendations

1. **The charity and philanthropic sectors are critical for New Zealand's economic, social and environmental future. A well designed tax system is critical in enabling this. There is a need to meet to discuss the points made in this submission, before mistakes are made with detrimental implications for this country and the Government's priorities and intended outcomes.**

2. Thank you for the opportunity to make a submission on this issues paper. We appreciate the time that you and your team have taken to date, to meet with Philanthropy New Zealand (PNZ) and members to explain the key points in the issues document, to answer questions and clarify scope. This has also been valued by our members. We hope that these conversations have been helpful for you and your team as you continue to identify issues.

3. This submission from PNZ has been prepared in consultation with our funder members and is primarily concerned with the philanthropic impact of the proposals. New Zealand has a declining rate of philanthropy (we have dropped from number 5 to number 17 in the World Giving Index in the past two years), and as the peak body, we are focused on what changes we need to grow effective philanthropy in New Zealand. In this submission have also commented on the process, regulatory costs, how the proposals fit in with the Government's stated priorities and the likely impact on both charities and the country.

4. 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, we are concerned 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, which undermines the credibility and integrity of the 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. While New Zealand subscribes to “broad base low rate” when it comes to taxes, it also has traditionally applied a common sense lens of considering the compliance costs of doing so, which is where we get sensible exemptions.

5. We are also concerned that more significant problems may be created in trying to “fix loopholes” in the regulatory framework, rather than utilising or strengthening enforcement levers under the tax and charities framework for organisations that are acting illegally or undermining the integrity of the charity regime. In particular:
   - Loss of business funding streams for charitable activities, also impacting the viability of projects or organisations that may be funded by philanthropic and government funders. The philanthropic sector is not able to bridge funding gaps that may be created by the proposals, noting that many charities are already struggling with lower donations through fundraising.
   - Crippling the growth of charities’ business activities, negatively impacting the government’s economic growth agenda.
   - A chilling effect on high-net-worth individuals and families setting up foundations to give money to the community or investing in long-term infrastructure projects (such as housing).
   - Loss of confidence in donating to the charitable sector through overemphasising the few rogue operators rather than the majority of New Zealand’s 27,000 charities that are providing essential support and operating with credibility.
   - Inconsistency with the Government’s regulatory reform agenda – for example, duplication of regulatory requirements and additional administration and accounting costs, which takes funds away from their charitable purpose with little to no gain or benefit to the country. We perceive the only beneficiaries are likely to be lawyers that seek to contest and test definitions in the courts, and tax professionals that will be doing tax returns for charities.

6. We welcome looking at international regimes and considering the alignment of New Zealand’s tax settings in relation to them. Cherry-picking examples without considering the full context presents serous risks. The levers identified in the issues paper do not operate in isolation, they sit alongside incentives.

7. The proposals also sit alongside other initiatives that the Government is trying to promote, such as social investment and the philanthropy option in the philanthropy option in the Active Investment Visa – and the type of relationship that the government is trying to create with philanthropy, including the available settings and vehicles for enabling philanthropy in New Zealand.

8. Globally, Governments look at utilising taxing levers to encourage and discourage certain behaviour or activities. Adding tax is seen as a disincentive – such as excise tax and reducing tax is seen as an incentive – such as ESG investment. Put another way, ‘if you want less of something, tax it more’.

9. We **recommend** growing understanding and strengthening any problem definition, options and proposals, which is more likely to have broader benefits and support from

the philanthropic and charitable sectors. In particular, we recommend three key actions that could form part of a common work programme in partnership with PNZ:

- **Tax System Design:** A tax system needs to be about more than revenue; it influences behaviour, including incentivising philanthropic giving. There is work and options that need to be developed to help strengthen the philanthropic incentives in the tax system alongside any charity tax changes, e.g. addressing the inequity in imputation tax credit refunds. Discussed more below.

- **Research:** Utilising the emerging strategic relationship between government and PNZ to conduct joint research to better understand the international context. This research would aim to better understand how the system works together and what additional benefits this brings.

- **Social Enterprise Framework**: There is work to be done before progressing any proposals, which could be announced at Budget, to develop and introduce a social enterprise incentives framework in New Zealand. Discussed more below.

10. High-level comments on individual issue areas are outlined below – these are further explained below. The Appendix to this submission sets out responses to the questions in the issues paper.

Issue Area	High-level Comment
Taxing business activities of charities	• We agree with the analysis in the paper, that there is no competitive business advantage gained by businesses owned by charities and no justification for change. • Conversely, the existing requirement for full, financial, audited disclosure of charities is prima facie an argument for unfair, anti-competitive advantage for the business sector over the charitable sector. • Charitable entities that are running businesses have diversified their income streams - philanthropy and government encourage these entities to do so for sustainability. • Any changes in this space would also need to look at removing the current inequity of imputation tax credit refund for charities and introducing social enterprise legislation or incentivise investment in ESG businesses. • Some non-profits have been set up with a business solely for the purpose of being a funder for the community and other non-profits – which is likely to disincentivise this form of philanthropy.

Issue Area	High-level Comment
	• Will impact the Government's priorities – economic growth and reducing regulation.
Donor-led foundations	• We understand from you that community foundations are outside scope, and that this review is specifically concerned with private / family foundations. • The Trusts Act and other legislation already provides statutory duties for trustees that may be involved in the governance of an organisation – to help support arm's length decision-making. • There are a number of legitimate reasons why a charity may delay release of funds, such as long-term planning projects. Housing infrastructure has capital disbursement that occurs in chunks at different times which are often spread over multiple financial years. • In re minimum distribution of funds, it needs to be clear who this applies to and clear exceptions for foundations that are planning longer-term investments or acting sustainably for the community benefit. You would not want to create a situation where foundations were forced to waste funds on unworthy projects because of an arbitrary statutory timeline. • Foundations also owe an obligation to give effect to a donors' wishes (e.g. it may be a bequest). Further clarity about where donor advised funds fit and what level of independence in governance / decisions and no non-arm's length transactions would exclude entities from coverage. **Prima facie, this could disincentivise philanthropic giving.**
Fringe Benefit Tax	• Any decision in relation to FBT should only take place after the charities sector has the opportunity to review and comment on the FBT policy review.
Simplifying Donation Tax Credit	• Support simplifying DTC to make it easier to claim, without imposing additional costs on charities. • The lack of uptake in donation tax credits in New Zealand is further evidence that our system is not well designed to support philanthropy.

11. If the deluge of submissions do not give you pause, we hope that the insights provided in this submission give you an opportunity to reconsider and regroup. We would like to work with you to make this a desirable, viable, and feasible tax reform.

About Philanthropy New Zealand

12. Philanthropy New Zealand | Tōpūtanga Tuku Aroha o Aotearoa ("**PNZ**") is the peak body for philanthropy and grantmaking in Aotearoa New Zealand. We are a non-profit, independent membership organisation. We support generosity, effective giving, and a strong philanthropic ecosystem, and offer guidance for people with an interest in giving to make the world a better place. We provide training, share best practice, data and research, and connect our members to enable collaboration, representation, networking, professional development and information provision. This includes events, such as our Philanthropy Conference, and representing the needs and views of the sector with both local and central government.

13. We have over 200 members spread throughout New Zealand, including community trusts, community foundations, family foundations, corporate philanthropy members, high net worth individual members, professionals working in the not-for-profit and adjacent sectors, government agencies and councils, iwi/Māori entities, and community/ charitable organisation members.

About the Philanthropic Sector

14. Philanthropic organisations, and the giving sector, are an essential part of our country's infrastructure that are working with communities all over the country to support areas of human, social, economic and environmental development. The philanthropic sector's grant and donation-based funding is worth around $3.8 billion per annum[1] with the opportunity for significant growth, particularly given the current intergenerational transfer of wealth valued at over $1 trillion, and growing corporate generosity. There are also substantial sums of capital funds available for investment.

15. The main groups that give for charitable and public benefit reasons in New Zealand are individuals / households, businesses, trusts and foundations. According to studies quantifying giving in New Zealand, around 62% of donations are made by private individuals (48% direct donations, 9% family and individual trusts and foundations, and 8% bequests), 8% by businesses, and around 30% by statutory trusts and societies (JBWere, 2020; GNZ, 2014, 2011, 2006). Philanthropic entities have different legal and constitutional arrangements that impact on their ability to make disbursements.

16. Fundraising in New Zealand is dominated by the largest organisations with the largest 9% of charities receiving 91% of all donations.[2] Over half of New Zealand charities

[1] Those figures are from 2018, in the 2020 JB Were report: McLeod, J. (2020). *The New Zealand Support Report: The current state and significance of giving in New Zealand and the outlook for recipients.* [online] Available at: https://static1.squarespace.com/static/608a1a95d5087f40f9c2e366/t/6170561168036225f10f62fa/1634752022165/PNZ_JBWere_NZ-Support-Report.pdf [Accessed 7 January 2025].

[2] McLeod, J. (2020). *The New Zealand Support Report: The current state and significance of giving in New Zealand and the outlook for recipients*. [online] Available at:

receive donations; and "mean charity income by source differs by charity sector and size, with smaller charities receiving most of their income from donations, medium-sized charities from government grants, and larger charities from service/trading activities."[3]

17. Philanthropic funding is complementary to government funding and not positioned to fill core service gaps. It supports innovative initiatives and offers important "risk capital" for social change. Evidence of impact from such initiatives can highlight solutions suitable to scale (especially under a social investment approach) and inform new policy development. Philanthropic funders and grantmakers are close to communities: building capability; supporting grass-roots action; and delivering impact through Te Tiriti based partnerships.

Context for this Review of Tax Settings for Not-for-Profits

18. New Zealand is often talked about as a generous country. We agree but there is evidence that we are not as smart or as effective we should be as a country.

19. We are currently ranked at number 17 on the World Giving Index 2024.[4] We have dropped 12 places over the past couple of years – we were number 5 globally in the World Giving Index 2022. This list is currently headed by Indonesia, the US is number 6, and Australia is number 8. The World Happiness Report includes measurements on generosity: New Zealand has a declining rate in both donations and volunteering[5], for example in 2014 we were ranked number 6 globally for donating and now we are ranked number 25.

20. Changes are needed to support and grow philanthropy in New Zealand, and we have been working with Minister Upston and her officials at the Department of Internal Affairs to explore ways to increase effective philanthropic giving, with a public consultation document due to be released in June (subject to Ministerial and Cabinet approval). We understand your team has been consulted as part of the interdepartmental consultation because of the connections between tax and philanthropy.

21. Looking at what happens in other countries who are outperforming New Zealand in generosity, the design of the tax system, including tax incentives, is an important lever for achieving this change and sits alongside a national strategy for increasing generosity and a strategic relationship between the peak body for philanthropy and governments. For example, the Chief Executive of the Charities Aid Foundation, which conducts the World Giving Index research noted in the introduction to the 2024 report that:

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https://static1.squarespace.com/static/608a1a95d5087f40f9c2e366/t/6170561168036225f10f62fa/1634752022165/PNZ_JBWere_NZ-Support-Report.pdf [Accessed 7 January 2025].

[3] Bodman, P. (2023). *Survey of charitable giving in New Zealand*. [online] Victoria University of Wellington. Available at: https://www.wgtn.ac.nz/business/research/centres-institutes/previous-chairs/chair-in-public-finance/publications/working-papers/2023-working-papers/wp03-2023-survey-of-charitable-giving-in-new-zealand-pdf [Accessed 7 January 2025].

[4] CAF (2024). *World Giving Index 2024*. [online] Available at: https://www.cafonline.org/docs/default-source/inside-giving/wgi/wgi_2024_report.pdf [Accessed 7 January 2025].

[5] World Happiness Report, 2025. New Zealand. Available at: https://data.worldhappiness.report/country/NZL (Accessed: 26 March 2025).

"By looking at Singapore, we can see how government efforts may be helping to increase charitable activity. The country has significantly increased its rates of volunteering and giving, rising 19 places to third place in this year's index. Recent government initiatives include new schemes to encourage deeper partnerships between charities and businesses on volunteering, as well as tax relief and government matching on charitable donations. For these success stories to be replicated globally, governments should make it easy to give and support efforts to build resilient civil society organisations. By making sure the right building blocks are in place, we can grow giving and community engagement to work towards a vibrant civil society in every country."[6]

22. Countries like Australia have approached the tax and revenue discussion by working with the philanthropic sector because they recognise the value that this sector provides to the country and that more can be achieved in partnership.

Comments about the Process and Lack of Problem Definition

Process

23. We are concerned about the timeframe for this review. In the timeframe you outlined, it appeared that Cabinet may be making decisions in April and legislation may be introduced as early as August. As we all know, the devil is in the detail. As previously signalled in correspondence with Minister Watts and your team, there are significant risks associated with developing tax policy without fully understanding and testing the outcomes and benefits of any proposals.

24. We are conscious that there are a range of issues canvassed in the discussion document and that some of these are concepts or review areas without a lot of detail. Following a considered and trusted consultation process for developing the detail of options will help to ensure that there are no unintended consequences or ancillary issues from any actions taken. We note that IRD has a Generic Tax Policy Process, which includes extensive consultation through each stage of the process. We urge the government to follow this for the development of any options and a detailed proposal – not just the high-level issue identification. The support for and acceptance of any government announcements will be enhanced if a proper procedure is followed.

What is the problem you are trying to solve?

25. This process is particularly risky because there is not a clear problem definition and there has been no financial modelling or regulatory impact assessment other than an estimate of the likely size of the sector from charities register data. We want to ensure that the scope of the proposed reforms is clear, and any changes are designed in a way that deal with specific evidence-based problems without leading to unintended consequences and butterfly effects, and where the regulatory cost of any changes are justified.

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[6] Charities Aid Foundation, 2024. *World Giving Index 2024: Global Trends in Generosity*. [pdf] Available at: https://www.cafonline.org/docs/default-source/inside-giving/wgi/wgi_2024_report.pdf [Accessed 19 March 2025].

26. Previous conversations with Ministers and IRD officials, has indicated that only a small number of problematic entities are intended to be captured by the reforms. A **blanket approach** to policy reform seems excessive given the likely small scale of misuse.

27. No case is made in the paper for why the current enforcement powers in tax and charities legislation are insufficient for dealing with organisations that may be acting illegally. There are statutory duties that apply to trustees, for example, the mandatory duties in Part 3 of the Trusts Act 2019 include a duty to avoid a conflict of interest, a duty not to exercise power for their own benefit, a duty of impartiality, and a duty to act for no reward.

28. In 2017, the National-led Government passed the Charities Amendment Act, which specifically linked the charities and tax integrity schemes. In her second reading speech, Minister Goodhew made the point that:

> "I would like to take a little bit of time to outline the changes in the bill. Clause 11 adds tax evasion and similar offences under section 143B of the Tax Administration Act 1994 to the list of offences that disqualify someone from being an officer of a registered charity. These offences are similar to other financial-related disqualifying offences already provided for in the Act. This amendment will provide additional assurance that unsuitable persons are not able to obtain control over a charity's finances. It goes without saying that financial prudence is an important aspect of public trust and confidence in charities."[7]

29. We are conscious that the country (and large parts of the world) is experiencing an economic recession, and that the government may be motivated in raising these tax issues to help balance the books. This makes accurate financial modelling of any changes more important. It also needs to be considered against the long-term costs that will impact on future government balance sheets. Supporting philanthropy and the charitable sector will also support economic growth and our country's recovery from a recession – not only because of the essential support that they provide to people and communities who are vulnerable but because the sectors in themselves are making a sizable contribution to the economy.

30. It does not make sense to stifle this through policies that seek to disincentivise the establishment, or cap the operations of, charitable entities.

A broader perspective is needed

31. The review should not just be seen through a narrow tax lens but also needs to consider this from a starting point of the impact that charities have in the economic, social, cultural and environmental space in New Zealand.

32. There is a direct detrimental impact on the economy through these proposals, for example, the loss of charitable support for vulnerable people which impacts their economic independence often at an early intervention stage, or a downsizing in the

[7] Parliamentary Debates (Hansard), New Zealand Parliament, 1 November 2016, Volume 718. Available at: https://www.parliament.nz/en/pb/hansard-debates/rhr/combined/HansD_20161101_20161101 (Accessed: 26 March 2025).

charitable sector's funding streams and capability, or where a fund itself is being set up for the sole purpose of growing over time to provide long-term support to a community or cause.

33. As part of the analysis, there is a need to assess whether there is a real net benefit to the country through tax take or whether long-term fiscal costs to public services are increased because of the negative impacts to the charitable sector.

34. More analysis needs to be done to identify the implications of the tax proposals by the tax community and the unrealised loopholes that may be created by these proposals.

Greater understanding of international levers and context needed

35. The discussion document highlights overseas comparators but does not provide any detail about how those examples fit within a broader tax system or even initiative, and principles of taxation. A tax system needs to work as a whole and cherry-picking policies as comparisons risks creating a compromised perspective on the treatment of charities for tax purposes and the impact of any levers / changes here with different settings. There are significant risks with simply transplanting an overseas tax lever without considering the broader context, systems and incentives that apply in that country. Business and philanthropic decisions will consider, and be influenced by, the whole framework.

Regulatory Costs

36. We are not sure to what extent officials have assessed any review areas/proposals against the regulatory impact assessment criteria or the Government Expectations for Good Regulatory Practice, in particular, that proposals:
    - have clear objectives;
    - seek to achieve those objectives in a least cost way, and with the least adverse impact on market competition, property rights, and individual autonomy and responsibility;
    - are proportionate, fair and equitable in the way it treats regulated parties; and
    - are well-aligned with existing requirements in related or supporting regulatory systems through minimising unintended gaps or overlaps and inconsistent or duplicative requirements.

General Policy Comments

37. **Philanthropy:** It is not just public money that needs to be considered. Aligning registered charities with those that are tax exempt sends a signal to philanthropic givers that the purpose, integrity and regulatory scheme of any registered charitable entity is robust, and that they will be eligible for refunds under the tax system.

38. **Recognising the benefits and opportunities:** 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.

39. It is important for the government to balance conversations about 'cost' with 'benefits' associated with the tax advantages that are made available to charitable entities. In particular, we see an opportunity for this to be integrated into a wider piece of work that looks at social enterprises, as well as the benefits of the not-for-profit sector to New Zealand's economic social, cultural and environmental wellbeing. As a key lever for change, this includes designing the tax system to incentivise and support philanthropy to thrive for the benefit of communities, social enterprise and investment.

40. **Government priorities**: The proposal areas in the discussion document appear to be inconsistent with the Government's priorities. In particular, economic growth, a strategic partnership (government, business, philanthropy and iwi), and removing regulation agendas. Further, in the Prime Minister's State of the Nation speech he advised that "economic growth is going to influence every decision that I take this year". Taxing one of the funding streams that charities generate will impact economic growth from the charitable sector and may also lead to reduced competition and unemployment. As noted above, this is an additional regulatory cost for charities – both for those who are within scope of new regulation and need to file tax returns, and for those who need to pay costs to work out if they are.

41. **Utilising existing legislation and tools:** We want to ensure that the tax system is fair and support reforms that effectively target problematic entities from either acting illegally or undermining the integrity of the charitable and philanthropic sectors. IRD has a role to play in enforcing existing rules. This sits alongside powers held by other enforcement and regulatory bodies, offences and tools in other legislation, such as corruption offences, and statutory duties for trustees, and the registration process for charities.

42. **Adds Complexity:** 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. *Discussed more under the key areas of concern below.*

Key Areas of Concern

Taxation on business revenue

43. It is a fallacy to consider that for purpose businesses are in competition with for profit businesses.

44. The Issues Paper redefines and undermines charity legislation because it seeks to define a charity based on how revenue is generated rather than how the revenue is dispersed. Putting aside the obvious legislative incompatibility, they are different types of entities and, significantly, the money has different destinations – one for the community and public good, and the other for private hands. There's a reason why we give tax benefits to charities over for-profit businesses.

45. Taxing the businesses activities of charities would have a direct impact on economic growth and the ability of charities to grow their funding stream for the benefit of the community and their charitable purpose.

46. We agree with the analysis in the issues paper that there is no unfair competition between for-profit businesses and those raising funds for charitable purposes. Perversely, some of the proposals in the discussion paper will create an unfair competitive advantage to “for profit” businesses rather than those that are working for charitable purposes. Many of the proposals would impose new regulatory costs on all or part of the charitable sector, which already have significant reporting and accounting requirements under the charities legislation in terms of filing reports with the regulator, transparency and accounting/auditing. These are additional requirements, including revealing sensitive commercial information, that “for-profit” businesses do not have to complete. Charities would also have to set up internal systems to process and cope with additional accounting requirements.

47. We have addressed the response to the second order issues (paragraphs 2.13 and 2.14) in our response to question one below – see Appendix.

48. The key issue appears to be *when* a charity releases funds for their charitable purpose. As outlined in the response to the questions, there are a number of legitimate reasons why a charity may delay release of funds, such as:
    - Long-term planning projects;
    - Some activity, such as housing infrastructure has capital disbursement that occurs in chunks at different times which are often spread over multiple financial years;
    - Conditions about the use of funds and no suitable funding applications.
    - Some non-profits have been set up with a business solely for the purpose of being a funder for the community and other non-profits – which may disincentivise this form of philanthropy.

49. Any changes in this space would also need to look at removing the current inequity of imputation tax credit refund for charities and introducing social enterprise legislation or incentivise investment in ESG businesses.

50. It is important to note that charities that run businesses already face a **significant cost and regulatory burden** under charities legislation – including audited accounts and levels of public transparency not shared by other businesses. Making business income taxable through a series of definitions **adds complexity to the system** ((IRD have indicated definitions are likely be tested through the courts) and additional accounting regulatory costs to charities and is likely to impact economic growth.

51. If tax exemptions were removed for unrelated (or related for that matter) business income the change is likely to have a chilling effect in the sector on both appetite for investment in riskier business activity and money cycling through local economies (with more of it being held in lower risk lower return tax-free vehicles, and the lower yields resulting in less cash to put towards charitable purposes) or eroded by the tax and additional compliance costs.

“Donor-led funds”

52. We understand from you that community foundations are outside scope, and that this review is specifically concerned with private / family foundations.

53. In re minimum distribution of funds, it needs to be clear who this applies to and clear exceptions for foundations that are planning longer-term investments or acting sustainably for the community benefit. You would not want to create a situation where foundations were forced to waste funds on unworthy projects because of an arbitrary statutory timeline**.** These foundations also owe an obligation to give effect to a donors’ wishes (e.g. it may be a bequest). Further clarity about where donor advised funds fit and what level of independence in governance / decisions and no non-arm’s length transactions would exclude entities from coverage. **Prima facie, this could disincentivise philanthropic giving.**

54. Further comments in the responses to the questions – see Appendix.

Further Recommendations

55. We **recommend** growing understanding and strengthening any problem definition, options and proposals, which is more likely to have broader benefits and support from the philanthropic and charitable sectors. In particular, we recommend:

- **Tax System Design:** A tax system needs to be about more than revenue; it influences behaviour, including incentivising philanthropic giving. There is work and options that need to be developed to help strengthen the philanthropic incentives in the tax system alongside any charity tax changes. For example, looking at ways of automating the donation tax credit refund without imposing additional costs on charities, increasing the donation tax credit refund amount, centralising payroll giving payments through IRD (which already does child support and student loan repayments), and imputation tax credit refunds for charities that have invested in New Zealand companies.

- **Research:** Utilising the emerging strategic relationship between government and PNZ to conduct joint research to better understand the international context. There are several international examples made in the paper without any detail or understanding of what else may apply in that system to influence outcomes. Cherry-picking examples without considering the full context presents serous risks. The levers identified in the issues paper do not operate in isolation, they sit alongside incentives. This research would aim to better understand how the system works together and what additional benefits this brings.

- **Social Enterprise Framework**: There is work to be done before progressing any proposals, which could be announced at Budget, to develop and introduce a social enterprise incentives framework in New Zealand. This could have bespoke legislation with criteria including tax incentives. DIA has an existing definition of social enterprise[8] to assist with this alongside emerging ESG standards from XRB.

56. We would like to meet to discuss the issues raised in our submission.

[8] "An organisation that trades in order to support social, cultural, or environmental goals…. With three key elements:

- A social, cultural or environmental mission that achieves public or community benefit
- A substantial portion of income derived from trade (50% or more, or a demonstrated intention to reach this level); and
- Reinvestment of the majority or all of profit/surplus in the fulfilment of the organisation's mission.

… self-governing, and not part of the State, and able to independently wind up their activities."[8]

Appendix
Response to specific questions in discussion document

57. We set out below answers to certain questions in the discussion document. We note that there is overlap between the questions and therefore there is some repetition between answers.

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?

58. Provided that the Government intends to continue to provide tax relief for distributed business income, any decision to tax business income is essentially a timing issue only and any revenue collected by Inland Revenue should come with a corresponding liability to refund the tax in the future.

59. While there may be some charities where there is a significant lag between earning income and applying this for charitable purposes, that is a distinct issue which is better dealt with through charities providing visibility over the reasons for accumulation (a change was made in 2024 by Charities Services to address this issue, as covered in paragraph 3.4 of the issues paper).

60. For the majority of charities, the application of tax to business income will add considerable compliance costs and minimal revenue gain for the Government. Points in support of this include:

    a. The Government would need to provide relief to charitable businesses, unless it also intends to remove the ability of all businesses to claim deductions for donations. A change to deduction rules will result in fewer donations being made or distort behaviour away from straight forward donations into supply or sponsorship agreements.

    b. Making a business subject to income tax is not as straight forward as just requiring them to file a tax return and pay tax. There are additional complexities such as having to account for deferred tax in financial statements. Deferred tax in a charitable context is likely to be very complicated, particularly depending on what mechanism is introduced to provide relief for taxes on distribution.

    c. What tax rate should apply. Is it intended that the relevant entity rate should apply? Many charities are operated through trusts, so will a 39% tax rate be imposed, or is it expected that charities will restructure and move business activities into a separate company structure so they are only taxed at 28%?

    d. Will there be new timing rules introduced to allow a charitable business to calculate its taxable income and distribute surpluses to a charitable parent after balance date?

61. No. The second order imperfections are not sufficient. Addressing paragraphs 2.13 and 2.14 directly:

Extract from Issues Paper:

> 2.13 However, there are various "second-order" imperfections in the income tax system that may need to be taken into account. For example:
>
> - Charitable trading entities may have an advantage over non-charitable trading entities in that they do not face the compliance costs associated with a tax obligation. This lowers their relative costs of doing business.
> - The non-refundability of losses for taxable businesses can result in a disadvantage for such businesses relative to tax-exempt businesses, resulting in a higher relative rate of return for non-tax paying businesses over time when there has been a loss in one year.
> - The costs associated with raising external capital, such as negotiating with investors or banks, can be significant. These costs often make retained earnings the most cost-effective form of financing. Because charities' retained earnings are higher, this may give them lower costs in raising capital. On the other hand, charities generally cannot raise equity capital (as private investors cannot receive a return).

62. The first bullet point states that charitable trading entities have a lower relative cost of business as they do not have a tax obligation.

    (a) Without empirical evidence being provided by officials, it cannot be said that charities have a lower relative cost of doing business.

    (b) The issues paper does not consider the tax compliance costs charities face to ensure they are compliant with the exempt income requirements of ss CW 41 and CW 42 of the Income Tax Act 2007 (ITA07),

    (c) The issues paper also does not factor in the Charities Act 2005 compliance and financial reporting requirements that other businesses do not face. Paragraphs 2.8-2.11 discuss that whilst charities have a "tax advantage", they do not have a competitive advantage over competitors, charities and taxpaying businesses face the same pre-tax returns on investments. When considering the 'regulatory advantage' taxable business have over charities, this potentially could reduce or eliminate any perceived 'tax advantage' charities may have.

    (d) Depending on their structure, e.g. trust, incorporated society, charities may also have additional regulatory costs complying with that legislation.

63. The second bullet is unclear.
    (a) Businesses which have an economic loss need to find funds to cover the loss whether they are taxable or tax exempt.
    (b) A non-charitable business has an advantage over a charitable business as they have greater access to equity and debt.
    (c) If identical taxable and non-taxable businesses had been established, a taxable business has the advantage of carrying forward losses. If a charitable business becomes subject to tax it has no access to historic losses.

64. The third bullet point states that charities have 'lower costs in raising capital" as they can accumulate retained earnings faster.

(a) Charities do not raise capital. Charities are not able to borrow like taxable businesses can (for example they are unable to provide guarantors), nor are they able to have private owners to raise equity from, therefore the only option for the vast majority of charities to fund capital projects is retained earnings.

2.14 Associated with the last bullet point, a charity could more generally 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. Arguably, however, such accumulation could potentially arise from any form of income earned by charities.

65. Paragraph 2.14 states that a charity 'could' have an advantage if it was able to accumulate tax-free profits back into the capital structure of its trading activities, providing faster accumulation of funds and the ability to expand more rapidly than competitors.

(a) No evidence is provided by officials of this happening in practice or how businesses have been unfairly impacted. Rather this appears to just be a theory. This theory is countered by the fact that taxable business competitors have access to debt and equity capital raising that charities do not. That is, while a charity might have greater retained earnings to invest into fixed assets, a tax paying entity could borrow to also buy more assets and also receives the benefit of depreciation deductions.

(b) If a for-profit business sees a strategic opportunity to expand more rapidly by becoming a charity – the option remains open for them to convert to a charity under existing law. Obviously this comes with the corresponding consequence that no individuals can profit from the business.

66. Even if a charity expands its business, the charity is going to be putting future income into its charitable purposes / ability to generate more income for charitable purposes. It's unclear what the problem is with this situation. Are there businesses that have been unfairly impacted by this attribute? And what is the size and scope of that impact? Bearing in mind the public good / charitable purpose for those those charitable business funds as a destination compared to "for profit" businesses.

67. Charities would charitable funds for their charitable purpose, through paying tax and additional regulatory costs associated with making a tax return. Some charities may not be able to retain the same number of staff or programmes. It disincentivises charities from putting money into active parts of the economy – inconsistent with the government's economic growth agenda. Also adds complexity into the system.

68. Paragraph 2.16 discusses the 'level of support that the Government wants to provide to charities'. What is not considered in the issues paper is the 'negative fiscal cost' of the benefits that charities bring to society, and what the cost to taxpayers would be if the Government was required to step in to replace the services and support provided by charities.

69. It is disappointing that the Issues Paper provides no fiscal analysis, instead there is only a statement that the fiscal cost of not taxing charity business income is "significant". The annual Tax Expenditure Statement does not provide any analysis of the estimated cost of s CW 42 of the ITA, albeit it places the cost of companies being able to claim income tax deductions for donations at $23 million in 2023/24[9].

70. Other factors to consider:

    (a) Taxing active business income earned by charitable business could create a bias for charities to earn passive investment income. For economic growth, New Zealand needs investment in productive, active businesses that employ staff. This economic cost does not appear to have been considered by officials.

    (b) The tax compliance costs of all charities will be significantly increased, as all charities will need to review their activities, and likely seek advice, even if it is just to confirm that they are not required to pay tax on their business income. New tax legislation brings in uncertainty and increased compliance costs.

    (c) In many instances charities are run by volunteers or a very small number of employees. They may not have the specialist skills to be able to comply with tax laws or to interpret tax definitions, meaning there will be a greater reliance on external advisors, which comes with additional costs.

    (d) In Inland Revenue's "2024 study on time and cost of doing business taxes incurred by NZ small businesses"[10], compliance costs were estimated at 32 hours per year, with a cost of internal time of $2,844 and external costs of $2,300. 91% of small businesses incurred external professional services costs. It is likely that charities would have higher costs if there were a need to consider boundary and interpretative issues and undertake apportionment calculations. The small businesses surveyed in this report are unlikely to have a requirement to calculate deferred tax for financial reporting purposes, which is another complexity that charities will face.

    (e) If the government has concerns about some charities accumulating revenue or being a "bad actor" then a review of what is a charity and the definition of charitable purpose might be more appropriate. There are also existing rules and requirements under the Charities Act 2005 and the ITA07 that could be first enforced or more narrowly interpreted, before resorting to new and complex legislation. Examples of the existing ITA07 rules include:

        - Section BG 1 of the ITA (general anti avoidance rule)
        - Section CW 42(5) to (8) of the ITA (control restriction)
        - A narrower interpretation of the definition of 'charitable purpose' in s YA 1 of the ITA and s 5 of the Charities Act 2005.

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?

71. Any new tax law can create expected and unexpected practical outcomes. We set out below some examples of issues which may need to be considered:

[9] https://www.treasury.govt.nz/sites/default/files/2024-05/b24-tax-expenditure-statement.pdf
[10] 2024 study on the time and cost of doing business taxes incurred by NZ small businesses

(a) *Definitional issues* – Officials have indicated that definitions have needed to be litigated in other countries. There will be considerable compliance costs if a clear definition cannot be drafted. Inland Revenue will also need to provide clear examples. This includes where unrelated business income is still able to be treated as tax exempt (referenced in paragraph 2.24 of the issues paper).

(b) *Boundary issues* – With definitions come boundaries (including de minimis rules). These are not matters which a charity can just set and forget, rather there will need to be regular retesting of income sources.

(c) *Investment bias* – taxing business income will change the economic outcomes of running a business and therefore it may encourage charities to not run businesses and instead focus on earning passive income, with lower returns – and lower funds able to contribute to their charitable purpose. A focus on passive income puts further pressure on the need to make imputation credits refundable.

(d) *Confusion about active management of assets* – as a charity accumulates passive assets there is a greater likelihood of the charity needing to actively manage its assets. This raises another boundary issue of when managing assets becomes a business in its own right.

(e) *Loss making businesses* – some charities may be running businesses but may not make a profit on the business once a cost allocation process is undertaken. For example a charity may have premises which are rented out for community events at weekend. The rental income will bring in additional cash flow but may not give rise to taxable income once insurance, rates, electricity costs are apportioned to the activity. Will prior year positions be able to be calculated to determine if there are existing losses to carry forward?

(f) *Apportionments* – unless a business activity is quarantined to a separate legal entity, the charity will need to go through a process of apportioning costs to different income sources. The approach to apportionments is to allow the taxpayer to determine a reasonable basis for apportionment. While this approach provides flexibility it also means charities will have less certainty and will incur more compliance costs than other taxpayers.

(g) *Deferred tax* – the majority of businesses in New Zealand don't need to prepare detailed financial statements and instead are able to comply with Inland Revenue's minimum reporting standards. Charities are held to a higher standard. If income tax applied to a charity, then this will also result in an obligation for the organisation to calculate tax balances. Charities may have deferred tax assets or deferred tax liabilities which could materially change the balance sheets of these organisations.

It is unclear the extent of the complexity of the deferred tax calculations as this may depend on the mechanism put in place to credit tax paid when amounts are applied to charitable purposes.

(h) *Fixed assets* – what approach is taken to bringing assets into the tax base, for example can accounting costs or book values be used? What happens with donated assets?

(i) *Distributions* – will a distribution to a parent charity be treated as a donation or a dividend? Will there be an ability to make donations of taxable income after balance date so there is an ability to clear this once accurate calculations are undertaken (similar to what currently exists for trusts)?

(j) *Interest deductions* – if a charity is able to obtain debt financing, if they are not a company will there be an automatic ability to claim interest deductions, rather than having to apply tracing rules?

(k) *R&D tax credits* – will a charity be eligible to use this regime, particularly charities involved with scientific research?

(l) *Joint ventures / limited partnerships* – where a charity is invested into another "look through" entity, will this be treated as the charity undertaking the underlying business activity, or will this be viewed as a passive investment asset?

(m) *Provisional tax* – will charities be subject to ordinary provisional tax and use of money interest rules?

(n) *Tax rate* – what tax rate will apply to business income?

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

72. Paragraph 2.21 of the Issues Paper states that there are many international precedents to follow for the taxation of unrelated business activities, but does not go into any detail about what these precedents are or provide tangible examples of what officials may consider to be 'unrelated'. The issues paper at various points discusses charity taxation in Canada, the US, the UK and Australia. For example, our understanding of the tax systems are:

(a) Australia: an income tax exemption applies to <u>all</u> taxable income received by registered charities. The term unrelated business income is not used.

(b) UK: there is no general overriding income tax exemption, instead there are exemptions for specific sources of income, including trading income earned carrying out a charities 'primary purpose'. Income that is not specifically exempt is taxable, however a subsidiary trading company can donate its profits (which do not have to be linked to the charities primary purpose) to a parent charity's main purpose tax free. The term unrelated business income is not used.

(c) Canada: registered charities are tax exempt for income tax and can carry on any 'related' business activity that accomplish promote their charitable objectives and are subordinate to that purpose or substantially all staff are volunteers. Private foundations cannot carry on any business activities. Charities also have a 'disbursement quota' that must be reached each year.

(d) US: "unrelated business income tax" is a tax on income from trade or business regularly carried on that is not substantially related to the charitable, education or other purposes that is the basis of the organisations exemption. While the term 'unrelated business' is used in the US, it is commonly acknowledged that both the tax system and legal system in the US is significantly different to New Zealand and we are doubtful that the US precedent would be easily transferable to New Zealand.

73. These short summaries of the four countries show the vastly different and complex charity tax laws that exist and that there is no readily available definition of "unrelated business income" that could be used as a precedent for New Zealand's unique tax system.

74. Where those systems have introduced some form of tax on charitable business, this is accompanied by tax incentives.

75. It is difficult to provide reasoned and detailed feedback on proposed definitions when very limited commentary, evidence and examples have been provided by officials.

76. Officials state that Inland Revenue has already released an interpretation statement (on s CW 24 of the ITA) which provides guidance on when charities are carrying on a business. We are not disputing that there is established guidance on what a business activity is. However, the issue here is what the term 'unrelated' means. This term has not been used in relation to the tax system in New Zealand before.

77. However, if Government policy is to remove the income tax exemption for 'unrelated' business the following 'unrelated' activities should continue to qualify for an income tax exemption:

(a) Any business activity that accomplishes or promotes a charity's charitable purpose ('worthy purpose"). This could include:
   - Selling products related to the charitable objective; for example an animal charity selling pet food and other pet products, providing veterinarian services;
   - A museum or art gallery with a gift store selling products which are generally connected with exhibitions; or
   - A charity focused on a disadvantaged group providing accommodation services to members of that group

(b) Any business activity that is primarily engaged in selling donated goods or services (i.e. op shops)

(c) Any 'fundraising activity" that is primarily engaged to raise money for the benefit of the charity

(d) Any business activity that is primarily engaged in raising knowledge or for an educational purpose that is priced to cover costs only, rather to make a surplus

(e) Any business activity that is substantially (over 90%) run by unpaid volunteers.

78. The issues paper references the fringe benefit tax (FBT) rules at paragraph 2.22. Inland Revenue has guidance on this topic through BR Pub 22/06[11]. This guidance explains the operation of s CX 25 of the ITA, which exempts charitable organisations from FBT except to the extent "the employment consists of the carrying on by the organisation of a business whose activity is outside its benevolent, charitable, cultural, or philanthropic purposes." BR Pub 22/06 provides some useful insights:

[11] FBT - Charitable and other donee organisations and fringe benefit tax

"…the Commissioner considers activities will be carried on within a qualifying organisation's purposes when they:
- *are the performance of a qualifying organisation's specified purposes; or*
- *directly facilitate the carrying out of a qualifying organisation's specified purposes."*

"Activities the Commissioner considers will usually be characterised as being carried on within a qualifying organisation's specified purposes include:
- *the carrying out of the qualifying organisation's specified purposes;*
- *appeals for funds for the qualifying organisation's specified purpose;*
- *passive investment and management of the qualifying organisation's funds, so long as the organisation does not carry on a business of fund investment; and*
- *the administration of the above activities."*

"It will be a question of fact in each case whether the business activities of a qualifying organisation are activities that are not of themselves achieving the organisation's specified purposes. It is, therefore, possible that two qualifying organisations may carry out similar business activities, with different FBT consequences for each organisation. An example of this is where a qualifying organisation operates retail stores selling goods with a view to making a profit. This type of activity would generally be considered to be outside an organisation's specified purposes, although for some organisations such an activity might fall within their purposes. For example, if the operation of a particular retail store served the purpose of creating job opportunities for a group that the organisation was established to assist, or if the goods were provided at low cost to a group the organisation was established to assist.

This business activity may be considered to be achieving the organisation's specified purposes."

79. While the above guidance provides a starting point, it is unlikely that many charities to date have been applying this rule on the basis that many charities will not be providing any fringe benefits to contain costs[12].

80. All of the exemptions listed in 2.24 appear reasonable. Additional factors to consider could include size of the charity, level of unrelated business, harm caused, timing / amount of disbursement. Further research would be useful.

81. As outlined above, this also needs to be developed alongside a legislative framework for social enterprise and removing the anomaly of imputation tax credit refunds.

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?

82. While there is potential merit in having de minimis rules, this also creates boundary issues if charities move over thresholds and become subject to materially more compliance costs.

[12] The FBT stewardship review noted that in 2020/21 only 14,441 employers were paying FBT (page 39)

83. It may be that thresholds which are based on income rather than expenses would be more appropriate to ensure that only charities receiving material business income are subject to the rules. Inland Revenue should work with Charities Services to determine what reporting is easily available to identify in-scope charities. Further research is needed to determine what is appropriate.

84. There should be some safeguards or averaging applied across years to stop charities flip flopping in and out of the different rules.

85. Related to the above, this also creates an incentive for charities to remain small, rather than consolidating with similar charities to achieve scale, or expanding their business activities and contributing to the country's economic growth.

86. An alternative option is to create a framework for social enterprises with incentives, including a favourable tax rate compared to other companies – recognising the social, economic and environmental benefit of these companies.

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?

87. Yes. There needs to be relief for tax paid on income which is applied for charitable purposes. 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.

88. The provision of tax relief results in any tax collected on business income being only a "timing difference" with the tax ultimately being refunded. Consideration should be given to how this will need to be accounted for in the Government accounts and whether this nullifies any perceived benefits of revenue collection. The tax collected ought to be represented with a corresponding liability in the Governments balance sheet.

89. In terms of the most efficient mechanism, retention of the status quo provides the obvious way to ensure that the work of charities is not impeded by excessive compliance costs and having a time value of money disadvantage.

90. Another option could be to have charities maintain a register comparing business income to charitable distributions, with businesses only needing to consider income tax if income has not been distributed within [X] tax years of it being earned. This option could allow calculations to be based on accounting information only to ensure that income tax calculations are not needed (albeit there will need to be a cost allocation exercise completed for any charities with business and non-business income intermingled). This approach provides a charity with the option to manage its charitable distributions in a way that minimises tax costs, while addressing the Inland Revenue's concerns around accumulation / long deferrals between exemption and charitable actions. This approach however comes with the very real potential that charities will be

looking to minimise their tax liability and will structure their operations to ensure this - again begging the question, 'what is the problem we are trying to solve and how best might we solve it?'

91. The issues paper does not provide guidance on how a ‘memorandum’ account could work and therefore it is difficult to comment on the merits of this approach. Officials should be required to provide a detailed summary of how this would work in order for impacted parties to assess whether this could work in practice, particularly for different legal forms of charitable activities (e.g. within a single entity, groups with separate entities for business activities etc).

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?

92. If the current inequity is removed, it is important to address the current inequity of imputation tax credit refund for charities and introducing social enterprise legislation to incentivise investment in ESG businesses. This needs to be wrapped into any proposal.

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?

93. The paper does not make a compelling case for why a distinction should be made and whether tax legislation is the right mechanism for dealing with these issues, where they exist. For example, the third bullet point sounds like the type of corruption existing enforcement mechanisms in both tax and charities legislation for charities are designed to address." We are conscious that there are enforcement mechanisms in both tax and charities legislation for charities that are acting illegally.
94. Are there problems with donors giving favourable conditions to charities – we would say no, this appears to be a form of philanthropy in itself.

95. Private foundations frequently receive donations, including bequests, that have conditions attached – making disbursements that depart from those terms problematic.

96. Donors may have conditions attached to a donation, for example including cases relating to business activities of an associate. For example, in discussions with members we were told that a philanthropist who donated the costs of a significant building for the community that otherwise wouldn’t be built wanted to use a construction firm that he knew and trusted from his professional life.

97. We are concerned that changes may negatively impact people choosing to give money, which is inconsistent with the Government’s strategic intent and work underway of enabling greater and more effective philanthropy.

98. At paragraph 3.6 the issues paper describes some ‘examples’ that Inland Revenue is aware of where donor-controlled charities have raised compliance concerns (it is not

clear if these are actual cases of avoidance, or examples of what avoidance 'could' be). It would be useful if there was quantification of how common these concerns are seen or whether these are largely based on the identification of a few "bad apples".

99. What is not considered in the issues paper is the existing enforcement options available to the Inland Revenue and Charity Services for instances where there are compliance concerns, for example:
    a. Section BG 1 of the ITA (general anti-avoidance rule)
    b. Investigative/enforcement powers held by Charities Service, for example, section 32 of the Charities Act 2005 sets out the grounds for removal from the charities' register, including whether an entity meets the statutory criteria to remain qualified for registration section 13A of that Act.
    c. Potential breaches of the entity's charitable purpose
    d. Crimes Act breaches, e.g. for instances of corruption.

100. PNZ believes that instead of adding complexity and increased compliance costs to all charities, the existing enforcement options should be used by regulators and the Inland Revenue. This may require a review of the funding provided to and the resources of the Charities Service.

101. There is a significant risk that adding these restrictions will limit the donations made to charities by donors if they are not able to use donor-controlled charities that have a level of self-determination in the charitable activities they support.

102. The definition of 'donor-controlled charities' could cause significant issues for existing charities, for example, the Canadian definition (paragraph 3.9) would likely capture a number of Māori organisations that were established as party of treaty settlements.

103. The issues paper is not clear in its articulation of what could be caught within the definition of 'donor-controlled charities'. The bullet points at paragraph 3.9 infer that a charity might only be caught if there are non-arm's length transactions. PNZ agrees that donor-controlled charities should be excluded from these rules if they clearly are not having any transactions where there is concern about transfers of value from the charity for private gain. The parameters around this need to be clear so that charities have certainty around whether they are in or out of the rules and/or what support is required to document the arms-length nature of any associated supplies. This presents some technical challenges that will need to be worked through:

    (a) It will be necessary to have an association test in order to determine whether there are parties involved who can be non-arm's length. By definition, if there is no association present, the transactions must be arm's length.

    (b) Non-arm's length transactions need to be defined to be "downstream" transactions only (that is, transactions where the charity is given above market value to a related party, not the other way around)

    (c) Donor-controlled charities are most likely to involve trust arrangements, therefore, the likely association tests are:
        i. Section YB 3 – Company and a person other than a company, e.g. trustees (25% shareholding)

ii. Section YB 7 – two trusts with a common settlor
iii. Section YB 8 – Trustees and settlors
iv. Section YB 11 – Trustee and person with power to appoint/remove trustees
v. Section YB 14 - Tripartite test
   1. Two relatives, combined with ss YB 7, YB 8, or YB 11

(d) Consideration will need to be given to whether these tests are adequate in a scenario of an intergenerational trust, for example once the original settlor is deceased.

(e) Before this is introduced, PNZ recommends further research to ensure appropriate level.

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?

104. The development of investment restrictions is not a tax issue.

105. **There is an existing tax avoidance rule** (sBG 1 of the ITA) **that can be used if tax abuse** (non-arm's length transactions) **are identified between donor-controlled charities and associated parties.** There has been a long-standing reluctance by Inland Revenue to apply this rule and a preference to legislate specific anti-avoidance rule for certain transactions. **Adding specific anti-avoidance rules** (i.e. the UK's tainted charity donation rules) **adds complexity to tax legislation**. The existing rules should be sufficient to deal with non-arm's length transactions which are giving rise to tax benefits.

106. **The Inland Revenue already has mechanisms available** to it to put taxpayers on notice if there are transactions / practices which they have concern with. This approach allows taxpayers to be on notice about what is or is not considered acceptable in different scenarios. One option is to publish a "revenue alert", another is to undertake a general compliance campaign and publicise this. A newer option is to take a case involving a "bad apple" through the disputes process and to publish the outcome of the dispute (assuming it is settled before Court) through a "technical decision summary".

107. The Tax Working Group recommendations are not manifest in any overseas jurisdictions – see 13.14 and 15. They have guardrails for "bad" behaviour. The activities need to be favourable to the charity.

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?

108. If the Government were to introduce minimum distributions, then the exemption rules could get complex and require a high level of involvement by the Inland Revenue or Charities Services to process/approve (for example, the Canadian Disbursement quota, which has a number of available exemptions; endowment funds use, large-scale projects, carry forward/set off 'excess' spend against future years, Revenue Authority exemption approval). These rules would add significant complexity and compliance costs when there is no current evidence of a problem.

109. Neither Inland Revenue nor the Charities Services are likely to be able to assess when it is appropriate to issue a minimum distribution threshold exemption. These issues will be fact specific to each charity and its aims and objectives. As noted at paragraph 3.4 of the issues paper, Charities Services is collecting annual information about intentions for accumulated income. This change came into effect from 2024 and there should be time allowed for this information to be collected and analysed to determine if there is actually any problem to solve and the extent of any issue.

110. If there is to be a minimum distribution rule, this should be more sensibly be calculated as a percentage of income of the charity rather than assets. The rationale for this is that smaller charities are not required to revalue assets and therefore this could result in disproportionately high amounts of assets being distributed or charities having to undergo regular revaluation processes just for tax reasons.

111. If an income threshold is introduced, this should also allow averaging across years. This is because there may be multi-year commitments to funding projects and a need to conservatively ensure there is sufficient cashflow for future year funding commitments (i.e. there needs to be a cushion for lean years). Some income types can materially fluctuate from year to year, for example donations and investment earnings based on market returns.

112. Overseas, minimum distribution rules come as a package with tax incentives not just a distribution rule:

- Australia have registered PAF that must distribute 5% per year – however, there is the ability to off-set this liability in other taxed areas, which is not mentioned here.
- Canada does not talk about an income tax balance.

113. Any new regime would also need to lay out exceptions, such as:

- Long-term infrastructure – housing example referenced earlier – as a reason for needing to accumulate funds before spend funds.
- Long-term planning / support for the community – i.e. legacy
- How does this fit in with family foundations that have received a donation/bequest – with specific conditions, and need to act in accordance with that. Unable to be reconciled with this proposal as there are obligations under other legislation. Therefore this idea risks harming the philanthropic / charitable sector, with no obvious benefit.
- Growing endowment fund / sustainability of the organisation.
- Recognising some years income may fluctuate – may receive a windfall intended to last / contribute to multiple years, or sell capital that generates one-off income.

114. Given our falling rates globally, PNZ welcomes the opportunity to discuss how to use the tax system to grow generosity, to grow the pie. The proposals in the issue paper only deals with distribution. We want more people to be incentivised to set up endowment funds and be engaged in philanthropy. We need to generate wealth not just redistribute it.

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.

115. While not an area of interest to the PNZ members group, PNZ itself may be impacted as a not-for-profit organisation. The addition of tax compliance obligations and the potential impost of tax on timing differences between membership fees are collected and spent will impact on the level of service that PNZ can provide to its members without increasing fees.

116. PNZ's preference would be to maintain the status quo and for Inland Revenue to release some clear guidance on what, if any, tax obligations exist for the not-for-profit sector.

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

117. No comment.

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? FBT exemption

118. Some of these changes may have an impact on the government's economic growth and tourism agendas – e.g. promoting science and technology, city promotion (tourism).

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?

119. Currently, the exemption on fringe benefit tax is a valuable benefit that charities can make to employees as part of their total remuneration package, e.g. a carpark. This can help to attract and retain qualified and skilled staff in the charitable sector.

120. It is difficult to comment on the full effects of removing the FBT exemption without knowing the outcome of the current FBT review. If the review introduces significant simplification of the FBT rules (particularly Motor Vehicles) then the compliance costs may be reduced for charities, who tend to provide low levels of fringe benefits. But if the rules are not simplified then the compliance costs of having to introduce FBT to charities that have never had to deal with FBT before could be significant, as there are a number of specific rules and interpretations which take time to understand and implement.

121. Any decision in relation to FBT should only take place after the charities sector has the opportunity to review and comment on the FBT policy review.

122. If charities became subject to FBT there should be sufficient lead time to allow charities to restructure arrangements, if appropriate. For example most non-charity employers would have motor vehicle use policies in place to minimise FBT, have car parking arrangements structured to fall within the on-premises exemption, have policies around private use of business tools etc. Charitable entities should be given the necessary transition time to reorganise their affairs to benefit from these exemptions in the same way as other employers.

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?

• **Volunteering** – support reducing the compliance burden or barriers for volunteers, support a tax- free honorarium and recommend a simpler method of exempting volunteers from paying ACC levies. We note that the Community Constellation recently completed a survey and found that a majority (46%) of respondents favoured a tax-free honorarium via an exemption.

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?

Support review findings. This is the subject of a paper that we are engaged with the Government on to increase philanthropy in New Zealand.

Simplifying donation tax incentives - support reforms that make this easier without imposing administration costs on charities. IRD should adapt its systems to automate this for donors. Should look at increasing amount of donation tax incentives.

The lack of uptake in donation tax credits in New Zealand is further evidence that our system is not well designed to support philanthropy. This needs to be visible, celebrated, facilitated and made donor-friendly, including through greater incentives.

s 9(2)(a)

From: s 9(2)(a)
Sent: Monday, 31 March 2025 5:46 pm
To: Policy Webmaster
Subject: Taxation and the not-for-profit sector

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

I am requesting that my personal details will not be disclosed publicly or on any documents accessible to the public and other government agencies for privacy purposes.

MAJOR POINTS OF MY SUBMISSION:
OUR TITHES AND OFFERING FROM OUR INCOME HAS BEEN TAXED FROM WHAT HAS BEEN DEDUCTED FROM OUR WEEKLY WAGES.
AS A CHARITABLE ORGANISATION, WE ARE HELPING THE GOVERNMENT TO PRODUCE: LAW ABIDING CITIZENS BY FURTHERING THE FAITH THAT TEACHES RIGHTEOUSNESS, SUPPORTING LAW AND ORDER OF EVERY COMMUNITIES.
THE CHILDREN ARE BEING TRAINED TO DO THE SAME TO BE A GOOD EXAMPLE OF GOOD BEHAVIOUR AT SCHOOL, AT HOME, COMMUNITIES.
CHARITABLE ORGANISATIONS (CHURCHES) DISCOURAGES USE OF DRUGS, ALCOHOL, GAMBLING,
CHURCH TEACHES MEMBERS NOT TO BE A BURDEN TO THE GOVERNMENT BY RELYING ON BENEFITS.
THE CHURCH TEACHES TO BE PRODUCTIVE LIKE WHAT THE BIBLE TEACHES ON: 1 THESSALONIANS 4:11And 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.

s 9(2)(a)

From: Celtic Rose s 9(2)(a)
Sent: Monday, 31 March 2025 5:47 pm
To: Policy Webmaster
Subject: Re: Submission on Taxation and the not-for-profit sector

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

Please submit the text in this email as my submission. It's very relevant to what we need not just what you have asked about. What we need is more benefits to actually help charities help specific people in the community not necessarily more community events. We definately do not need any benefits taken away when people dont generally get paid for what they do or paid much. Sometimes people have to get paid to pay their own living expenses that's life. The question is...is it excessive?

Real charities are struggling we need all the tax breaks we can get so please don't take money away from real charities. I'm 100% not talking about religious organisations who function as a church they to me are 'supposed' charity not charities.

In addition to your questions which are answered at the end of these numbered points we actually need more than what you are asking for comments on...

1.Religious leaders should not be living the high life on donations and percentages of income while their followers give them the money they should be feeding their family with or paying for the roof over there heads with. Perfect example Destiny church there should be NO set amount that has to be paid & they should not have to pay to be allowed to go to church thats to be admitted. Also The Salvation army why do they throw their excess good quality goods that are donated in the bin, and why are there goods so expensive...they should be giving goods to people not waiting for someone to turn up with a WINZ voucher. Thats not charity!!! What % is going to the church it should be severely limited in my opinion.

2.Charities need help with an annual funding gift from government the amount enough to pay an independant trustee and accountant/lawyer to do their books and assess and submit funding applications during the year so trustees are concentrating on the charities mission and purpose.

3.Unadulterated educational services should be supported in the not for profit sectors it is what is needed, just simply supplying the information and services they need without attempting to brainwash or indoctrination of the children or adults. Letting them be themselves not try to make them into what someone else wants them to be. No attempting to install our prejudices on them. Not taking advantage of kind people and using their beliefs whatever those believes are to do so. Let children be children first off. Let children naturally by way of play develop their creativity and imagination without attempting to mold it. Parents do that at home already. Teach them guidelines and or that there are consequences for their actions, they have to learn from parents to show respect if they want it in return so teach them it at home. It's the parents job to do these things and to be parents.

4.We need to be able to receive government money as NGO's without the limitation of submitting people's private details for us to be able to assure them of their privacy…not including illegal activity of course which needs to be reported to police but it should not need to be reported to any other government department. Women and men avoid seeking government help in fear of losing their family. So we are missing the children that are falling through the cracks. The system will never catch the ones that need the most help and it's the children that will continue to suffer generation after generation. There are damaged children having children and then damaging those children through limited fault of their own. They are not just poverty striken families either. I grew up in low socio-economic South Auckland have seen it and I remember it like it was yesterday. Children must be caught early as transitioning without resolution results in faulty thoughts a reprogrammed brain. Just like poverty, abuse, neglect and trauma becomes an integral part of us whatever culture we are.

5.I have a struggling not for profit NGO registered charity that I'll be trying to get up and running once I get funding! I'm qualified to assess children. It's a really great cause that would be helping children get back on track towards a healthy and happy childhood and into adulthood. Via mentoring in their interests, art, music, sports, tramping groups etc and age appropriate treatment. Abuse sexual and otherwise is still rife in New Zealand. Our most vulnerable youngest children need to be seriously protected and time is of the essense in giving them that help early. They would be referred to the provider of their choice after initial contact and assessment.

6.We need treatment centres to have been started to be built 30 years ago!!!! Now we have to play catch up with the Meth scurge.

Answers to your questions…

- How could tax obligations for donors and volunteers be simplified?

  Answer: I don't know I haven't been paid or claimed volunteering. For the trust admin it would make a huge difference if the performance report was real real simple with no referring of amounts in cells to anywhere else in the case of smaller charities.

  Should the income tax exemption for charity business income be removed or restricted?

  Answer: No to both. Absolutely not it will cripple small charities.

  Should there be specific tax rules for donor-controlled charities such as private foundations?

  Answer: Not if it means taxes being deducted from money that benefits the charities clients no. However, if it is covering unnecessary expenses of paid officers or trustees then yeah.

Certainly if trustee's are employed by the trust there needs to be limits and set reasons but ask the people who know the answers in each charity before setting those.

Are some of the tax exemptions for not-for-profits still fit for purpose?

Answer: All tax exemptions are still fit for purpose for charities.

WELLINGTON RUGBY REFEREES ASSOCIATION

31 March 2025

David Carrigan
Deputy Commissioner, Policy
Inland Revenue
C/- policy.webmaster@ird.govt.nz

Feedback on the taxation and the not-for-profit sector officials' issues paper

Dear Mr Carrigan,

Thank you for providing the opportunity to provide feedback on the proposals for changes to the taxation of not-for-profit and charitable entities.

The Wellington Rugby Referees' Association (WRRA) has been a cornerstone of our local community for many years, delivering not only rugby refereeing services but also contributing to social and community development.

While the "Q and A" published by IRD mentions 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.

Our club, the WRRA, like many other referees' associations across the country, facilitates individuals of all ages and backgrounds coming together to play the game, engaging in physical activity, contributing to their local community and forming lifelong friendships and support networks.

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 referees to serve the rugby community by officiating at matches at all levels of secondary school, club and representative rugby in our province.

PO Box 7201, Wellington 6242
Level 3, Block 3, 20 Somme Road, Trentham, Upper Hutt 5018
Phone (04) 389 0020

- 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 refereeing especially in the current cost of living crisis.

Preserving the current income tax exemptions is essential for sustaining the economic and social benefits they provide. The WRRA remains committed to enriching community rugby, and we urge the Government to consider the profound implications that changes to tax exemptions would have on grassroots organisations like ours.

Grassroots rugby is a cornerstone of New Zealand's social and economic fabric, and its contribution must be recognised and protected in any tax policy changes.

Yours sincerely,

John Egan
Secretary
Wellington Rugby Referees' Association
Secretary@wrra.org.nz

Pinnacle
Midlands Health Network

31 March 2025

Tēnā koe,

Pinnacle Group Submission on taxation and the not for profit sector

I am writing to you on behalf of Pinnacle Midlands Health regarding your issues paper titled "Taxation and the Not-for-Profit Sector" dated 24th February.

Pinnacle, as a Primary Health Organisation, is a not-for-profit charitable group that supports the delivery of primary health care within the Te Manawa Taki region. As a primary health organisation, we are structured as a not-for-profit charitable entity to ensure our primary focus remains on improving the health of our population rather than maximising profits, thereby ensuring public accountability.

The consultation issues raised in the paper have a significant impact on our beneficiaries, encompassing both enrolled and unenrolled patients within our geographic service area.

We are pleased to note that the issues paper maintains a relatively narrow focus and provides clear explanations, even showing support for the not-for-profit sector in certain areas. The stated objectives of simplifying tax rules, reducing compliance costs, and addressing integrity risks are commendable, and we fully support this korero.

That said, there are a number of areas that should be considered, including:

- **Funding from Te Whatu Ora requires our group to be financially sustainability.** Our ability to bid for new government health initiatives also depends on it. Diversifying income through alternative ventures supporting primary health care ensures we remain financially viable while fulfilling our charitable goals.
- **Charity vs. Unrelated Business Income for Tax.** All income in the Pinnacle Group supports our charitable objectives, whether generated passively (interest & dividends) or from other business activities. Our profit, regardless of source is reinvested for the sole purpose of improving primary healthcare.
- **The taxation of unrelated business income poses a potential challenge to innovation within the primary health sector.** Our organisation has a history of leading and implementing innovation within the primary health sector. These innovations are aimed at reducing workload for clinical staff, addressing workforce shortages, and promoting digital advancements that improve patient outcomes. Many of our innovative solutions have been funded through our own reserves, independent of core government funding. Taxation of business income in our context could hinder innovation and increase barriers related to workforce, workload, and patient access.
- **Accumulation of reserves and retaining profits is a financially sustainable approach to investing in large capital-intensive initiatives to improve primary care.** This strategy involves conservatively managing our capital sources to minimise dependency on external debt, thereby reducing the financial risks associated with leverage for significant projects. It is standard practice for charitable organisations to maintain substantial reserves while pursuing their charitable objectives.
- **No competitive advantage for business charities vs regular companies.** The Pinnacle Group faces similar commercial compliance costs as other businesses, plus extra costs for charity commission requirements, funding, and clinical quality audits. This adds public scrutiny and transparency costs to our operating model that is not borne by profit organisations.

Norris Ward McKinnon House, 711 Victoria St, PO BOX 983, Hamilton 3240, Aotearoa New Zealand

07 839 2888
www.pinnacle.co.nz

- **The consultation process is rushed considering the importance and complexity of the issues.** A one-month period for feedback ahead of the government's May budget is too short, risking disruption to genuine charitable activities and adding complexities and costs.

I would like to thank you for considering this submission on behalf of the Pinnacle Primary Health Organisation and related entities.

Naku noa na,

s 9(2)(a)

Avi Chand

General Manger Corporate Services

Pinnacle Midlands Health

Norris Ward McKinnon House, 711 Victoria St, PO BOX 983, Hamilton 3240, New Zealand

07 839 2888
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Te Whare Wānanga o Awanuiārangi

31 March 2025

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

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

Tēnā koe Deputy Commissioner,

OFFICIALS' ISSUES PAPER ON CHARITIES AND NFPS (MARCH 2025)

1. Please find below our submission in respect of the Officials' Issues Paper on **"Taxation and the not-for-profit sector"**, with reference to "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?"

2. In summary:

   (a) It is impossible to answer the question posed since we do not have details of how compliance costs will reduce following the current review of FBT settings - we are unable to reach an informed view of the impact of the current review.

   (b) Imposing FBT on education providers such as Awanuiārangi is highly inefficient. Awanuiārangi runs to a very tight budget and relies on government funding for much of its operating expenditure. Any additional FBT cost would need to be covered through requests for additional funding or through cutting costs in other areas.

   (c) The potential FBT liability of Awanuiārangi would come from the provision of vehicles to staff. Most staff to whom vehicles are allocated require the use of vehicles to perform their employment duties and many are based in remote areas away from the main campus. Vehicles are not provided as part of their remuneration

Te Whare Wānanga o Awanuiārangi

package, rather they are a key work tool. Under current FBT settings, where private use is allowed this would result in a significant FBT liability since the FBT calculation does not account for the level of private vs business use of the vehicles.

(d) Aside from the cashflow effect, requiring quarterly monitoring of vehicle use for FBT calculations would impose significant compliance costs on Awanuiārangi.

(e) Removing FBT would hinder our ability be a competitive employer. The downstream negative effect on the services we offer and provide students and the community would be considerable.

Bac ground

3. Awanuiārangi is a wānanga established in 1992 by its custodian, Ngāti Awa, and was recognised under the Education Act 1989 in 1997. We operate as a tertiary education institution from our main campus in Whakatāne, and via satellite sites in Tāmaki Makaurau, Whangārei, Wairoa and through marae and kura to support regional and rural delivery. The Awanuiārangi methodology of teaching and research maintains, advances and disseminates knowledge, develops intellectual independence and assists the application of knowledge regarding āhuatanga Māori (Māori tradition) according to tikanga Māori (Māori custom).

4. As a tertiary education provider, Awanuiārangi is not subject to FBT as it is a charitable organisation for FBT purposes.

Implications of BT exemption removal

5. Any imposition of FBT will be detrimental for the reasons outlined below.

6. *Inefficiency and funding impact for Government.* For wānanga, a removal or reduction of the FBT exemption would be inefficient at a cashflow level for both Awanuiārangi and for central government. Since we rely primarily on government funding, any additional FBT cost would need to be covered through additional funding. This could create an inefficient money go round for no benefit or improved educational outcomes.

7. *Operating expense and cashflow impact.* Imposing FBT on Awanuiārangi via a reduction or removal of the FBT exemption would have a major impact on our operational expenses through both the resulting FBT liability and compliance costs.

8. The potential FBT liability of Awanuiārangi would largely come from providing vehicles to staff members, which are crucial for employees to fulfil their employment duties - especially for those in remote areas away from campus facilities. These vehicles are not part of employee remuneration packages but are essential tools for performing work-related tasks. The current FBT framework poses a challenge as it does not distinguish between the level of private and work-related use on vehicles where these are available for private use and therefore results in a disproportionate FBT liability where there is a high portion of business use of the vehicles.

Te Whare Wānanga o Awanuiārangi

9. Rough calculations indicate that a full exemption removal could result in an annual FBT cost exceeding the operating surplus of Awanuiārangi for the December 2023 year. There would also be significant compliance costs incurred in the monitoring of employee use of vehicles. The imposition of these extra costs on Awanuiārangi would undermine the main policy reason for which the FBT exemption was introduced.

10. As acknowledged in paragraph 4.26 of the Issues Paper: "The rationale for introducing and maintaining this exemption was to support the charitable sector. Specific reasons included enabling charities to offer more competitive salary packages at a lower cost to the charity (thereby increasing funds available for charitable purposes) and reducing compliance costs." Such an impost would significantly increase fiscal and compliance costs for Awanuiārangi and potentially have a downstream impact on the education services we can provide to our students and community.

11. *Competitive salary packages and impact on Awanuiārangi*. As mentioned, one of the reasons for introducing the FBT exemption was to support charities in offering more competitive salary packages at a lower cost to the charity. Paragraph 4.27 indicates that Inland Revenue considers that the concession creates an incentive for salary sacrifice arrangements to be negotiated to reduce the overall amount of tax payable.

12. Awanuiārangi does not engage in such behaviour – any unclassified benefits provided are immaterial in nature and most vehicles provided are work tools and not part of a remuneration package. We submit that rather than removing the FBT exemption for charities, a better option if some FBT must be collected from the sector might be to focus on salary sacrifice arrangements where benefits provided are part of a total remuneration package and are not the provision of necessary business tools.

13. Any additional FBT cost, and its impact on the overall budget, could compromise our ability to retain talent who may otherwise go to the private sector. In turn, this would impact the role of Awanuiārangi in preserving and promoting Māori culture and language and in offering less traditional pathways for students.

14. As noted in paragraph 4.28, the current exemption excludes tertiary education providers like Awanuiārangi but does not apply to universities. To create a level playing field, we suggest that an alternative option would be to extend the exemption to universities and, if some FBT must be collected, to instead focus on taxing only benefits that are part of an employee's remuneration package/salary sacrifice arrangement.

rocess of consultation

15. As noted at paragraph 4.29 of the Issues Paper, Inland Revenue is currently working on a comprehensive review of FBT settings. The question asked in the Issues Paper is - if there is a reduction in compliance costs resulting from this review, what would be the implications of removing the FBT exemption for charities. As the detail of the review has not yet been released, we are somewhat in the dark and unable to effectively answer the question posed. As such, our comments above can only relate to the general impact of Awanuiārangi becoming subject to FBT under the current FBT settings.

Te Whare Wānanga o Awanuiārangi

16. We also consider that the consultation process appears rushed and the time frame for response was too short. If you need any more information, please let me know.

Nāku noa nā

s 9(2)(a)

Tom Ford
C I I A CIA O IC

31 March 2025

Subject: Request for Review of Tax-Exempt Charity Business Accumulation Practices

I am writing on behalf of Hynds Foundation, the registered charity of the Hynds Family, in response to the "Taxation and the not-for-profit sector" Issues Paper published on 24 February. We support the review of business income tax exemption that is currently available to businesses set up for charitable purposes. We consider the tax exemption can create an uneven playing field in the business environment, with significant long-term implications for tax revenue and market competition. Hynds Foundation gains its income from related but fully tax-paying businesses that operate outside of the Hynds Foundation. These businesses seek to make profit and pay tax, and they compete in a marketplace that should be fair and level in terms of tax-exempt charity application.

Currently, tax-exempt charities can operate businesses within the charity and then seek to retain and reinvest income without the tax obligations faced by standard businesses. As a result, these tax-exempt businesses are able to grow at an accelerated rate, acquiring businesses and expanding their market position far more rapidly than tax-paying competitors. In contrast, businesses that pay tax on profits have less capacity to reinvest, slowing their growth and weakening their ability to compete.

Over time, this structural imbalance leads to:
• Market distortion, where tax-paying businesses lose competitive ground to tax-exempt entities.
• Reduced tax revenue, as businesses paying tax lose market share, resulting in lower profits and lower tax contributions.
• Long-term tax deferral, where charities eventually pay tax on distributed dividends, but only after they have gained significant market dominance.

Another feature of concern being that some business-related charities seeking to retain earnings for advancing business growth, operate with a narrow gifting approach benefiting its own members rather than the wider community and region.

I urge the Government to consider policy adjustments that ensure a fair competitive environment, such as:
• Limiting the accumulation of tax-free funds for new commercial business activity and/or acquisitions.
• Introducing measures to ensure fair competition between tax-exempt and tax-paying businesses.
• Reviewing tax deferral mechanisms to prevent market imbalances.

Thank you for your time and consideration. I look forward to your review findings.

Adrian Hynds
Managing Director
M: s 9(2)(a)

Hynds Holdings Limited
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A PLACE WHERE PEOPLE MATTER | DO WHAT'S RIGHT | CONNECT WITH CUSTOMERS

Ellerslie Village

BUSINESS ASSOCIATION

31 March 2025

IRD Policy Team
policy.webmaster@ird.govt.nz

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

To Whom it May Concern - IRD Policy Team,

I am writing on behalf of the Ellerslie Business Association Incorporated (EBA), which serves businesses within the Ellerslie Business Improvement District (BID) under the Auckland Council BID programme. As a registered incorporated society governed by an elected executive board and a constitution that prohibits the distribution of profits to any individual or member, EBA is committed to supporting local businesses and landowners, and enhancing the economic vitality of our small, town centre in Auckland.

This submission addresses Question 12 of the consultation paper concerning the potential removal or significant reduction of income tax exemptions, specifically the local and regional promotional body income tax exemption (CW40 in the Income Tax Act).

Ellerslie Business Association Incorporated **strongly advocate for the retention of the income tax exemption for Business Associations**, for the following reasons:

1. **Economic and Community Development:** Business Associations such as Ellerslie Business Association, play a vital role in promoting economic growth and development within their local community. Investment by Business Associations includes initiatives to enhance the community and public amenities, along with beautifying the physical space and increasing safety through security measures such as CCTV and town centre lighting. In Ellerslie, the EBA also organise community events that foster a sense of belonging among residents and businesses whilst also contributing to the local economy.
2. **Maintaining Local Services**: All services cannot be provided by local councils for business improvement districts, so Business Associations often provide additional services in town centres. The removal of this exemption would severely restrict the ability of Business Associations to provide many essential services to both members and the broader community, negatively impacting local economies and diminishing overall quality of life of locals.
3. **Distinct Role from Charities**: While some entities may seek this exemption due to their inability to register as charities, Business Associations fulfil a unique role centred on local economic development and business support, distinct from the core functions of charitable organisations.
4. **Impact on Small Businesses**: Many small businesses depend on the activities and support provided by Business Associations. This is particularly relevant for Ellerslie businesses where many are owner/operators and are finding the current economic climate very difficult. Proposed tax changes would impact on the services and support EBA (and other Businesses Associations) can provide to these businesses - imposing an additional burden on these small businesses and their financial viability.

Ellerslie Business Association Incorporated, PO Box 11661, Ellerslie, Auckland
T 09 579 5033 W www.ellerslievillage.co.nz

In conclusion, the elimination of the income tax exemption for Business Associations would negatively impact on local economies and community feel & safety, especially in small town centres such as Ellerslie Village, as resources would need to be diverted.
We ask the Inland Revenue Department to maintain this exemption, therefore ensuring the continued delivery of crucial work by Business Associations.

Thank you for considering our submission on this important matter.

Yours sincerely,

s 9(2)(a)

Sarah Pluck
Town Centre Manager

Ellerslie Business Association Incorporated, PO Box 11661, Ellerslie, Auckland
T 09 579 5033 W www.ellerslievillage.co.nz

s 9(2)(a)

From: Finance <Finance@beaconpartnerships.org.nz>
Sent: Monday, 31 March 2025 6:00 pm
To: Policy Webmaster
Subject: Taxation and the not-for-profit sector

Tēnā koutou,

I act as an accountant for a group of five charities under the Beacon Partnerships umbrella, and I also have significant involvement in another six charities outside of my “work” involvement. I would like to make the following comments in relation to the IRD policy paper on taxation of the NFP sector:

a) Firstly, I would like IRD to consider reframing the debate – rather than the Policy Paper suggesting that “Every tax concession has a “cost”, that is, it reduces government revenue and therefore shifts the tax burden to other taxpayers”, shouldn’t we consider reframing this to say that “Every tax concession has a “benefit”, that is, it reduces government expenditure by empowering charities to have more impact at lower cost than the government providing an equivalent service, and therefore reduces the tax burden to other taxpayers”. I don’t need to reiterate statistics that have recently been published by academics from Waikato University showing the massive societal impact of the NPF contribution in Aotearoa / New Zealand society.

b) The charities sector provides vital services to the community either overlooked by government and private enterprise or provided at significant discounts, such as community support programs, specialised healthcare services (particularly palliative care), aged care services and educational programs, such as ESOL, literacy initiatives, vocational training, and after-school programs (particularly in underserved communities). These significant discounts particularly in underserved communities are important in allowing utilisation of (especially) personal income into other areas also needed by the government, such as accumulation of retirement savings or reducing dependency on state support. Is the government prepared to pick up any slack or gap left by charities that are forced to reduce operations or service provision because of any negative financial impacts of proposed changes? Is society happy to pay the potential price of less missional impact from affected charities?

c) The charities sector is a massive employer of people in NZ and so in addition to its huge societal contribution, it makes significant contributions to the tax base through PAYE and KiwiSaver contributions, even despite the typically lower wages within the NFP sector as compared to the for-profit sector. As consumers of goods and services, entities in this sector also pay GST on sales earned through commercial activities. The argument that the NFP sector doesn’t pay income tax is often conflated in the public mind to a suggestion that the NFP sector doesn’t pay any tax, which is clearly erroneous. The public needs to hear this message within the broader policy debate.

d) The argument that as non-payers of income tax, charities running businesses can undercut for-profit competitors to gain competitive advantage lacks commercial merit. Surely NFP entities rely on maximising any "business" profits to support their missional objectives, to provide for necessary reinvestment, and to diversify income streams away from just relying on donation income for organisational sustainability, rather than lowering prices and profits to affect their competition. Sanitarium, which is beat up in the media about unfair competitive advantage, must need to maximise profits for being able to reinvest in new plant and equipment, as well as channelling profits into their significant charitable activities, such as the Weetbix Tryathlon. Even a cursory read into the massive health and social costs to NZ from kids not being active would lead one to realise that getting kids involved in sports is significantly important to reducing the burden on society from having to fund preventable juvenile healthcare costs.

e) Including charities in the FBT net and taxing "business income" derived by the sector would increase compliance costs to the sector, particularly for smaller charities that rely on volunteer bookkeepers, as well as making it more expensive to employ staff, which could impact service provision by the sector to the communities served.

f) It is unclear from the IRD policy paper what the specific nature of the issues are and there is a complete absence of metrics to quantify the impact of those issues. Additionally, there is a complete absence of any cost/benefit analysis for proposed changes. Further, as far as I have been able to determine from my own research claims of competitive advantage in the sector are unsubstantiated and lacking any evidence provided from rigorous investigation. If anything, the charitable sector is held to a higher standard of public transparency than the private sector through existing reporting and disclosure requirements.

g) It is also unclear what "unrelated" business income actually is, without concrete examples being provided in the policy document.

h) The proposed policy seems internally illogical in allowing related (not unrelated), business activities, and passive unrelated (not active unrelated) business income. These inconsistencies will only add complexity and compliance costs.

i) Without seeing any cost/benefit analysis, it seems to me as though any incremental tax raised would be marginal and would certainly be more than offset by increased costs to the state for assuming responsibility for services currently provided by the charitable sector or increased hard and soft costs to society from any reduction in service provision if the proposed policy changes resulted in lower levels of missional impact in the NFP sector.

j) In summary, proposed changes are likely to complicate, rather than simplify tax rules, and increase, rather than reduce compliance costs. Given that the Policy Paper para 1.6 refers to objectives of simplification and lower costs, the proposed changes seem to suggest a move in the opposite direction.

k) If the policy changes are in actuality being mooted by IRD to tackle a few "bad actors" in the charitable sector, then in terms of return on the government dollar, surely a more effective approach would be to better resource regulators (such as IRD and Charities Services), both in terms of people and legislative resources to be able to investigate those "bad actors" more thoroughly, and use existing legal provisions to tackle any genuine evidence of abuse of the current NFP tax framework. The new reporting framework, with its increased scrutiny on outcomes and reserves, is robust enough to enable regulators to identify those "bad actors". The current policy review alternative seems akin to using a barn door to hit a rat.

l) Perhaps the key question to ask is, what do charities do with the business profits they don't pay tax on, or more particularly, with the funds equivalent to the tax they would otherwise have paid to the government, and what the government would do with the additional funding? There are examples of funding poor return on actual outcomes from the public sector (Kiwibuild, Novopay to name two), so it is not only the charitable sector where examples of this can be found. If those funds are applied to necessary or reasonable reinvestment in protecting business operating capacity and charitable operating sustainability, with the balance going into funding genuine missional objectives, then the government and society are not being disadvantaged in any way, particularly if the charity in question is providing the sorts of services that I mention in point b). It is already inappropriate for individuals to privately benefit from an organisation's charitable status or from being involved in a charitable trust. This is not an issue of policy reform but of investigation, as per my point k). I would plead for more investigation and legitimate cost/benefit analysis before blanket policy changes are implemented.

Yours sincerely,
John

John Corban, Chief Finance Officer
Beacon Partnerships
Mobile: s 9(2)(a)
PO Box 68208, Victoria Street West, Auckland 1142, New Zealand
www.beaconpartnerships.org.nz : Equipping the next generation of Christian Leaders

Hastings City Business Association Inc.
Hastings HIVE, 200 Market Street North
PO Box 420
Hastings 4122

Monday 31 March 2025

Dear IRD Policy Team,

RE: Consultation paper regarding income tax exemptions for local and regional promotional bodies.

This submission addresses Question 12 of the consultation paper, specifically concerning the local and regional promotional body income tax exemption (CW40 in the Income Tax Act).

Hastings City Business Association strongly believes the income tax exemption for Business Associations should remain in place.

Business Associations play an essential role in fostering local economic development. We invest significantly in activities that benefit not just our members but the wider community, including:

- Promoting local businesses and attracting investment to Hastings.
- Enhancing the area's attractiveness through supporting revitalisation projects.
- Enhancing security and safety with initiatives like forums, focus groups, and group discussions.
- Being the collective voice of all CBD business owners on larger City concerns.
- Hosting quarterly professional services evenings with national keynote speakers.
- Seeking out new potential business and opportunities for collaboration.

Many of the small businesses in Hastings CBD rely on the activities of the Hastings City Business Association for promotion, networking, and support. The removal of the exemption would place a significant financial burden on these businesses, potentially undermining their stability and limiting their potential for growth.

If the income tax exemption were removed, it would severely limit our ability to continue providing essential services to both our members and the broader community. This reduction in services could negatively impact local economies, hinder business growth, and reduce the overall quality of life for Hastings CBD business owners and operators.

Some organisations may seek this exemption due to their inability to register as charities, but Business Associations have a unique and focused mandate on driving local economic growth and providing direct support to businesses. Unlike charities, which are primarily focused on social welfare, we work to enhance the business environment, foster economic development, and strengthen the local economy. This distinct role should be recognised separately from the objectives of registered charities.

Eliminating the income tax exemption for Business Associations would negatively affect the local economy and reduce the support provided to small businesses. We strongly urge the Inland Revenue Department (IRD) to retain this exemption to ensure that vital organisations, such as the Hastings City Business Association, can continue their essential work.

Thank you for your consideration of our submission.

Yours sincerely,

Lucinda Perry

General Manager
P: s 9(2)(a) E: manager@hastingscity.co.nz

Business Integrity Trust

CONTENTS

SUMMARY

1. The Business Integrity Trust submits in response to the Issues Paper: Taxation and the not-for-profit sector ("Issues Paper").

2. We submit that:

    a) the tax treatment of charities' business activity is secondary to the much more pressing (for our Trust) and important clarification of the definition or test for charitable status;

    b) long term stability in tax treatment of charities' business activity will depend on more confidence in the logic and intellectual integrity of the law, and those applying it; and

    c) A genuinely altruistic activity (no material personal gain) should qualify as charitable. This test should replace current categories and distinctions.

3. This submission is written for the Trust by one trustee, Stephen Franks. It does not necessarily reflect the views of all our Trustees in all respects. It:

    3.1. Describes the Trust and its particular purposes and activity, recent activity and difficulty with Charities Services, as an example case to test against the proposals of the Issues Paper;

    3.2. Notes that the Trustees are not confident that we can determine from the Issues Paper how those proposals would apply to the Trust;

    3.3. Advises that though we think the Trust might be the essentially unaffected by proposed changes, underlying uncertainty about what should qualify as a charity, or as a business, could affect the Trust's tax treatment and application of proposed new rules;

    3.4. Argues that a more urgent law reform need is a rational new test or clarification of charitable status, because without that:

    a) Any attempt to reform the tax rules is likely to run into the political dynamics that have previously stalled reforms;

    b) Charities Services is now operating without persuasive guiding principles to give coherence and predictability to charitable status decisions. Those needs are more pertinent than refining an elusive boundary between business and non-business activity, to the risk of tax avoidance and evasion, and "abuse" of a privilege for charities;

    c) Discretions exercised by Charities Services can have dire tax consequences, unhinged from social benefit principles and from widely assumed purposes of charities law;

    d) Disrespect for the law and Charities Services among volunteer communities engendered by the uncertainties contributing to Charities Services' predicament will warp legislative attempts to rationalise tax treatments, as has been seen in the last decade;

e) Until there is a logical framework for distinguishing charitable purposes and activities from non-charitable, there is no firm foundation for application of the principles of a sound charities tax regime. Public and political debate on what should be technical issues will instead be driven by contention about the proper boundaries of charitable activity;

f) Capricious and ideologically loaded decisions by the Supreme Court have left the charity tests in disorder. They sustain worries that any new distinctions, boundaries and discretions affecting entitlement to the tax privileges of charitable status could be hijacked to advance partisan political or ideological beliefs of officials or of judges; and

g) Current media and social media discussion of this consultation exercise has crystallised around exactly those possibilities, with many commentators seeing an opportunity to embed their hostility to particular charities with views unwelcome to them, such as Destiny Church.

3.5. Urges that reform of the tax rules be scheduled to occur as part of, or after, the restoration of reasonable clarity to the charitable purposes tests, to;

a) Help bring an early end to the current situation that is discrediting our senior court;

b) Establish that any ‘privilege’ or advantage perceived in charitable status is not available to trusts or entities that are thinly disguised vehicles for personal gain of those in control of them; and

c) By eliminating more egregious abuses of charitable status, reduce the pressure to make new taxation treatments of charities more onerous than they need to be, because of irritation or dismay at rorts.

3.6. Proposes that altruism be the defining distinction between purposes and activities that are charitable and those that are not. This is commonly referred to as the “non-distribution” distinguishing principle. We recommend that the courts and administrators be largely removed from deciding on the relative social merits or benefits of activities genuinely believed by donors to charities to be for public benefit, for so long as:

a) it is clear that the resources are to be applied exclusively for those public benefit activities, and are being so applied; and

b) they are not being applied, directly or indirectly in any material way for the personal financial gain or well-being, of the donors or their families.

3.7. Proposes that the altruism test suggested in the preceding paragraph have an exception for:

a) incidental well-being benefit to donors or trustees or their relatives who would otherwise be excluded as beneficiaries if that benefit is solely because of membership of a much more extensive class of beneficiary or purpose; but only if,

b) that incidental benefit is only an immaterial proportion of the public good and benefit of the trust's activity.

4. The proposed altruism test would recognise that good law often needs to be simple. As a simple principle to govern charities (including to direct the tax rules) it:

   a) focuses enforcement on the honesty of the donors and trustees. Abuse is essentially deriving material personal financial benefit outside the sphere of any "privilege" for charities;

   b) enables the drawing of harsh lines;

   c) is consistent with minimising both the incentives and the scope for gaming of altruism boundaries and tests, discouraging artificial compliance and deceit; and

   d) brings coherence to the reform project, whether or not an activity or purpose involves material personal gain for those in control of a trust is a more direct route to dealing with abuse of the charity regime by cheats.

5. We appreciate that the Issues Paper is expressly directed to the ostensibly more narrow issue of treatment of business activity. That issue could in theory be resolved without fixing the main problem with our charities law regime. However, in the circumstances it is inevitable that any outcome will be misjudged as relating to problems that do not exist or which could be addressed through the existing regime.

The context - frustration of volunteers – declining volunteer recruitment

6. Whatever treatment is recommended in this exercise, it will be received in the context of some years of law change of doubtful net benefit. New liabilities for trustees (along with new liabilities and compliance burdens on officers of incorporated societies) are depleting the people willing and able to take up leadership roles in community organisations.

7. Perceptions of an eroding New Zealand community fabric, whether sports clubs or not-for-profits or registered charities, contribute to hostility to law changes that have casually imposed an ever-increasing burden on volunteers. Many who are not themselves volunteers can empathise with those who do volunteer.

8. Any law change that might increase record keeping or other administrative burden will be publicly discussed in terms of its effects on people who volunteer to help get kids to swimming competitions, or fundraise for the local playground, literary festival, collective local business or employment promotion scheme. Many volunteers may be at a tipping point – ready to withdraw from collective altruistic activity if their time gets eaten up by more administration.

9. The Issues Paper may contribute to that perception. It does not show effort to quantify the benefit of charitable work, or to estimate the cost of implementing proposals including lost funding for charitable purposes. It seems driven by increasing the tax take.

WHY OUR TRUST IS INTERESTED

10. The purpose of the Business Integrity Trust is to uphold observance of sound commercial law, and to help give business in New Zealand a justified reputation for integrity, by assisting in the enforcement of that law. The purposes clause of the Trust is attached as Appendix 1.

11. The Trust is incorporated under the Charitable Trusts Act 1957. It was established in 2002 to receive funds paid in settlement before trial by the defendant Kerry Hoggard. He had been the Chairman of Fletcher Challenge, long one of New Zealand's pre-eminent listed companies.

12. The case against Mr Hoggard was taken by shareholders Roger Kerr (executive director of the New Zealand Business Roundtable), Margaret Northcroft, and Catharine Franks, and was led by commercial lawyer Stephen Franks. Mrs Franks was a descendant of founders of the company, and she pursued the case out of outrage at the unethical conduct of its Chairman.

13. The three shareholders sued privately after the Securities Commission reported on its investigation into Mr Hoggard's purchase of $635,000 of Fletcher Challenge shares the day before the company's restructuring was announced. The share price rose significantly after the announcement. The Securities Commission failed to explain why it did not pursue enforcement action after it found a breach of the Securities Markets Act 1988.

14. The amount of the pre-trial settlement was confidential, but it was enough to make it 'abundantly clear' that a court would have found in favour of the shareholders. The establishment of the charitable trust to receive the shareholders' share of the settlement was approved by the court. The founding trustees were Sir Ronald Trotter, Roger Kerr and Stephen Franks.

15. Their intention, as explained to the court, was to make it plain that prominent or ruthless wrongdoers could not rely on it being unlikely that they would face legal consequences for wrongdoing, because;

    15.1. It was generally too expensive for dispersed shareholders to risk enforcement proceedings against company insiders, and

    15.2. Regulatory agencies with power to pursue wrongdoing would not do so if they thought the balance of reputational risk made it not in their interests.

16. In short, they wanted to show an establishment determination to deter calculating corporate wrongdoers who might otherwise expect it to be not worth enough for Individuals with rights against them to pursue those rights.

17. Up until the deaths of Sir Ronald Trotter and Roger Kerr, the Trust had a website that explained its purposes and invited applications for support. The website was clear that the

Trust would not help pursue remedies for the consequences of negligence or even recklessness. It was focused on dishonesty, deliberate abuses of power, and (particularly) self-dealing by directors or controlling shareholders that took advantage of the powerlessness and collective action impediments for dispersed minority shareholders.

18. The Trustees invested their funds in a diverse spread of small holdings across the NZ Stock Exchange. The intention was to have shareholder status to litigate directly against crooked company controllers. The Trust Deed expressly authorised that pattern of investment as an exception to normal trustee duties of prudence. Over time, takeovers have reduced the number of companies in which the funds are held.

19. After those trustees were replaced, while administration was in the hands of a contracted secretary, a period of inattention (associated with the secretary's family circumstances) led to delays in providing the accounting information to the auditors, and other administrative failures. The subscription for the website was allowed to lapse.

20. Though the accounting information is not complicated (all funds go through a single bank account) and there is no suggestion of diversion of Trust assets or cash flows, after 2017 there has been a continuing problem in getting Charities Services to recognise or to re-register the Trust. As this submission is lodged, Charities Services is requiring the Trust to establish both the public benefit of its purposes, and that they fall within an established category of charity (applying current Supreme Court reasoning on that question).

21. The Trust has responded that its charitable status was established by the Court that confirmed the settlement on condition that the charitable trust be established as the destination for the settlement funds.

22. Charities Services most recent advice on the tests to be satisfied for recognition as a charity is appended as Appendix 2.

OUR PROBLEM WITH THE ISSUES PAPER PROPOSALS

23. This submission does not directly address all of the proposals. We have seen and largely endorse the comprehensive feedback provided by Sue Barker Charities Law, though not necessarily all of her reasoning[1].

24. We do not find in the Issues Paper any useful definition of business, as it might affect our Trust. We think that our investment activity is part of our public purpose. We invested to be able to demand shareholder rights directly. However, some years ago we decided that we should invest instead to maximise the Trust's funds, and engaged a broker to rationalise the portfolio. That has been suspended because the broker has what we regard as a superstitious

[1] For example we do not agree with the view she expresses in paragraph 34 of her submission, treating some business functions as if they needed to be non-profit.

view that they cannot give effect to instructions from the trustees until registration is re-established.

25. When that rationalisation is achieved, we will be in the conventional situation of investing to maximise long term return and wealth of the Trust. Is that a business of investment? Or merely ancillary activity without business purpose? The Issues Paper does not really make it clear.

26. Our recent litigation support has taken the form of guaranteeing payment of court ordered security for costs, or assuring the nominal plaintiff in class actions that they will not be left to bear an adverse cost order alone. When agreeing terms with solicitors who have organised to gain the Trust support, we find that the relevant agreements are in a form familiar to professional litigation funding businesses. Are we in that business? Possibly, though our purpose is primarily to establish that shareholders or other plaintiffs cannot be 'burnt off' irrespective of the merits, by those with deeper pockets.

27. We have not been involved in advocacy on business or securities market law since inception, but it was always intended that we would so engage if circumstances required. So we have paid particular attention to the challenging problem of whether (and to what extent) political advocacy can amount to or negate a charitable purpose. We have been troubled by recent court decisions that have undermined the incrementalism approach and introduced a troubling subjectivity and uncertainty into the law of charitable purpose generally.

28. Troubling legal developments include:

    28.1. When assessing whether an organisation satisfies the 'second head' under s 5(1) ('advancement of education'), decision-makers must determine whether the organisation is presenting a 'balanced' message or is spreading one-sided 'propaganda'.[2] Williams J held in a concurring judgment that that subjectivity would inevitably creep into assessing whether a particular purpose was educative or propaganda;[3]

    28.2. When assessing charitable purpose under the 'fourth head' ('any other matter beneficial to the community') decision-makers (including Charities Services may no longer be entitled to take an organisation's purposes as read from its governing document in the absence of contrary evidence. Instead, where a charitable entity engages in advocacy or promotion of a cause or law reform, charitable purpose must be assessed on consideration of the end that is advocated, the means promoted to achieve that end, and the manner in which the cause is promoted;[4]

    28.3. Any purpose that is 'discriminatory' in accordance with changing social values may be incapable of being charitable.[5] The courts appear to be increasingly abandoning their

[2] *Attorney-General v Family First New Zealand* [2022] NZSC 80 at [58].
[3] *Family First* at [174].
[4] *Re Greenpeace of New Zealand Inc* [2014] NZSC 105 at [76]
[5] *Family First* at [139].

former restraint and explicitly acting as arbiters of 'changing social values',[6] values which they are not institutionally competent to determine.]

29. These cases are examples of 'hard cases making bad law'. But they may also suggest a growing lack of court competence and impartiality. That is reinforced by the length of time for taken by the cases;

29.1. The *Greenpeace* case began with the decision of the charities board on 15 April 2010, and ended with the High Court's decision in *Greenpeace of New Zealand v Charities Registration Board* [2020] NZHC 1999, with judgment given on 10 August 2020.

29.2. The *Family First* case began with the charities board decision to deregister on 15 April 2013, and ended with the Supreme Court's judgment on 28 June 2022

29.3. In *Better Public Media,* the charities registration board decision was 24 April 2019, with judgment from the Court of Appeal on 9 November 2023.[7]

30. In all three, appellate courts contradicted lower courts, which themselves often contradicted the Charities Registration Board, illustrating the level of challenge posed to the law of charitable purpose in the 21st century by 'cause-based charities' (compared to 'works-based charities' that the law was originally conceived to protect).

31. The unsatisfactory state of the law is stark. This is no better illustrated than in the conflicting outcomes in the *Greenpeace* and *Better Public Media* cases on the one hand compared with the *Family First* case on the other. The three cases are arguably only distinguishable from each other on the basis that the court making the final decision values the causes of the former two and dislikes that of the latter. It is difficult to avoid the conclusion that the decisions were the application of political ideology rather than law, a fact that the Supreme Court was at pains to deny in *Family First*.[8]

32. Critics of these decisions have noted:

32.1. If the charity's governing document is clear, the courts should not go behind this is unless it is a clear fraud/sham;[9]

32.2. The journey of the cases through the court, with different courts coming to different conclusions, shows that there is insufficient legislative guidance;[10]

32.3. The 'end, means, and manner' framework established in *Greenpeace* is far too open ended, and allows subjectivity to creep into the law (with the subjectivity being that of

[6] For example, see *Re Greenpeace* at [70] and *Family First* at [163].
[7] *Better Public Media Trust v Attorney-General* [2023] NZCA 553.
[8] At [153].
[9] M McGregor-Lowndes and F Hannah (2022) *ACPNS Legal Case Notes Series: 2022-93 Attorney General v Family First New Zealand* (ACPNS Report) at 10.
[10] ACPNS Report at 10.

the largely unaccountable bureaucracy, not the courts) – change in focus from purpose to activities removes certainty and predictability from the law;[11]

32.4. Surprisingly little detail in the section of the *Family First* judgment dealing with 'discriminatory' purposes, – potentially distorting the public benefit approach with a disguised ideological test.[12]

33. The legal uncertainty created has practical impacts. An article in late 2023 from law firm MinterEllisonRuddWatts noted that the uncertainty fostered by the decisions had, in their experience, led to longer processing times for charitable registrations, and more requests for information during those processes. They noted a corresponding increase in the need for charities to obtain legal advice.[13]

34. Unfortunately, by narrowly focusing on revenue generation through tax law changes, the Issues Paper proposals have missed this area of concern entirely. Additionally, a number of the proposals rely upon application of the charitable purposes definition. The problems with this definition will therefore just be magnified.

Complexity of Exemptions

35. Further to the complexity of the caused by the ambiguity of the charitable purpose definition, the Issues Paper seeks a smorgasbord of exemptions from its business-related income proposal. These exemptions appear to have no common value or principled basis, except to possibly protect charities the Government is concerned the public will not want to be taxed.[14]

36. The complexity may be handled, to their benefit, from charities that have large incomes or generous volunteers who can provide professional advice. The proposed exemption to allow distributions paid by a charity business to a parent charity, but no exemption where the charity carries out the business themselves, will lead to restructuring. Similarly, allowing for "special memorandum account" will only be activated by those with the specialised financial management skills. Only some charities will have the resources or skills to do this, and those that do, will do so at the expense of spending time on furthering their charitable purpose.

Revenue Generation

37. The principles relied upon in the Issues Paper are an unexpected departure from what would be expected of a National / ACT / NZ First coalition. At [4.10] of the Issues Paper, it states:

[11] ACPNS Report at 11.
[12] ACPNS Report at 18.
[13] https://www.minterellison.co.nz/insights/the-challenges-faced-by-advocacy-organisations-seeking-charitable-status#:~:text=The%20definition%20of%20charitable%20purpose,purposes%20beneficial%20to%20the%20community
[14] For example, exempting fundraising activities for selling donated goods or services.

> *"If the Government wishes to encourage a particular economic activity, it is preferable this is done in a transparent way by direct funding rather than through the tax system."*

38. In contrast, the Coalition Government has been explicit that they will not be seeking to fund economic activity. Rather, they intend to deregulate so independent businesses can make the best decisions for growth.

39. The same principle, and respect for our charitable institutions, should be applied here. This is particularly important in a tight fiscal environment where the Government has directly stated there will be no significant expenditure.

40. The Issues Paper does not appear to have found value in the tax principles of equity and fairness, compliance and administration cost and coherence.[15] Perhaps those concepts are too abstract to be useful, but there should be some acknowledgment of them. The Issues Paper does not seek to quantify the benefits from charities, either in direct expenditure or the foregone cost to Government of not having to provide the services, or to pay the costs for poor outcomes. There should also be some attempt to estimate the value of contributions that might be lost from the changes proposed, to building communities and social cohesion.

Increased compliance

41. The Issue Paper proposals, if enacted, could result in charities having to comply with inconsistent and conflicting rules.

42. In 2015, the Financial Reporting (Amendments to Other Enactments) Act 2013 introduced a financial reporting regime for charities based on accountancy standards set by the External Reporting Board. The purpose of the new reporting requirements for charities (which formed part of a broader financial reporting law reform effort) was to "strengthen public confidence in charities by increasing charities' accountability to the donating and taxpaying public".[16]

43. Under the reporting requirements,

    43.1. Charities with operating income over $140,000 in the two preceding reporting periods must provide financial statements each year that comply with formal accrual-based accounting standards and other prescribed financial reporting standards;[17]

    43.2. Charities with operating income of $140,000 or less are required to submit financial statements annually, but on a cash accounting basis and with lower reporting requirements. [18]

[15] The Victoria University Tax Working Group produced 'Principles of a Good Taxation System' as an assessment framework to assist the Government's 2021 Tax Working Group.
[16] (19 November 2013) 695 NZPD 14999 (Third reading of the Financial Reporting Bill and the Financial Reporting (Amendments to Other Enactments) Bill).
[17] Charities Act s 42A(1)(a).
[18] Charities Act, s 42A(1)(a).

44. The reporting requirements for all charities are higher than those applicable to companies with operating income.

45. The intention is understandable. But as with all law reforms, it is not obvious that the envisaged benefits from more accounting outweigh the increase in compliance costs for all charities (which, despite the looser requirements for smaller charities, are still considerable), as well as any unintended consequences.

46. Our experience of the extended engagement with accountants and auditors every year suggest that the reporting regime has not been a success. We trustees are all volunteers. We are very unimpressed by requirements to write pointless plans and idle back-covering reports as part of the compliance burden imposed by the legislation.

47. We serve to apply resources to actual charitable works. Paperwork in which no one is interested seems meaningless.

48. The Charities Amendment Act 2023 acknowledged this, amending the Charities Act to allow Charities Services to grant entities exemptions from reporting requirements. But, unhelpfully, the exemptions do not apply until regulations are made setting out thresholds.[19] There is no guarantee that such regulations will ever be made, and none has been made to date. So the position remains unchanged.

49. We urge that accounting be focused on the moral risk for charities and all trustees whose duty is to others. The key recording should be to ensure that assets and income are applied solely to the charitable purpose and not used for personal gain.

50. BIT supports enforcement of a Charities Law regime that detects and pursues cheats.

Non-Accumulation proposal

51. The Issues Paper states –

> *2.6 [The destination of funds] approach allows income to be accumulated tax free for many years within a registered charity, or within its registered business subsidiaries, **before the public receives any benefit**. [Emphasis added]*

52. The Issues Paper does not articulate why there is an issue with accumulation of funds. Our Trust has accumulated funds but in a way that has not kept pace with the rocketing costs of litigation. Whereas we could have confidently expected to be able to fund the downside exposure of a typical securities or companies law case 20 years ago, now our resources could be consumed even carrying only a shared risk.

53. Many charities may have capital assets or activities that do not occur on an annual basis for which they must budget long term. This is proposal is simply impractical.

[19] Charities Act, ss 42AB and 42AC.

APPENDIX 1

Purposes of the Business Integrity Trust

3. PURPOSES

The Trust is established to promote the public interest in the observance of sound commercial law and a justified reputation for integrity of business in New Zealand including:

3.1. To take proceedings in any court, tribunal or before any other body designed to ensure that business wrongdoers, and intending wrongdoers, cannot assume that they will be called to account for their wrongdoing only if:

(a) to pursue them is in the personal interests of a person directly wronged, or

(b) a regulatory agency has the resources and willingness to do so

3.2. To assist with or advocate proceedings having the foregoing objective.

3.3. To commission or assist with investigations aimed at detecting or disclosing business wrongdoing.

3.4. To advise potential plaintiffs and others who may be in a position to promote action against such wrongdoers.

3.5. To foster government and public understanding of the obstacles to enforcement, and maintenance of a climate of routine compliance with sound commercial law.

3.6. To assist competent authorities in pursuing proceedings or otherwise acting to advance the foregoing objectives.

3.7. To oppose, or assist in opposing, proceedings which have or may have the effect of deterring, or blocking investigation, reporting or other disclosure or action intended in good faith to promote integrity in the administration or governance of commercial entities in New Zealand or in regulatory agencies including, without limitation, promoting investigative journalism with any of these purposes.

3.8. For any other purposes within New Zealand (whether relating to the relief of poverty, the advancement of education or religion or any other matter beneficial to the community) which are charitable according to the law of New Zealand.

APPENDIX 2

Charities Services advice (January 2025)

"*Further information is required, as outlined below. We also take this opportunity to provide you with general information regarding charitable purposes and the public benefit requirement.*

Public benefit

It is a key element of charities law that a charity must provide benefits to the public, and not to private individuals or groups. The benefit must be aimed at the general public or a sufficient section of the community. Most importantly, we look at who can benefit from the organisation's purposes.

In some situations, limiting who can benefit may be justified. If the organisation's benefits are available to anyone within a group in need that chooses to take advantage of the benefits, the purposes will be considered to provide benefit to the public, even though in some cases the number that can benefit may be quite small (for example, a group seeking to provide support to individuals suffering from a rare disability).

We note it is now well established in New Zealand that fourth head purposes do not carry the presumption of a charitable public benefit, and it must be positively shown. See for example Canterbury Development Corporation [2010] NZLR 707 ('CDC'). In Travis Trust v Charities Commission (2009) 24 NZTC 23,273 that two-fold public benefit test is outlined (at [54]), which requires consideration of:

a) whether the purpose confers a benefit to the public (demonstrably, objectively); and

b) whether the public benefit is available to a sufficient or wide enough section of the public.

In CDC, Young J wrote "public benefit must be expressly shown where the claimed purpose of the trust is...benefit to the community...while the benefit need not be for all of the public it must be for a significant part" (at [45]).

Any private benefits to groups or individuals must also be incidental to a wider public benefit. In relation to any application for registration, we must be satisfied that this is the case. For this reason, it would be helpful if you could provide additional details as requested below.

Please refer to our website on the following links for more information on the public benefit requirement:

https://www.charities.govt.nz/ready-to-register/need-to-know-to-register/charitable-purpose/public-benefit-and-charitable-purpose/

Charity-Law-in-New-Zealand.pdf

The CDC and Travis Trust cases are posted on the website at:

Canterbury-Development-Corporation-v-Charities-Commission-2010-2-NZLR-707.pdf

Microsoft Word - TRAVIS TRUST V CHARITIES COMMISSION _JUDGMENTS TEM_JTK_10....

Charitable purposes

In order for a purpose to be charitable, it must fall within one of the four categories of charitable purposes set out in section 5(1) of the Charities Act 2005 ('the Act'), provide a public benefit (as outlined above) and not be aimed at creating private financial profit. To qualify for registration, an organisation must advance exclusively charitable purposes or any non-charitable purpose must be strictly ancillary to a charitable purpose of the entity. We must assess an organisation's stated objects in their rules document, and their activities, to identify their purposes.

In relation to the fourth category (or 'head') of charitable purposes, we note that not all organisations which have purposes that benefit the community will be charitable. The purposes must benefit the community in a way that the law regards as charitable.

To be charitable under this category, the organisation's purpose must be very similar to the spirit and intent of those purposes listed in the Preamble to the Statute of Elizabeth or very similar to a charitable purpose as decided by the courts and beneficial to the community.

We acknowledge your submissions in relation to the charitable purposes of your entity, and we accept the stated purposes as written are capable of advancing charitable purposes to uphold the sound observance and maintenance of the law, under the fourth head.

However, the 2014 Supreme Court decision in Re Greenpeace (SC) at [27]-[31] held that a benefit to the public does not presumptively establish a charitable purpose. Therefore, we must determine whether the Trust's purposes confer a charitable public benefit at law. Based on the information you have provided, we still need more information regarding the activities of the Trust to determine this.

The Greenpeace SC decision can be viewed on the Charities Services website at:

Greenpeace-of-New-Zealand-Incorporated-Supreme-Court.pdf

Please note that even if we decide that the Trust meets registration requirements, we will still need to refer the matter to the independent Charities Registration Board as the ultimate legal decision maker, given the application involves a degree of legal complexity."

The Presbyterian Church
Property Trustees
Building up the Presbyterian Church for God's Mission

Russell Garrett | s 9(2)(a)

31 March 2025

Tax Counsel Office
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Dear Sir/Madam

SUBMISSION FROM THE PRESBYTERIAN CHURCH PROPERTY TRUSTEES

ON TAXATION AND THE NOT-FOR-PROFIT SECTOR – AN OFFICIALS' ISSUE PAPER

published 24 February 2025

Summary

This submission is from The Presbyterian Church Property Trustees (PCPT). We welcome the opportunity to submit on Inland Revenue's issues paper, Taxation and the Not-for-Profit Sector.

It responds to Questions 1-6 in Chapter 2 of the Issues Paper and to Question 14 in Chapter 4.

Simplifying tax, reducing costs and addressing integrity issues

In doing so, we have applied the objectives of the Government's tax and social policy work programme, being to simplify tax rules, reduce compliance costs, and address integrity risks, as a yardstick.

We have applied this yardstick in the context of not-for-profits and charities. These entities share some unique characteristics. These include:

1. Purpose (rather than profit) or furthering their cause
2. Reliance on volunteers
3. A struggle for finance.

These features are well documented in Inland Revenue's 2019 Not-for-profits and Charities Landscape research (Landscape Research) and are reflected in the experience of the PCPT.

We oppose changing taxation exemptions

The PCPT opposes changing taxation exemptions, including those contemplated by the issues paper, for not-for-profits and charities on the grounds that:

1. It would make it even more difficult for not-for-profits and charities to source funds. As the Landscape Research notes … *"Funding is essential to the survival and growth of Not-for-Profits and Charities … Sourcing funds, however, is their biggest challenge"*. The Landscape Research notes the reliance on donations and the need for … *"income generation to be optimal"*.

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It is not surprising that charities might look to business to diversify their funding sources.

2. It would create additional compliance costs for entities that already face compliance costs not faced by all for-profit entities. As the Landscape Research notes … "*The burden of complying with tax and other government obligations takes resources and money away from furthering their cause".*

   In particular, efforts to tax unrelated business income throws up numerous 'grey areas', such as distinguishing what is related income and unrelated income (and related and unrelated expenses), that will further complicate compliance and might even result in litigation.

3. It would make it more difficult to find volunteers, at both operational and governance levels. As the Landscape Research notes … *"There must be hundreds if not thousands of charitable organisations who find very real difficulty in understanding and meeting some of these obligations"*. More compliance will act as a hurdle for volunteers and/or increase the need for charities to pay for services to assist with compliance.

4. It would compromise the ability for not-for-profits and charities to grow their services through re-investment and may drive these entities to restructure their affairs in a sub-optimal fashion.

It appears self-evident that the proposed changes would not simplify tax rules and reduce compliance costs.

Questions of integrity risks are perhaps a little more difficult to examine. Nonetheless, there is an assumption in the issue paper that taxation exemptions are somehow a cost to taxpayers. We disagree.

Taxpayers are being compensated

It is fair to assume that charities exist because they are providing assistance that is not being provided by alternative means.

The Landscape Research notes that … "*not-for-profits and charities play an important role … in positively impacting the lives of New Zealanders and working with Māori to attain their goals"* and that ... *"these organisations fill in so many gaps in so much social, cultural, health, educational areas"*. The research also noted that … *"not-for-profits and charities make a significant contribution to the economic prosperity of New Zealand"*.

The PCPT believes that any cost (of tax foregone) to the taxpayer is more than compensated for by the benefits charities bring to society.

If there are integrity risks associated with charities, these should be addressed via the existing registration and monitoring process.

Significant adverse impacts

"Without churches, NZ would plunge into poverty and chaos". So says Associate Professor Juliet Chevalier-Watts in the Otago Daily Times (31 March 2025).

Research by the University of Waikato[1] has found that more than 3,000 churches in New Zealand are supported in their work by more than 65,000 volunteers. These volunteers are deeply connected to their communities, with, on average, six active volunteers for every one staff member. The research determined that, in 2018, religious charities contributed $6.1billion to New Zealand.

If taxation changes lead to the challenges we identify, this could likely result in fewer charities or charities undertaking less. This in turn will likely require the government to 'step into' the gaps left by charities or simply leave holes in the fabric of society.

[1] Associate Professor Juliet Chevalier-Watts (Faculty of Law) and Professor Frank Scrimgeour (School of Accounting, Finance and Economics).

No significant revenue

We are far from convinced that the proposed taxation of unrelated business income would raise significant revenue for the government.

There is an assumption that, over time, charities will apply all available funds towards furthering their cause or purpose. Those charities that do not, risk having their charitable status removed. This implies net zero taxable income.

Moreover, extra compliance costs will reduce taxable income. Add to this the risk that charities restructure their affairs to stay below de minimis thresholds or focus on passive income.

There is a risk that the government could expose itself to greater expenditure – to cover for reduced charitable activity – with little or no extra revenue as compensation.

We support simplifying tax rules

We support simplifying the tax regime by extending the FENZ simplification to NFPs to reduce compliance costs for volunteers and implementing the policy initiatives in the DTC regulatory stewardship review.

We agree that, if the tax exemption is removed for unrelated charity business income, then income that is distributed for charitable purposes should remain tax exempt (and be treated as a deductible expense) or appropriate relief, e.g., by way of donation or dividend rebate, be given.

Introduction

1. This submission is from The Presbyterian Church Property Trustees ("PCPT"). It is made on the PCPT's behalf by the Executive Officer.
2. The PCPT is created by the Presbyterian Church Property Act 1885 (1885 Act) and is registered as a charity under the Charities Act 2005 (CC25356).
3. The 1885 Act defines the position of the Presbyterian Church of Aotearoa New Zealand (Church) and vests certain properties held for the purposes of or in connection with such Church in trustees, and provides for the management of such properties.
4. The 1885 Act has been subject to amendment Acts in 1914, 1974 and 1996.
5. Trustees are elected at the General Assembly of the Church, numbering not less than 7 nor more than 20, being members of the Church, of full age and good fame, and resident in New Zealand.
6. The PCPT holds the title to all Church properties north of the Waitaki River.
7. The Presbyterian Church Property Trustees Empowering Act 1957 enables the trustees to amalgamate investments and money of trust funds now and hereafter to be held by or vested in the trustees (in what is now called the Presbyterian Investment Fund).
8. In addition, the PCPT is the trustee of the following charities:
    a. Burnett Loan Fund (CC24483)
    b. James Mackay Drummond Trust (CC24692)
    c. Elsie Mary Steele Trust (CC25157)
    d. The Martha and Samuel McNutt Trust (CC25860)
    e. Thornton Blair International Travelling Scholarship Fund (CC33619)
    f. Te Whaiti-Nui-A-Toi Trust (CC39409)
    g. Estate of Christina Annie Clark (CC34018)
    h. Presbyterian Benevolent Fund (CC55859)
9. Related charities include:
    a. The Presbyterian Church of Aotearoa New Zealand Beneficiary Fund (CC24301)
    b. Presbyterian Bureau Services Trust Board (CC49154)

Response to Chapter 2 – Charity business Income tax exemption

The "cost" of tax concessions – and the "benefits" they accrue

10. The issues paper highlights the "cost" of tax concessions, including the business income exemption.

> *Every tax concession has a "cost", that is, it reduces government revenue and therefore shifts the tax burden to other taxpayers. (para 1.4)*

11. To restore balance, the following also needs to be said.

> *Every tax concession extended to charities has a "benefit" for the government and the community, that is, by making it easier for charities to function it reduces the necessity for the government to spend money to provide those charitable services itself thereby reducing government expenditure and lightening the tax burden for other taxpayers.*

12. The risk if this is lost sight of is that it could end up costing the government more in expenditure to replace key services provided by charities. That cost would ultimately be borne by other taxpayers in the form of loss of vital services for community well-being or higher taxes. This cost could be an invisible cost – until it isn't, and it is too late!

13. The paper needs a balanced cost benefit analysis: What will it cost the government to address the issues that are currently addressed by charities if charities can no longer do so because tax changes have adversely affected their financial viability?

14. There is a complete absence in the Issues Paper of costings/estimates of how bad issues are, and/or of the compliance cost impacts of proposed changes. Given this is framed as a stopping abuse/revenue issue we believe cost benefit analysis is essential.

Charities do not enjoy a free ride

15. It is also important to note that charities do not enjoy a "free ride". Yes, charities enjoy taxation exemptions, but they are also subject to compliance costs associated with registration and annual reporting. In many cases, annual reporting also involves the cost of a review or audit of financial statements.

16. Charities are also subject to GST and PAYE taxation, along with other forms of legislative compliance, including the Trusts Act 2019, Charities Act 2005, Health and Safety at Work 2015, Building (Earthquake-prone Buildings) Amendment Act 2016, Holidays Act 2003, …

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

17. The first compelling reason for not taxing charity business income, related or unrelated to charitable purposes, is that taxing this income will perpetuate the Oliver Twist perspective on charities, i.e., making them dependent on donations and grant handouts rather than independent and flourishing.

> *When Oliver Twist said, "Please, sir, I want some more", it accurately characterised the mindset that many still carry today when thinking about charities. It's a mindset of reliance on donations from others, with hands outstretched in the hope of some crumbs falling from the plate of the wealthy.*
>
> *But this is not the mindset we need for an innovative, flourishing charitable sector. We should be encouraging charities to seek sustainable income streams which move them from dependence to independence.*
>
> *Yet that Oliver Twist mindset underpins the current consultation from Inland Revenue about whether charities should pay tax on unrelated business income.*
>
> "Government will change charity tax rules at its peril," opinion piece by Steven Moe in *The Post*, 21 March 2025

18. There would be very few churches or charities in New Zealand flourishing financially on grants and donations alone. The generosity of New Zealanders notwithstanding, there is simply insufficient money to spread around to meet the need of every charity doing good works for the benefit of New Zealanders.

19. As the Landscape Research confirms, most charities struggle for funds. Charities are in a constant battle to secure funding, whether from donations, grants or government sources. It is not surprising, therefore, that charities might look to create businesses, however aligned to the purpose, to diversify their funding sources. Taxing business income would add yet another headwind to the already tough task of finding funding.

Do the factors described in 2.13 and 2.14 warrant taxing charity business income?

20. No, the factors described in 2.13 and 2.14 of the Issues Paper do not warrant taxing charity business income. The compliance obligations charities face under the Charities Act 2005, in contrast to the minimal disclosures required of for-profit businesses, suggest that there is no such thing as a level playing field.

21. Charities do not think about 'rates of return'. They think about whether they have enough funds to further their cause.

22. There may be evidence that charities have higher retained earnings, but even if this is the case, this is probably because it is so difficult for charities to raise external capital. It is, therefore, not surprising that charities would look to retain earnings to underwrite future operations.

23. Moreover, the fickle nature of charitable funding makes raising external capital more expensive than most for-profit entities. That is, charities are perceived as riskier than for-profit entities, so investors and lenders demand a premium. We have witnessed this via the high cost of borrowing by church congregations undertaking capital projects.

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?

24. It is likely that an affected charity would endeavour to reduce its income tax obligation by restructuring its activities to ensure that, so far as possible, the receipt of business income is directly related to the charity's charitable purpose.

25. It is likely there would also be a shift in preference for many charities to invest in passive (non-business) investments if income from these investments remains untaxed. If income from passive investments becomes taxable, there would be an adverse flow-on impact for the whole charitable ecosystem as the amount of money available by way of grants is reduced by the tax payable on the income generated from investments to enable grants to be made.

26. It is difficult to confine the practical implications to that part of the charitable sector most affected by any tax change.

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

27. We have no specific suggestions. We observe that distinguishing between related and unrelated business activities will likely be difficult in practice and will increase compliance costs for both charities and the Government.

28. Most charities are established with a broad charitable purpose even if, in practice, their energies are directed to a narrower focus. We would expect charities increasingly to define any business activity in terms of one or more aspects of their broad charitable purpose.

29. We note the Presbyterian Church takes the view that all its activities, whether business or otherwise, are related to its purpose.

30. We also wonder how this might impact businesses that are gifted to a charity? In this instance, the business is clearly integral to the operation of the charity, even if the purpose was seemingly unrelated to the business. For example, a farm given in trust for the purpose of generating income for the welfare of the children of New Zealand.

31. We also assume that if unrelated business income is to be taxed, this would only be after the deduction of relevant expenses. Given that many charities would have multiple sources of income, determining expenses relevant to unrelated business income could be difficult. Whereas direct expenses might be clear and obvious, there will be other expenses that apply to the whole of a charity's operations (such as governance, IT, HR, premises, and marketing costs) that would require part-allocation against any unrelated business income.

32. We envisage that this could become a minefield for litigation, which once again will reduce the amount of money available for charitable works.

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

33. We think it makes sense to consider aligning any changes with the existing four tiers of reporting operating under Charities Services. It would increase compliance costs if reporting and taxation were subject to different thresholds. However, we think there are a number of challenges in addition to the thorny issue of distinguishing between related and unrelated income.

34. The existing reporting tiers are determined by either annual expenses or operating payments and whether they have public accountability. Even if the reporting tier thresholds were to change to annual income, most charities would record income from various sources, e.g., donations, passive income, and business income (both related and unrelated).

35. Let's assume tier 2 charities were those with total income above $5m and below $33m. A charity may fall within tier 2 but only have business income of $4m, of which half is deemed unrelated to its purpose. Exempting tiers 3 and 4 would still capture some charities that might only have small amounts of unrelated business income.

36. We note the current tiers are applied if an entity exceeds a threshold for two consecutive financial years. How would a taxation threshold or de minimis apply? Would the entity have to pay tax taxes for prior periods, or would it only apply to future periods? What would happen if in the following year it did not meet the threshold? Would it be eligible for a tax refund?

37. A further challenge arises from the use or otherwise of consolidation. How would an entity like the PCPT or the Presbyterian Church, which consists of multiple smaller charities (congregations and trusts), be treated? Where accounting rules might require some form of consolidation, grouping together multiple small charities that individually do not breach any threshold might inadvertently push compliance costs onto those smaller entities.

38. Alternatively, charities might be tempted to carve up their operations so that no individual charity exceeds the threshold.

39. Finally, even the application of a de minimis threshold might not prevent an adverse flow-on effect on smaller charities as larger charities are forced to compete more strongly to secure donation and grant funding.

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?

40. Yes. We agree that, if the tax exemption is removed for unrelated charity business income, then income that is distributed for charitable purposes should remain tax exempt.

41. Such a relief system would need to be simple and clear. Funds distributed towards a charitable purpose should be treated as a deductible expense. After all, charities should be spending their income on their purpose: this is the essence of their existence.

42. Alternatively, a donation or dividend rebate could apply. We note that such a system would however increase compliance costs, thereby reducing the overall amount able to be applied to charitable purposes.

43. That said, we see a significant challenge where a charity might retain accumulated surpluses for a future project. That is, a charity might make taxable profits in early years, followed by taxable losses in subsequent years. Would such charities be eligible for a tax refund in the loss years?

44. We have also noted that it is not unreasonable to expect a charity to retain some earnings to underwrite future operations. How would it work if a charity wanted to re-invest surpluses to build up its operations to a more sustainable level?

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?

45. The PCPT has depended heavily on the voluntary contributions of their trustees, some serving for many years.

46. Not raised in the Issues Paper is the valuation of pro bono or semi pro bono services as input expenses. Labour cost is a significant input expense for any business. Currently many in the charitable sector receive some pro bono or semi pro bono labour. Accordingly, it would be important for charities to be able to claim the true cost of their business in any income tax return. This raises the conundrum for the tax department as to what the appropriate fair labour costs should be.

47. Charities are currently disadvantaged because there is not a level playing field as regards transparency of reporting with for-profit businesses, i.e., charities must currently meet a higher level of public transparency. Failure to address this issue results in charities being at an unfair competitive disadvantage with for-profit businesses.

Response to Chapter 4 – Integrity and 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?

48. Classifying honoraria as schedular payments for tax purposes is not well understood in the NFP sector. Extending the FENZ simplification is a sensible tax simplification and will reduce compliance costs for volunteers.

49. In relation to extending this as an option for all NFPs, it might be pertinent to ask also: Has this worked appropriately for FENZ? And have there been any unintended consequences?

Conclusion

Thank you for this opportunity to make a submission in response to the IRD consultation on taxation and the not-for-profit sector.

We would be happy to have a more detailed discussion with you on any matters raised in our submission. Please contact me by email at russell@presbyterian.org.nz.

s 9(2)(a)

Russell Garrett
Executive Officer

Copy:

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

Here are my thoughts on the Government's paper about charity tax rules. I've been going to the Salvation Army (Army) Otahuhu Corps church every Sunday since December 1994, and I pay my taxes like everyone else. I see firsthand the good work the Army does in our communities in NZ in times of emergency, pandemic, despair, unemployment, growing social division and crime.

I understand there are concerns about some businesses possibly getting an unfair advantage by registering as charities. It's important that the rules are fair and that public trust is maintained. However, we must be very careful not to harm genuine charities in the process.

I've read the Salvation Army's material on these tax ideas, and I agree with the Sallies about the potential negative impacts. Changing these tax rules could really hurt charities like the Salvation Army. They might have much less money. This means they couldn't help as many people. Things like poverty and homelessness could get worse if the Army can't do its work. It's important the government understands this risk.

BEGIN

Keeping things simple:

CHARITY BUSINESS INCOME TAX EXEMPTION

(CHAPTER 2)

- **Q1:** Many people think charity businesses should be taxed for fairness. The NZ Initiative has written many papers since 2015 raising concerns that some businesses might get an unfair advantage over others (like factor 2.14) or just pile up money without using it for charity (like factor 2.13). Public trust is important. But the strongest reason *not* to tax genuine charities like the Salvation Army is simple: every dollar taxed is a dollar less for helping vulnerable people. As a Waikato Times 22 March 2025 article about Dr Juliet Chevalier-Watts showed , charities do vital work that helps communities and saves the government money. Taxing the income they earn to fund this work directly hurts those in need. While fairness (2.14) and how money is used (2.13) are valid points for some cases, they don't justify taxing income that genuinely supports the mission of groups like the Army. Harming essential services to fix a few potential problems seems wrong.
- **Q2:** Defining "unrelated business activity" seems complicated and risky. We need a definition that stops exploitation but doesn't accidentally stop genuine charities raising funds needed for their community work. The most significant practical implications would be:

  Less money for charities: Groups like the Salvation Army would have less money to spend on their actual mission work.

  Fewer services: This means less help for people in need – things like food banks, shelters, and support programs could be cut back.

  More hardship: The people who rely on these services would face more difficulty. Poverty and homelessness could increase.

Government might pay more: Even if the government collects some tax, it might cost more overall if the government has to replace the services charities can no longer provide.

More paperwork: Charities would face more complex rules and paperwork, taking time away from helping people.

- **Q3:** The main test should be simple: **Does the money earned actually get used for the charity's real purpose of helping people?** If the money clearly supports the mission, it seems related. We also need to ask if the business itself directly helps the charity's work, like a Sallies shop does. The rules must stop businesses unfairly avoiding tax but not stop charities like the Army funding their vital community services.
- **Q4:** Having a threshold for small activities makes sense. It avoids burdening volunteers with paperwork for minor fundraising. The threshold needs to be simple to understand and apply. It should be set high enough so it doesn't catch things like church fairs, sausage sizzles, or small volunteer-run efforts. These activities support vital community work, as the Waikato Times article highlights. The focus should be on fairness with larger commercial operations, not penalising small community fundraising.
- **Q5:** Yes, I strongly agree. If business income is given to the charity for its actual charitable work, that money must remain tax-exempt. Taxing funds *after* they've been dedicated to helping people defeats the whole purpose of supporting charities. The NZ Initiative has published papers suggesting this makes sense as long as the money is genuinely used for charitable aims. The best way is to keep things simple. Charities already report how they use funds. Perhaps clearer

checks that the money *is* used for the mission are needed, but avoid complex new rules that punish groups like the Salvation Army trying to fund their essential community services.

- **Q6:** Beyond the points already raised, please also consider these things:
  - **Burden on Volunteers:** Many charities rely on volunteers. Complex new rules add stress and paperwork, potentially discouraging people from helping.
  - **Compliance Costs:** Money charities spend on accountants or lawyers to follow new tax rules is money not spent on their mission. Keep costs low.
  - **Role of the Regulator:** Ensure Charities Services has the resources to apply rules fairly and help charities comply, rather than just adding red tape.
  - **Full Social Value:** Recognise the huge positive impact charities have, as the Waikato Times article showed. Don't just look at tax figures; consider the social cost if services are cut.
  - **Public Trust:** Changes must be seen as fair and well-explained, or public donations and trust could drop, as the NZ Initiative warned.
  - **Other Taxes Paid:** Remember charities already pay other taxes like PAYE and sometimes GST.

CHAPTER 3 - DONOR-CONTROLLED CHARITIES

- **Q7:** I understand the concern about mutual transactions, but many community groups rely on members supporting each other. We need to be careful not to harm local clubs and societies.

  So, no, I don't think we need special tax rules just for 'donor-controlled' charities. It sounds complicated. The important thing is what the charity *does* and if its money is used properly for helping people, not who controls it. Making different rules could be confusing and create more paperwork. The same rules about using money for genuine charitable purposes should apply fairly to everyone. Let's keep things simple and focused on the good work being done.

- **Q8:** Taxing these groups could mean less money for community activities. This could hurt local sports clubs, cultural groups, and others that bring people together.

  So, again, no. Adding specific investment rules just for donor-controlled charities seems like another layer of complexity we don't need. As I said for Q7, the focus should be on whether *all* charities use their funds for their stated purpose. How they invest money to support that purpose shouldn't need special restrictions, as long as it's legal and responsible. Complex investment rules would be costly and hard to manage, taking focus away from the actual charitable work. Let's keep the focus on the mission outcome.

- **Q9:** While it's important that charitable funds are used for good work and not just hoarded (a concern raised in NZ Initiative papers), setting a mandatory minimum distribution *only* for donor-controlled charities seems overly complex and possibly unfair. Why single them out? Figuring out the right rate and exceptions would be very difficult. It might be better to ensure *all* charities are clear and transparent about why they hold large reserves and have plans to use them for their mission, rather than creating complicated rules for just one group.

- **Q10:** Yes, policy changes to help smaller community groups (NFPs) are definitely needed. These groups rely heavily on volunteers. Making tax simpler helps them focus on their actual activities. Increasing the $1,000 deduction is a great idea – $1,000 is very low now. A higher threshold would remove many small clubs from the tax system entirely. Simplifying tax returns and RWT rules for NFPs are also good ideas. Anything that reduces paperwork and compliance costs for volunteers running these valuable community groups should be strongly supported.

CHAPTER 4 - INTEGRITY AND SIMPLIFICATION

- **Q11:** Friendly societies and credit unions often help people who can't easily get services from regular banks. Removing their tax concessions would increase their costs. This likely means higher fees or interest rates for their members, or fewer services offered. This would directly hurt the vulnerable people these groups support, making it harder for them to manage their money. It seems like a harmful step.
- **Q12:** Removing tax exemptions for groups promoting local areas, farming, science, or research seems likely to slow down progress. Less promotion could hurt regional economies. Less support for farming bodies or research could hinder development in important sectors for New Zealand. Removing the exemption for non-resident charities could also reduce support for important international aid work, like the work for example which the Salvation Army does overseas. Overall, these changes seem likely to harm valuable activities.
- **Q13:** Fringe Benefit Tax is complicated. Making it simpler is good. But even if compliance costs are lower, removing the FBT exemption for charities is still a problem. The main implication is charities would have less money for their core work. They often provide benefits like housing or cars to essential staff because they can't pay high salaries. Taxing these benefits makes it harder to keep good staff, especially

those working directly with people in need. Ultimately, it means less support for vulnerable communities.

TAX SIMPLIFICATION

- **Q14:** Yes, extending the FENZ simplification option sounds like a very good idea. Volunteers are the backbone of so many community groups. Anything that makes tax easier for them, especially regarding small payments or reimbursements, helps them focus on their valuable work instead of paperwork. Other ways to help volunteers include: providing very clear, simple guides for treasurers; creating easy online tools for basic accounting; and significantly increasing the $1,000 deduction threshold mentioned in Q10 to keep more small groups out of the tax system altogether.
- **Q15:** The rules for donation tax credits (DTC) must be easy for people to understand and use. I haven't seen the specific review findings mentioned, but anything that makes it simpler for people to claim their credit and for charities to process donations is good. We need to encourage giving, not make it harder. Making it easier to claim credits automatically, perhaps through payroll giving or digital receipts, would be helpful. Promoting the system so more people know they can claim is also important. The main thing is to keep the system simple and effective to support donations to vital groups like the Salvation Army.

SUMMARY:

I believe the current tax rules for charities mostly work well. I understand the need to ensure fairness and prevent businesses from unfairly using charity status. However, any changes must prioritise protecting the ability of organisations like the Salvation Army to fund their essential work. Changing the rules carelessly could reduce the support available for the most vulnerable in our communities, increasing poverty and hardship. I strongly agree with the Salvation Army's concerns about this. Please consider the real-world impact on people before making any changes.

REFERENCES

Chevalier-Watts, J. (2025, March 22). Why an atheist academic changed her mind on churches' tax status. *Waikato Times*. https://www.waikatotimes.co.nz/nz-news/360623004/why-atheist-academic-changed-her-mind-churches-tax-status

Coughlan, T. (2025, February 24). Government asks for feedback on taxing businesses that operate as charities - how much money is out there? *NZ Herald*. https://www.nzherald.co.nz/nz/politics/government-asks-for-feedback-on-taxing-businesses-that-operate-as-charities-how-much-money-is-out-there/MIEWEKFWPJD2PJIYPDTFLO2Z4U/

Inland Revenue Te Tari Taake. (2025, February 24). *Taxation and the not-for-profit sector: An officials' issues paper*. https://www.taxpolicy.ird.govt.nz/consultation/2025/taxation-and-the-not-for-profit-sector

Krupp, J. (2015). *Giving charities a helping hand*. The New Zealand Initiative.

Lyth, J. (2025, March 10). Charity tax crackdown: Who's affected by proposed status and exemption changes. *NZ Herald*. https://www.nzherald.co.nz/nz/charity-tax-crackdown-whos-affected-by-proposed-status-and-exemption-changes/RCZS3D3WFVC3PO7BG3AYUBJACE/

Partridge, R. (2024, December 3). Supreme Court matters: charities law and judicial social engineering. *LawNews*. https://www.nzinitiative.org.nz/reports-and-media/opinion/supreme-court-matters-charities-law-and-judicial-social-engineering/

The New Zealand Initiative. (2015, May 29). Time for dilatory corporate charities to pay their dues. *The National Business Review*.

https://www.nzinitiative.org.nz/reports-and-media/opinion/time-for-dilatory-corporate-charities-to-pay-their-dues/

Mr Uluomato'otua S. Aiono
s 9(2)(a)

END

THE gift TRUST
make good happen

31 March 2025

Inland Revenue | Te Tari Taake
By email: policy.webmaster@ird.govt.nz

Kia ora,

Re: *Taxation and the not-for-profit sector* - submission by The Gift Trust

1. Introduction

1.1. The Gift Trust is a registered charity with donee organisation status, incorporated in 2009 as a charitable trust. We welcome the opportunity to submit on the '*Taxation and the not-for-profit sector*' issues paper.

We are a member of Philanthropy New Zealand (PNZ), and endorse their submission in-principle, except for the points we have outlined herein.

In particular, we endorse their comments on the context of this review, its process, regulatory costs, and their general comments on policy. We will not be addressing those matters herein - rather, we will be addressing matters specific to our situation and context.

1.2. The Gift Trust gives effect to our legal charitable purpose[1] by facilitating donor-advised charitable giving, providing philanthropic research services, and acting as a fundholder (also known as an 'umbrella organisation') for unincorporated groups carrying out charitable work.

1.3. We are Aotearoa New Zealand's largest donor-advised fund (DAF) when measured by volume of grants made[2], with an average annual distribution rate of 20.79% over the four reporting periods preceding 31 March 2023.

1.4. The DAF model we follow is broadly similar to that of community foundations: a donor makes a donation into The Gift Trust, and then makes

[1] We are "established to carry out every charitable purpose in New Zealand", with the language of clause 2.1 of our Trust Deed mirroring the legal definition of charitable purpose set out in s 5(1) of the Charities Act 2005.
[2] In our most recent reporting period, we made $59.9m in grants, as opposed to $1.5m made by The Kaiārahi Trust, and $1.1m made by the Perpetual Guardian Foundation (source: Charities Services).

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New Zealand registered charity number CC40774
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recommendations as to how that donation should be used, which are independently accepted or rejected by our Trustees after consideration of advice from our staff. Donors can make recommendations on how to distribute their donations at any time.

We have provided a more detailed explanation of our model in Appendix 1.

2. Charity business income tax exemption

2.1. While The Gift Trust does not conduct business activity, we believe that charities should be able to do so, and we have funded many charities that diversify their income streams by doing so.

2.2. We agree with PNZ's analysis of the effects of removing the tax exemption for charity business activity, particularly the 'chilling effect' that such removal would have on the ability of charities to innovate through social enterprises and impact investments.

3. Donor-controlled charities

3.1. We welcome officials' recent indication[3] that "organisations [which] receive a significant portion of their support from the general public or a larger group of donors" are not within the intended scope of the term 'donor-controlled charities'. As we have discussed above at [1.4], we believe that DAFs function similarly to community foundations in this regard, and should similarly be excluded from the scope of the term.

3.2. If further regulation of 'donor-controlled' charities is to progress, we would strongly recommend that a clear definition of the term is provided, that delineates between charities that are donor-*controlled*, and those (such as community foundations and DAFs) that are merely donor-*advised*. For example, the Canadian and Australian definitions cited by officials rightly distinguish between public and private foundations, with DAFs falling within the former category.

3.3. We would also welcome the development of best practices for donor-advised charities to follow, to ensure that they remain compliant with both the letter and spirit of the law, and would be happy to participate in targeted consultation on this issue.

3.4. Nonetheless, we agree that improperly-regulated donor-controlled charities are a potential avenue for circular and/or tax-avoidant activity. We also agree that donor-controlled charities are an avenue for funds to be accumulated without a visible eventual public benefit. However, we do not believe that these two separate issues are addressable with a single regulatory solution - rather, they should be addressed separately.

Regulating circular and tax-avoidant activity

3.5. Tax avoidance through circular arrangements with donor-controlled charities are not caused by the ability of such charities to exist, they are caused by the improper use of such charities by bad actors. Rather than removing or

[3] *Q and As - Taxation and the not-for-profit sector - V3 – updated 18/03/2025*, at [5].

reducing the tax exemptions of donor-controlled charities (or, for that matter, the tax credits available to their donors), we would encourage the creation of stronger regulations for *all* charities with respect to transacting with donors.

3.6. Stronger regulations would improve IRD's ability to prevent the kinds of illegitimate arrangements described in the first, third, and fourth bullets of paragraph [3.6] of the issues paper, without jeopardising the legitimate benefits enabled by donor-advised funds.

3.7. Any regulations with respect to this issue should, however, have regard to the legitimate reasons a charity may wish to transact with a donor-affiliated entity. For example, an individual may wish to support a charity of which they are an employee[4], but do so anonymously to avoid their colleagues knowing about the donation. Giving through a donor-advised fund allows the donor to preserve their privacy, whilst the funds are still applied to the charitable purposes of the recipient charity.

3.8. We agree with PNZ[5] that investment transactions are not a tax issue. However, if regulations *were* to be developed with respect to investment transactions, we would advocate for the Australian model, described in the issues paper (at [3.14]) as permitting such transactions to be "on a non-arm's length basis [only] if favourable to the [charity]."

Ensuring public benefit for donations

3.9. Similarly, we do not believe that the issue of ensuring public benefit is endemic to donor-controlled charities. If a tax credit is given for a donation, then that donation should be used for public benefit, regardless of whether the donee entity is donor-controlled. We support the principle of ensuring that such usage is the case, however we do not believe that limiting or delaying tax credits is the appropriate solution.

3.10. Imposing a limit or delay on the tax credit eligibility of some donations would require significant changes to the existing DTC processing framework, as some donation receipts would be treated differently than others. Additionally, it would create uncertainty for donors as to the availability of tax credits, reducing confidence in the DTC regime and potentially reducing the incentives to donate. Finally, it would be at odds with the recommendation[6] of the DTC regulatory stewardship review to *reduce* the distance between a donation payment and a donation tax credit refund, rather than increase it.

3.11. As such, we believe that a more effective and equitable approach would be to institute a minimum distribution requirement for all charities at or above a specified reporting tier.

3.12. This could be aligned with existing requirements[7] imposed on charities by Charities Services to disclose the reason(s) for their accumulation of funds.

[4] This example is based on one of our clients, for whose situation we were able to obtain specific guidance from IRD as to how we could ensure that no benefit was derived by the donor.
[5] PNZ submission, at [98].
[6] '*Taxation and the not-for-profit sector*' issues paper, at [4.36].
[7] *Annual Return for a Tier 3 Charitable Entity*, p. 21.

Charities Services data would also facilitate the monitoring and enforcement of a minimum distribution requirement, as both net assets and grant distributions are required components of a charity's annual return.

4. Integrity and simplification

4.1. We endorse PNZ's submission with respect to the issues raised in this section, and encourage officials and the Government to continue to engage with PNZ through the existing work programme regarding increasing generosity.

5. Closing

5.1. We have appreciated the opportunity to engage with officials regarding this consultation, and we would welcome opportunities to engage in further targeted consultation regarding these issues.

5.2. If you have any questions regarding this submission, please do not hesitate to contact us. Our key point of contact for this submission is Jackson Lacy, Operations Lead: s 9(2)(a)

Ngā mihi nui nā mātou, nā

The Gift Trust

s 9(2)(a)

Cheryl Spain

Executive Director

Appendix 1: How Gift Accounts work

A1.1. A donor makes an irrevocable donation of cash to The Gift Trust, for which we issue them a tax receipt. They may make a lump-sum donation to establish their fund, and/or may make regular donations over a longer period.

A1.2. The donor's donation is credited to a ledger balance on our balance sheet. While this balance is branded as a 'Gift Account', it is not a legally or organisationally separate entity, and remains in the legal and beneficial ownership of The Gift Trust at all times.

A1.3. At any time, the donor (or their nominee) identifies a charitable cause they wish to support, and decides how much support they wish to give. These wishes may be informed by research and introductions that we have made for them into charitable causes that the donor has asked us to independently research. They communicate this wish to us by way of a 'gift recommendation', through our online system. The 'gift recommendation' form requires users to disclose any relationships they may have with the intended recipient.

A1.4. Our staff conduct due diligence on the charitable cause recommended by the donor, and if they believe that both the charitable cause and the particular grant request complies with our policies (see 1.4.5), the gift request will be sent to our Trustees for their decision.

A1.5. Our policies prohibit us from making any grant that does not meet the following criteria:

A1.5.1. The recipient (or its fiscal sponsor) is a New Zealand registered charity, or is another type of entity subject to legal requirements equivalent to that of a New Zealand registered charity, or has agreed in writing to comply with such legal requirements for the purposes of the grant, or is an individual for whom the making of the grant would fulfil a New Zealand charitable purpose (i.e. the awarding of a fairly-decided scholarship, for the advancement of education).

A1.5.2. The purpose of the grant is charitable, either in that it is a grant for a specific purpose that is considered charitable under New Zealand law, or that it is a general operating support grant for an entity with exclusively charitable objects.

A1.5.3. The purpose of the grant is not illegal or hateful, does not violate our Trust Deed, would not harm our reputation were the grant to be made, and does not exceed the limits on political activity imposed on New Zealand registered charities.

A1.5.4. The grant would not result in any benefit being received or derived by the person making the gift request, or to a donor to the relevant Gift Account, or to any related party of either person.

A1.6. Our Trustees[8] make an independent assessment of the due diligence conducted by our staff, and decide whether or not to make the grant.

Appendix 2: Summarised responses to selected discussion questions

We support PNZ's responses to all the discussion questions, except for those listed below.

Q7. In paragraphs [3.1 - 3.2] above, we argue that if a distinction is made between donor-controlled charities and other charitable organisations for tax purposes, we believe that donor-*advised* charities should be placed in the latter category, or otherwise not subject to the restrictions placed on the former.

Q8. In paragraph [3.8] above, we argue that investment restrictions are unnecessary given existing legal prohibitions on avoidance arrangements. In the preceding paragraphs [3.5 - 3.7], we argue that if such restrictions are imposed, they should have regard for the legitimate reasons a charity might transact with a donor.

Q9. In paragraph [3.11] above, we argue that a minimum distribution requirement is a simpler way of ensuring that donated funds are distributed for charitable purposes, as opposed to limiting or deferring tax credits.

[8] Assessment and approval of grants is generally conducted by our Board Chair and Executive Director, acting under delegated authority.

Taxation and the not-for-profit sector – officials issues paper issued 24 February 2025

This submission is made by the Synod of Otago and Southland.

We acknowledge that our submission may be released on the Inland Revenue's website or be subject of a request under the Official Information Act 1982.

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?

Most compelling reason not to tax is it would reduce the income available to support charitable activities. Charitable organisations exist to provide funding and services for public good, and a reduction in income due to taxation will increase the burden on government to provide the services which will no longer be able to be offered.
The Synod of Otago and Southland plays a key role in distributing income to local parishes and educational organisations. If its income were subject to tax, the total funds available for distribution would decrease, directly impacting the ability of the Synod of Otago and Southland to provide funding to local parishes and educational organisations to support their charitable activities. This would contradict the concern raised in 2.6 of the consultation paper, as the Synod of Otago and Southland does not accumulate significant reserves but instead distributes almost all its income after covering operational costs annually.
The factors in 2.13 and 2.14 do not provide a compelling reason to tax charities. The listed advantages are not significant and would not lead to charities outcompeting non charities for similar activities.
There has been considerable public comment against the charitable status of some high profile charities which do not align with the values of some members of the public. Alleged or perceived wrongdoing by these high profile entities does not warrant introducing additional burdens on all charities to address these perceived issues.
Charities Office compliance should be resourced to allow targeted review of charitable organisations perceived to be acting in a ways contrary to public expectations of charities.

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

Firstly, additional compliance costs of meeting taxation requirements, but more importantly the loss of income to support charitable entities.
Synod of Otago and Southland uses its income distributions to support local parishes and educational organisations, which provide essential community services, including pastoral care, social support, and charitable outreach. If Synod of Otago and Southland had to pay tax on its income, less funding would be available for these services, potentially leading to cuts in programmes that benefit local communities.

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?

An unrelated business should be defined as a business activity where the income is not distributed to charitable purposes but is accumulated without an appropriate reserving policy to justify the increase in reserves. Income generated from such activities, which does not support charitable causes, should be considered unrelated business income.

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

We do not support the tax exemption being removed so do not consider any threshold to be appropriate.

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, distributions should remain tax exempt. However, charities may need to increase reserves in preparation for future activities requiring funding. Many charities do not have access to loan financing or equity raising, making the accumulation of reserves a necessary and practical approach to funding growth.

To achieve this, the tax framework should explicitly allow charities to accumulate and distribute funds over time without being penalised. Income that is demonstrably set aside for future charitable use, with a clear reserving policy, should continue to qualify for tax exemption. A well-defined exemption should ensure that funds allocated for charitable purposes remain untaxed, even if they are distributed in later years rather than immediately.

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?

Consideration should be given to:

1. Entities established by an Act of Parliament – Where legislation defines an organisation's purpose, its tax treatment should align with its intended function and public benefit.
2. The regular distribution of business income to charitable purposes – If an entity uses unrelated business income to fund charitable activities on an ongoing basis, it should not lose the tax exemption, as taxation would reduce funds available for charitable work.

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

We are not captured by this point

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?

This question is not applicable to our organisation.

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?

This question is not applicable to our organisation.

Q10. What policy changes, if any, should be considered to reduce the impact of the Commissioner's updated view on NFPs, particularly smaller NFPs?

This question is not applicable to our organisation.

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

This question is not applicable to our organisation.

Q12. What are the likely implications if the following exemptions are removed or significantly reduced:

This question is not applicable to our organisation.

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?

Any reduction in compliance costs for charities, particularly in tax and regulatory burdens, could positively impact their operations. A lower administrative burden would allow greater focus on delivering and improving charitable activities.
Some staff of the Synod of Otago and Southland use vehicles for work-related travel. Removing or reducing the FBT exemption would increase compliance requirements, necessitating additional record-keeping and administrative oversight. Staff responsible for FBT compliance would spend time managing and calculating tax obligations rather than focusing on charitable work. Additionally, FBT calculations can be complex, further increasing the administrative burden.

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?

Extending the FENZ simplification model to all NFPs could reduce administrative and tax compliance costs for those organisations that do. This simplification would likely benefit volunteer-based NFPs by allowing them to allocate more resources to their core activities.

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 acknowledge the importance of the donation tax concession (DTC) rules for not-for-profits (NFPs) that rely on donations to fund their activities. We support regulatory changes or policy initiatives that enhance the efficiency and clarity of the DTC rules, provided they benefit charitable organisations. A continued focus on simplifying compliance for organisations accessing the DTC is essential to ensuring the rules remain effective and accessible.
The Synod of Otago and Southland occasionally receives bequests and donations, although most of its income comes from the Otago Foundation Trust Board. However, local parishes rely heavily on donations to sustain their operations.
The introduction of real-time payment processing for donors could be beneficial, as could allowing the IRD to collect data from donee organisations to pre-fill DTC claims and streamline the claiming process. However, this would also increase compliance costs for charities, which could place a significant administrative burden on smaller organisations.

Any data collection by the IRD should include an opt-in or opt-out system for individuals who do not wish to have their donation data collected, including those who choose not to claim the DTC. Additionally, there should be a grace period for charities that are deregistered and subsequently re-registered to prevent unnecessary disruption to their DTC eligibility.

Submission
Consultation on Taxation and the not-for-profit sector
Issued on the 24th of February 2025
By Luz Zuniga Vega

Nelson, 31st of March 2025

I am making the present submission from a personal experience of several years as a community organization's volunteer, including governance roles at Nelson at Multicultural Nelson Tasman and currently at Victory Community Governance team.

I am responding to question number one (Q1) of the discussion questions detailed in the appendix of the consultation document, giving compelling reasons to not taxing charity business income. Those reasons are related with issues of fairness and consideration of the enormous public benefit that charity organizations contribute to people and communities in New Zealand.

We submit that tax exemptions for all purpose driven charities must be maintained, whether their income comes from business activities or other types of fundraising, as they all serve the charitable purposes that add immense value to the community. In the same way we disagree with the discussion document's assumption that not taxing charity business activities would mean any "cost" to government revenue. Rather, the proposal seems to underestimate what charities effectively contribute to the government's core goals and outcomes, which are not even mentioned in the document.

1. A data insight report from Volunteer New Zealand published in 2019, estimated the value of formal volunteering in $4 billion per annum, with a total of 159 millions of hours of formal volunteering. Whilst informal volunteering made 7.8 millions of hours a year[1]. However, there is no mention, therefore no actual real comparison between what the documents calls the "cost" in tax revenue to the state and what those charities are providing in social benefits. In other words, the affirmation about costs to the government is just an assumption.

2.Recently, the number of formal volunteering hours is reducing, given the constraint of the current labour environment[2]. This means that the general capacity of charities to provide their services towards their charitable purposes is being reduced already. Therefore, scrapping their tax exemptions would further compromise the many public benefits charities are providing.

3.We note that, according to Volunteer Nelson, as quoted above, those who are employed make for most of the 21% of New Zealanders who volunteer each year, therefore, they are also tax payers. Therefore, we disagree with the assumption of 1.4 of the discussion document, that the tax concessions "shift the burden" to "other

1. Volunteer NZ. in: https://www.volunteeringnz.org.nz/research/volunteering-statistics-nz/#:~:text=New%20Zealanders%20contribute%20a%20total,formal%20volunteer%20labour%20each%20year.

2. Radio New Zealand, 2024. https://www.rnz.co.nz/news/business/529347/charities-struggling-to-find-volunteers-amid-financial-crisis

taxpayers". Instead, volunteer tax payers are carrying a "double burden", as they pay their taxes and they donate work hours. How then would it be fair to strip the charities who serve their purposes of a tax benefit that makes up for that double burden.

4.The proposal wrongly assumes that charities compete in the market with for profit business and organizations, and therefore tax exemptions would give them ability to use market tools to gain advantage such as "predatory pricing". (2.11) As the document states at the beginning, charities are conducting business activities, but not to gain profit, but to advance their charitable purpose. Therefore, they cannot be considered or equated to businesses who exist for individual, private gain.

5.In the same way, frequently charities rely on savings of funds and interests gained in the bank to advance long term plans and initiatives, that also frequently do not match the amount of funds successfully applied to government grants and other donors. Again, reducing this type of revenue would undermine the achievement of charitable purposes.

In attention of the above, I recommend that all tax exemptions are maintained for Charities, for all their activities, whilst they serve their charitable purposes, and that the proposal to eliminate their exemptions is abandoned.

Nga mihi nui.

Luz Zuniga Vega
Board member of Victory Community Centre
Former Chair of Multicultural Nelson Tasman
s 9(2)(a)

Submission to: Deputy Commissioner, Policy Inland Revenue Department

From: Rod Donald Banks Peninsula Trust

Subject: Taxation and the not-for-profit sector

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

Dated: 31 March 2025

Rod Donald Banks Peninsula Trust Te Pataka o Rakaihautu (Rod Donald Trust) is a charitable trust settled by the Christchurch City Council in 2010. The Trust is a Christchurch City Council-controlled organisation (CCO) (as defined by section 6 of the Local Government Act 2002). Trustees are appointed by the Council and must produce a Statement of Intent (SOI) each year as required by the Local Government Act. The SOI specifies the objectives, the nature and scope of the activities to be undertaken, and the performance targets and other measures by which the Trust is to be judged for that year. Each year the Trust must also deliver its audited accounts to the Council for scrutiny, as well as providing them to Charities Services.

Rod Donald Trust is aware of the IRD Issues Paper on taxation and the not-for-profit sector and makes the following comments in relation to Chapter 3 of that paper (donor-controlled charities):

- The Issues paper introduces a new concept of a "donor-controlled charity" (DCC) but without a proposed definition to consider.
- The Issues Paper at paragraphs 3.5 to 3.11 refers to the reasons to regulate DCCs as tax avoidance and compliance concerns due to the control the donor or their associates can exercise over the use of charity funds. Most of the examples refer to private foundations.
- The Rod Donald Trust deed provides that the Christchurch City Council, as the settlor, has the right to appoint up to seven of the maximum nine trustees. The Settlor can remove any trustee as it sees fit, regardless of whether the trustee has been appointed by the settlor or co-opted by the trustees.
- The Rod Donald Trust has received the majority of its funding from the Council to fund its charitable purpose.
- If IRD proposed a definition of DCC that was solely based on the power of appointment of the majority of trustees, or based on the proportion of funds that the founder (in this case Christchurch City Council) contributes to the charity, it is highly likely Rod Donald Trust would be designated a DCC.
- Given the range of additional compliance requirements that Rod Donald Trust has as a result of being a CCO (in additional to its Charities Act and Trusts Act compliance), Rod Donald Trust submits that in creating any definition of DCC all CCOs should be exempt as they are adequately regulated elsewhere.

Officials from Inland Revenue can contact Rod Donald Trust via our Manager, Shelley Washington, manager@roddonaldtrust.co.nz to discuss the points raised, if required.

Ngā mihi

s 9(2)(a)

Jenn Chowaniec

Chair

c/- Calc Accountants,

10 Domain Road,

Whakatāne 3120

Dear IRD Policy Team,

This submission responds to Question 12 of the consultation paper regarding the potential removal or reduction of income tax exemptions, specifically the local and regional promotional body income tax exemption (CW40 in the Income Tax Act).

EPIC Whakatāne Town Centre firmly believes that this exemption should remain in place. Our key reasons are outlined below:

Background

EPIC Whakatāne Town Centre is a charitable organisation dedicated to promoting and enhancing the Whakatāne town centre. Our purpose is to support local businesses, organise events that attract visitors, and advocate for policies that benefit the business community. We provide practical support to business owners through initiatives that strengthen economic activity and engagement.

We appreciate the opportunity to submit feedback on Inland Revenue's issues paper concerning the taxation of charities and not-for-profits. Our position is clear: charities should not be taxed, as this would significantly reduce their ability to serve the community and support local businesses.

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

1. **Support for Local Businesses**
   EPIC Whakatāne plays an important role in strengthening businesses in our town centre. We organise events that increase foot traffic, advocate for business-friendly policies, and provide networking and training opportunities. Taxing charities would limit our ability to deliver these services, negatively impacting the businesses we support.
2. **Economic Consequences**
   Many businesses in Whakatāne operate in a challenging economic environment. Charities like EPIC Whakatāne provide support that helps business owners manage these challenges. If our ability to offer assistance is reduced due to taxation, small businesses may experience further financial strain.
3. **Reinvestment of Revenue**
   Unlike commercial enterprises, charities reinvest surplus income into programs that benefit the community. Any revenue generated through business activities directly funds initiatives that support local businesses, workers, and residents. Taxing these activities would divert resources away from their intended purpose.
4. **Self-Sustainability of Charities**
   Many charities develop business models to reduce dependence on external funding. Revenue-generating activities, such as community events and business support programs, allow charities to operate independently. Taxing this income would discourage financial sustainability and increase reliance on government grants.

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

1. **Reduction in Services for Businesses and the Community**
   If charity business income were taxed, organisations like EPIC Whakatāne would have to cut back on essential services. Training workshops, business networking opportunities, and marketing initiatives that support local businesses could be significantly reduced or discontinued.

2. **Administrative Burden and Compliance Costs**
   Taxing charity business income would increase compliance costs, forcing charities to

allocate resources toward tax management rather than community initiatives. For small charities, these additional costs could be overwhelming.

3. **Disincentivising Innovation in the Charity Sector**
   Charities explore innovative business models to sustain their work. Taxing certain revenue streams would discourage charities from developing financially sustainable solutions, limiting their effectiveness.

4. **Consequences for Small Businesses**
   Many small businesses rely on the advocacy and support services provided by charities like EPIC Whakatāne. If charities are taxed, their ability to assist business owners will be reduced, weakening the overall business environment in Whakatāne.

Conclusion

EPIC Whakatāne Town Centre opposes any taxation on charity business income. Doing so would undermine the ability of charities to support local businesses, stimulate economic activity, and provide essential community services. We strongly recommend retaining the current tax exemption to ensure that charities can continue delivering critical support without financial constraints.

We appreciate the opportunity to provide input on this matter and urge the government to recognise the significant role charities play in supporting economic and social well-being.

Ngā mihi nui,
EPIC Whakatāne Town Centre

s 9(2)(a)

From: Cameron McInnes s 9(2)(a)
Sent: Monday, 31 March 2025 7:00 pm
To: Policy Webmaster
Subject: taxation and the not-for-profit sector

Good afternoon

I wish to make a submission relating to the consultation paper on 'taxation and the not-for-profit sector'.
I have read the discussion paper and I will admit there are aspects of it which are a bit beyond my knowledge of tax law however I believe that the current rules are not fit for purpose and would like to see some revision.

Firstly, any profit made by any entity, charitable or not should be taxed at corporate rates, if it's not being taxed at the same rate as other entities then it is being subsidised by other taxpayers. I have reread the section of the paper about this but disagree that it evens out, if a company is not paying tax then it has an unfair advantage over it's competitors and once again, money is leaving the system (as profits) that means it's being paid for by taxpayers.

Anybody drawing a wage from a charity over a certain limit (say $100k) should have to pay above corporate tax rates to encourage the money to be spent on the charitable work and not end up in the pockets of the CEO or bishop at the top.

A loophole that I would like to see addressed is one that happens locally. A charitable christian sect has members who have multiple businesses in the trades, the businesses and staff are all members of the sect and donate all of their earnings to the sect, this drops them down to the lowest tax bracket, they are then able to claim returns on those donations as well as government assistance like working for families. The sect then redistributes wealth to the 'poor' members. It's a rort.

Lastly, I would like to see greater transparency as to the actual charity work that entities do and repercussions for charities that do not meet legal bottom lines. Destiny church's latest assault on parents and children at a public library and previous flouting of laws (as well as the obvious funnelling of funds to the top of the organisation) should disqualify the church from charitable status.

Thanks
Cameron McInnes

Kia Ora,

My name is Allan Clark, and I work for The Salvation Army. I'm writing to share my thoughts on the proposed tax changes affecting charities and not-for-profits.

I have seen firsthand and from a distance how The Salvation Army has walked alongside many people going through really tough times — whether that's needing food, help with bills, finding housing, or just someone to talk to. A lot of this work is supported by the income we receive through our Family Store or fundraising.

As examples:

I helped a single mum with food and other assistance.

I was involved helping another mum with two girls who transitioned from a life of addiction and prostitution to becoming a drug free, sober Mum who found employment. That same Mum was supported through grief of her own father dying.

I arranged accommodation for a number of people.

The examples go on.

These kinds of support are only possible because of the resources we have — and that includes the money our store earns and generous donations we receive from the public.

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

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

Kind regards

Allan Clark
Lt Colonel
Head of International Finance Support Section, International Headquarters

31 March 2025

David Carrigan
Deputy Commissioner, Policy
Inland Revenue
C/- policy.webmaster@ird.govt.nz

Feedback on the taxation and the not-for-profit sector officials' issues paper

Dear Mr Carrigan,

Thank you for providing the opportunity to provide feedback on the proposals for changes to the taxation of not-for-profit and charitable entities.

Taranaki Motor Cycle Cub Incorporated has been a cornerstone of our local community for 76 years, delivering not only racing but also social and community development. Our mission extends beyond the motorcross track. We enrich lives, promote well-being, and drive positive societal change.

While the "Q and As" published by IRD mention that it is not expected that bodies promoting amateur games and sport will be affected by the proposals we would still like to take the opportunity to make a submission that this income tax exemption should remain as is.

The Economic and Social Value of Grassroots Motor Cycle Clubs

Motorcross 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 60 grassroots motorcycle clubs in New Zealand, we play a crucial role in fostering community engagement, social connection, and personal development.

Our club, like many others across the country, provides a space where individuals of all ages and backgrounds can come together, engage in physical activity, contribute to their local community and form lifelong friendships and support networks.

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 rider 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 motorcross, 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. Taranaki Motor Cycle Club remains committed to enriching our community, and we urge the Government to consider the profound implications that changes to tax exemptions would have on grassroots organisations like ours.

Yours sincerely,

Sonia Cloke
Taranaki Motorcycle Club Secretary
Ph s 9(2)(a)
admin@tmcc.co.nz

Ryan Donovan

From:	Sheryn Elborn s 9(2)(a)
Sent:	Monday, 31 March 2025 7:09 pm
To:	Policy Webmaster
Subject:	Submission

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

I am writing as a trustee of a small charitable organisation who has a small organisation that uses all its income from fund raising to suport the communities we were established to help. Tax exempt activities should include all activities that directly relate to charitable purposes. I don't think there should be a threshold. Directly related activities would include fundraisers that do not compete with businesses such as dinner events, selling on of second hand goods, movie fund-raisers etc.

Where there might be a problem is if a business operates and states it is a charity. Yes they may spend some money on charitable purposes, however their main focus is business. That is the area that IRD needs to focus on. Also organisations that are established as a charity, however no longer fulfil their charitable mandate.

We make $300 here, $1,000 there, it would be so very time consuming to determine the tax for those small amounts. How would you audit the amount we received from these minute incoming earning activites. It would cost you More to audit than the tax you received.

Thanks for the opportunity to have a say.

Sheryn Elborn
s 9(2)(a)

w: www.repairnetworkaoteraoa.org.nz
e: nzrepaircafeinfo@gmail.com
31st March 2025

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

RE: Submission on the Taxation and the not-for-profit sector Issues Paper

Kia ora,

Repair Network Aotearoa Trust (RNA) would like to participate in the submission process to the Taxation and the not-for-profit sector Issues Paper, invited by the New Zealand Government between 24th of February 2025 and 31st of March 2025.

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

Repair Network Aotearoa NZ is a young Charitable Trust (less than one year old), whose goal is to foster a culture of repair in NZ through education, policy advocacy, and the creation of a sustainable repair ecosystem including support for repair businesses and community projects. Our Trust is underpinned by the principles of Te Tiriti o Waitangi.

The environmental and social benefits of our activities will (and already are) assist in minimising waste in landfills as well as supporting jobs in repair and increasing social cohesion. At a time when government has cut funding to local Councils for waste management, as a Charity, our work has never been more vital.

Our initiatives are already having a noticeable impact, reliant on the dedication of volunteers and unpaid contributions. We are not yet financially viable enough to support the operational side to the Trust and must find ways to build financial resilience through commercialising the activities under our Trust rather than relying on donations, and Government or Council grants, which are in decline. To ensure long-term sustainability and support Trust operations, we must develop commercial activities. These revenue-generating activities would enable the Trust to employ a staff team (all of whom would pay income tax) to manage the operations. However, taxation of these commercial entities would reduce the resources available for our charitable work.

Our hope is to grow to maximise our social usefulness, and in order to be financially viable, we need to be innovative in our approach and “think outside the box”. Some of those solutions may not seem to be obviously related to our purpose but nevertheless do support it. The lack of clarity around what constitutes “unrelated income” is problematic. For example, part of RNA’s work is to facilitate and support the establishment of community repair cafés around New Zealand (via Repair Café Aotearoa NZ). If income was generated via selling food and beverages at Repair Cafés, would this be regarded unrelated income?

From our perspective, the prospect of being taxed as a small charity on any income we generate could impact upon our ability to survive. As the Issues Paper mentions, the costs associated with this would compound the financial burden. We would not be alone in this predicament.

By extension there would be a reduction in the numbers of charities operating in NZ, who either do not survive or who are disincentivised from entering the sector at all. The wider consequence for New Zealanders cannot be understated.

Do the factors described in 2.13 and 2.14 warrant taxing charity business income?

No evidence or examples have been provided that non-taxation of CTEs results in unfair competition and undercutting of commercial businesses, therefore it is not possible to comment. If there is an impact, in what areas, and at what scale? Is it an issue for entities of all sizes across the board, or is it just a few Charities earning higher profit margins? The answers to these questions may provide more reliable guidance as to whether perceived unfair advantage from a few Charities warrants undermining the entire sector.

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

Tiers 3 and 4 should be exempt.

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. In some cases, though, accumulated income may not be distributed for good reasons. This should be taken into account.

Thank you for the opportunity to express our concerns regarding the Taxation and the not-for-profit sector Issues Paper. We respect the process of public submissions and look forward to a clear and transparent sharing of the outcomes of Select Committee processes and recommendations.

Nāku iti nei | Yours sincerely,
Brigitte Sistig,
Chair & Founder, on behalf of
Repair Network Aotearoa Trust

SUBMISSION REGARDING
TAXATION AND THE NOT-FOR-PROFIT SECTOR

Date	28 March 2025
Author	Dr Roshan Allpress, on behalf of Laidlaw College Incorporated.

Summary of position

- We are opposed to the imposition of taxation obligations on business activities by charities.
- Charities operate on a longer time horizon than individual tax years, and must be free to steward their resources to provide longer-term public goods as well as immediate benefits.
- Charitable businesses frequently interoperate with other aspects of charities' missional work, creating externalities, and providing additional ways for charities to benefit from their communities' support.
- Were charitable business profits to be taxed, there must be a broad exemption for profits passed from business units to controlling charitable entities that also allows reinvestment.

Submission

Laidlaw College is Aotearoa New Zealand's largest Christian higher education provider. As a charitable entity, we train teachers, counsellors, pastors, youth workers, and many others for the social services and non-profit sectors, and provide substantial additional public benefit through our programmes and activities.

We are more than a century old, and our work is supported by the accumulated funds that have been stewarded at the College over that time, and through supporting business activities. Our endowment and supporting businesses are comparatively small to other similar entities in New Zealand, but they support our resilience and agility. To give just one recent example of how, as a charitable provider, we have been able to respond to public need using these funding sources – we have been running a campaign, to help address the teacher supply crisis, by funding trainee teachers, many of whom would otherwise not have considered entering the profession. This would not have been possible without a targeted decision to draw down multi-year retained funds, and ongoing support from business activities within our group. We are grateful that these were untaxed when they were earned, as without this accumulated endowment, we would not have been able to invest in this public good.

New Zealand society benefits from having a robust and well-resourced charitable sector, that is independent from both government and market, and which can respond to various social needs and provide different public goods. This is best served when charities are free to pursue strategies of public benefit on longer time horizons than individual tax years, and can both develop supporting for-profit activities and accumulate intergenerational endowments. The tax settings proposed risk stifling the long-term flourishing of the sector.

At the core of our position is the observation that the public benefit of charities is not reducible to the direct services that charities provide in any given tax year. In our sector, higher education, there are certainly public benefits from each year's programmes and graduates, but there are many externalities that occur when charities can deploy their resources without the erosion of taxation on profitable activities. Some of these are intangible benefits – such as the academic freedom and freedom of conscience benefits – that derive from having charitable colleges that are not entirely reliant on government policies or free-market donations at any given point in time. These are essential to a free and compassionate society, in that they can moderate swings in public or political opinion informed by more perennial values, and pursue longer term goods. Many of the creative benefits of charities arise through the way their supporting for-profit arms intermix business and charitable decision-making, generating beneficial externalities, while making it difficult in many cases to distinguish which business income is 'unrelated to charitable purposes'.

We have focused our submission on some of the questions raised in the discussion on charity business income tax exemption.

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

When stewarded creatively and with a long-term vision, charities can use supporting business activities to greatly enhance their missional effectiveness. Charities should therefore not be disincentivised to directly operate for-profit business arms, as this would both hinder the strength of the sector, and reduce its ability to pursue entrepreneurial solutions.

Much of what constitutes charitable business activity is closely related to the charitable activities of the entity – in many cases making efficient use of resources that charities require for their work, but cannot otherwise maximise. This includes both obvious examples such as leasing property when not in use, and also less obvious examples, such as the social capital of charities networks, which can be leveraged to support profitable business activities.

Tax policy is inevitably constrained by the imperatives of the annual cycle. Many charities effect their most substantive change over extended – even intergenerational – timeframes. A shift to tax retained earnings risks significantly constraining the ability of the New Zealand charitable sector to build up the kind of substantial endowments that exist in many older taxation jurisdictions (e.g. the United Kingdom), and which provide compounding public benefits over time.

Do the factors described in 2.13 and 2.14 warrant taxing charity business income?

The compliance gain to charitable trading entities of not having to meet tax obligations pales in comparison to the reporting and compliance costs of running a registered charity. Similarly, in practice, most charities face numerous additional disadvantages in the raising of capital in comparison to the commercial sector.

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

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?

Distinguishing 'passive' investments from business activities, and taxing the latter, ignores a major driver of trading activities for the benefits of charities in New Zealand – the ability to leverage the business skills of volunteers (or missionally motivated employees who work for the non-profit sector at lower than for-profit rates) to earn income for the charity. Charities frequently benefit from *pro bono* professional services, and from the donation of skilled time in governance boards and other key roles. To limit the benefit that charities can gain from business management skills in this way, in contrast to other donated or lower-cost professional services, seems arbitrary.

Charitable business income is also frequently indistinguishably intertwined with the charitable activities of the entity, in ways that would make it either challenging to define, or impose a significant compliance cost to assess tax obligations.

To use an example from our own activities, Laidlaw College operates an Early Childhood Education centre. This directly supports our core charitable activities by enhancing access to our educational programmes for students with childcare obligations, and by providing a best-practice context for some of our teacher education students to undertake ECE placements. As a charity, we are willing to accept a lower return on the capital invested in the centre than a commercial provider might, in order to maintain high quality and affordable provision for our community, though the business unit does both return an annual profit to the College and retain earnings from time to time, depending on reinvestment needs. Imposing a tax obligation on retained earnings from a business like this would either require overly broad definitions of what constitutes charitable or taxable activities, or would impose a significant compliance complexity to disentangle what proportion of the profitable activity is taxable.

The operational alternative, which would be for a charity to contract out services such as these to a commercial provider, and invest the capital more passively, reduces both the intangible gains to the charity from setting the tone of how the business is run, and as above, prevents the charity from leveraging the gifts of time and skill that a supportive community bring when they see the public benefit of such an operation.

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 tax exemption for charity business income were removed, the deduction scenario suggested in 2.34 whereby distributions could be paid to a parent charity, would allow charities to continue to accumulate funds derived from business activities. Given the complexities of interrelationship between charitable and business activity, as outlined above, there would need to be clear provision for when charities have missional reasons to reinvest this money in their supporting businesses, and a policy setting that allows for rationale that might exist on multi-year strategic timeframes. This would allow charities' governance to balance their endowment needs and their immediate operational needs.

31 March 2025

SUBMISSION TO CONSULTATION ON TAXATION AND THE NOT-FOR-PROFIT SECTOR

St. Matthew in the City is an Anglican Church in Auckland City. The church is part of the Anglican Diocese of Auckland, which is the umbrella organisation for all Anglican churches in the Auckland and Northland districts. The Diocese Is registered with the Charities Commission. As such, we operate under the statutes (rules) of the Anglican Church, which governs all aspects of our operations.

In addition to regular church and other liturgical services, St. Matthew in the City also host a large number of weddings, funerals, events and concerts every year.
In 2024 there were some 115 such “other” activities. These activities are a vital part of our hospitality to the community, and many thousands of people pass through our doors every year. We also host a large number of tourists and visitors from around the world. Our strong ethos is that of hospitality to all; welcoming everybody. No none is excluded from entering our doors. None of these activities have a commercial motive.

St Matthew in the City has a very long and demonstrable history of publicly highlighting social justice issues in our community, nationally and internationally.

St Matthew in the City is listed with Heritage New Zealand a Category 1 Historic Place. It is one of very few examples of Oamaru stone constructed, neo gothic architecture in New Zealand. While this setting provides a beautiful and much-admired building, offering a wonderful setting for the actives described above, it also carries a huge responsibility, and real costs of maintenance and capital works to preserve and maintain the edifice for future generations.
We do not receive any financial assistance from central or local government towards the upkeep of the building.

Our principal source of income by far (65%), is a multi-level carpark building on the neighbouring site, which is leased to a commercial parking operator. Without this income, and that from the events and weddings described above, the church simply would not exist. Our parishioners contribute a very small (single figure) percentage of our income.

It is this carpark and event income in particular, that we are concerned, could be the captured by any regime which sought to tax the “business activities” of charitable organisations.

For St. Matthew in the City, given the high proportion of these income sources to our total operations, the imposition of Income tax on these income sources, would have a very materially negative impact on our operation. Our church and community operations would have to be curtailed very significantly, as would the care of the church building. This would also create an administrative burden beyond that which we currently deal with. We are registered for GST, and in this way, we contribute to taxation on our relevant operations.

All of our income, from all sources, is received directly into the church bank accounts, and is used entirely for the day-to-day operation of the church, charitable donations made to other organisations, and for building and other maintenance.

For these reasons, we submit that the nexus between income and charitable purposes should remain as per the status quo; ie. that the defining factor in charitable activities is not the source of the funds, but the uses to which such funds are ultimately directed.

We hope, when considering this issue, that strong weight is given to the diverse nature of churches and of charities in general, and to the understanding that the receipt of “commercial” income in itself, is not necessarily an indicator that the organisation is operating as a commercial entity.

Yours faithfully

s 9(2)(a)

Ian Pallas
Business Manager

s 9(2)(a)

Companion Animals NZ

Submission to:
Deputy Commissioner, Policy
Inland Revenue Department

On: Taxation and the not-for-profit sector

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

31 March 2025

Our organisation has read, and fully supports, the submission contributed by Sue Barker, Charities Law.

Companion Animals New Zealand is concerned at some of the issues raised in the discussion document.

Specifically – to comment on a few of the suggestions:

1. The suggestion that giving tax "concessions" to charitable organisations is reducing the amount of funding available for public services.

   We submit that the tax "concessions" given actually replace the amount of funding the government would need to give for the services the charitable sector provide.

2. The discussion paper suggests that retained earnings in not for profit or charitable organisations should be taxed because those funds are not being distributed for the charitable purposes that the organisation is set up to provide.

   There are often valid reasons why a charity needs to keep funds to enable it to maximise its future profits. Such things as: capital replacements, IT development, purchase of land and buildings etc.

   We suggest that the compliance cost for IRD in determining which retained earnings in which charities should be taxed would far outweigh the possible value of the tax collected.

3. The discussion paper suggests that profits earned from business activities unrelated to charitable purposes should be taxed.

   We submit that it would be difficult to determine – in a lot of cases – whether the business was related or unrelated so would result in substantial legal costs for charities – and for IRD – in the determination. There would also be substantial compliance costs for charities in ensuring that all the costs and revenues were correctly apportioned between the different business income streams.

   To reply to some of the specific questions asked:

   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?

PO Box 27273, Marion Square
Wellington, 6141, New Zealand
www.companionanimals.nz

- It will increase compliance costs to the charity
- It will generate less profit to be distributed for the charitable purposes and will therefore result in higher government grants needed for that sector – negating the benefit to Central Government of the increased tax take

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 discussed above – difficult to ascertain which income is unrelated to the charitable purposes resulting in increased compliance costs and possible legal challenges and also substantial compliance costs for charities in ensuring that all the costs and revenues are correctly apportioned between the different business income streams

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?

- It needs to be absolutely clear that it is unrelated.
- How would passive income be defined?

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

- We suggest that a suitable threshold may be by size – perhaps the Tier 3 and Tier 4 organisations be exempt.

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

- Increased compliance costs for both government and charities reducing the funds available for charitable purposes
- Many – if not all – charities rely on volunteer assistance. If tax exemption was removed for unrelated business income then charities would need to quantify and put a value on the volunteer input which would create major difficulties for both the charity and the IRD in the valuation resulting in increased compliance costs and legal challenges

We agree with all the points made in the aforementioned paper submitted by Sue Barker, Charities Law

Sincerely

s 9(2)(a)

Sue Brown, Treasurer
Companion Animals New Zealand
Charitable Trust Registration Number: CC27849

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IRD consultation on taxation for not-for-profits

Introduction

Inland Revenue has released an issues paper on the taxation of charities and not-for-profits, and it is now open for public submissions. The consultation document considers whether certain tax concessions available to the sector continue to be effective. It also explores whether tax obligations can be simplified, and compliance costs minimised. The Government will consider feedback and decide whether any changes should be made to current rules.

Summary

The Sister of Compassion appreciates the opportunity to submit this important consultation. We recommend that any reforms must preserve the independence, agility and financial sustainability of charities and should always focus on maximizing the impact of the sector. Our submission is structured around the following 15 key questions.

Key questions

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

The Sisters of Compassion Group operate businesses to generate income for charitable purposes and our mission priorities include offering food, housing, spiritual nourishment, hope and support to those in need in our communities.

The current Charities legislation requires surpluses generated to be applied to charitable activities now or in the future. Taxation of charity business income will reduce their ability to carry out the future programme of work of charities and significantly reduce potential impact across our communities.

As part of our mission, we provide social housing, ensuring that those who are financially vulnerable can live their lives with dignity with the security of a warm, dry, safe, and well-appointed home.

As a consequence of taxing our business income, we may have to increase current rental charges to our social housing tenants to cover additional income tax liabilities.

The proposal compares charities to other trading entities that do not face the same restrictions and rules that charities do. Irrespective of where charities derive income, they are bound by more restrictive legal constraints that do not apply to example private companies.

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 a charity business income is taxed, it will mean the charity will have even less cash available to use to deliver is a charitable purpose and missions in future.

There is a possibility that subsidiary charitable businesses may be pressured to distribute all surpluses (profits) to their parent charity and in doing so weaken the financial sustainability of the business. In comparison, tax paying businesses are not required to distribute all profits to shareholders, this should be kept in mind when looking at charity business income.

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

The term “unrelated” business must be clearly defined. Our view is that investments should not be defined as unrelated business income. Investments would include investments in term deposits, bonds, equities and property. These investments are held so the charity can deliver its future mission and in order to mitigate risk, the diversification of investments is prudent management of funds held for future 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 provide an exemption for small scale business activities?

88% of NZ charities are Tier 3 and Tier 4 charities. That means charities with expenses under $5m. As a minimum, Tier 3 and Tier 4 charities that have unrelated business income should be exempted from any income tax regime.

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

The Sister of Compassion do not support the taxation of charity business income.

However, if charitable business income is to be taxed, then any funds distributed for charitable purposes should definitely be tax exempt.

If tax exemption is removed, then this would impact on charitable giving from non-charity businesses as well reducing the amount they give.

If income tax exemptions are removed, charities should be able to account for the true costs of volunteer or semi-pro bono labour when calculating their business surplus. In many cases, when the true costs are included in the annual accounts there will be little or no surplus or even a deficit.

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

The proposal will increase compliance cost for charities, reducing funds available for charitable purposes that will reduce our impact across our communities.

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

The discussion paper suggests donor-controlled charities can give rise to tax avoidance issues for the IRD. We are not clear or aware of the size of this problem. However, we would support further protections/rules being put in place to ensure donor-controlled charities and associated transactions are at arms-length.

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 are not clear or aware of the size of this problem. We would support some protections/rules being put in place to address the risk.

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?

There is potential for a minimum annual distribution to be severely problematic and not support the strategic goals the charitable purpose and the mission.

In certain circumstances a charity may plan to accumulate surpluses to fund for example a critical future infrastructure project to allow it to continue to operate.

Reserves are also necessary to meet unexpected needs or deal with economic recessions and uncertain times. COVID 19 being a good example when charities needed critical working capital funds to support their operations during the economy closedown in 2020.

Q10. What policy changes, if any, should be considered to reduce the impact of the Commissioner's updated view on NFP's, particularly smaller NFP's? 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.**

Compliance costs need to be considered for small NFPs.

The $1000 deduction seems very low. As such if this is designed to remove small scale NFPs from the tax system it will likely require increasing.

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

A sensible threshold should be in place with consideration of compliance costs.

Q12. What are the likely implications if the following exemptions are removed or significantly reduced:

• local and regional promotional body income tax exemption,

• herd improvement bodies income tax exemption,

• veterinary service body income tax exemption,

• bodies promoting scientific or industrial research income tax exemption, and

• non-resident charity tax exemption?

We have no view on the implications.

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?

We support the simplification of the fringe benefit tax (FBT) framework. However, any changes must be carefully assessed to avoid unintended impacts on Charities that provide modest benefits to staff or volunteers in recognition of their service. Independent remuneration surveys show that remuneration in the NFP sector is on average 15-20% below remuneration paid for similar roles in the general employment market.

Removing exemptions could reduce the ability of professional bodies to attract and retain skilled staff, particularly where salary budgets are limited, and may increase the burden on volunteer-driven organisations and would mean less funds are available for its charitable mission.

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 cost for volunteers.

Honoria payments should not require volunteers to pay ACC levies. Therefore, the FENZ approach is sensible. We suggest Honoria being tax free income up to $5,000 per annum.

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 concessions?

In principle, we support the policy-related recommendations for Donation Tax Concessions as detailed in para 4.36.

It is surprising that only one in five people that make donations claim the DTC for all their donations and only 57% of taxpayers are aware of the tax rebates available on donations.

We believe the charity sector needs to better inform its donors that they can apply for tax rebates and the timelines.

s 9(2)(a)

From: Ele Ludemann s 9(2)(a)
Sent: Monday, 31 March 2025 7:36 pm
To: Policy Webmaster
Subject: Submission on changes for charities

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

I am a member of a service club and church, an active supporter of a charity that raises funds for cancer research, and a donor to several other charities.

These organisations do a lot of good using funds raised to help individuals, groups and initiatives that improve lives and community wellbeing.

This is a personal submission.

1. All voluntary organisations are facing problems recruiting and retaining members in general and officeholders in particular. They are facing more demands for their services and support and less money with which to help.

Charities already have time consuming reporting, financial and government requirements. Subjecting them to tax requirements would add to that burden.

2. Every dollar a charity might have to pay in tax would be a dollar less to provide public benefits. Given the costs of collecting tax, less than each of those dollars would be available for the public good.

3. Even in good times, fundraising for charities is difficult, especially when the work is being carried out by unpaid volunteers. It is harder still now when the economy is only just crawling out of recession.

Taking a portion of funds raised for specific charitable purposes for tax would be disheartening for the people who work so hard to raise the money, most of whom in most charities are unpaid volunteers.

Yours sincerely
Elspeth Ludemann
s 9(2)(a)
[redacted]

Submission – Taxation and the not for profit sector

Sally Paterson, s 9(2)(a)

15 years in non-profit sector experience and Grad Cert from Australian School of Philanthropy and Nonprofit.

Questions 1-9 answered

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?

Response:

The most compelling reasons not to tax charity business income—particularly income that ultimately funds charitable purposes—stem from the public benefit provided by charities and the risk of undermining that benefit if taxation erodes their resources. New Zealand's current destination-based exemption rightly acknowledges that it is the *use* of income, not merely its source, that defines a charity's value to society.

The other compelling factor is the questions do not take an enabling view of the charity sector, rather it comes from a business and tax perspective. The charity sector continues to be tasked to solve the most complex issues of our time and there is a very limited pool of donors in this country. Charities should be aiming to have sustainable income that is not dependent on the vagaries of donor giving. At a minimum these questions should be asked alongside social enterprise legislation.

In Australia charities are permitted to engage in unrelated business activities without jeopardising their tax-exempt status. It's my view this is the donor landscape New Zealand is closest too and we operate very differently from the US where there is a fundamentally different attitude to giving and much greater pool of wealth).

The factors described in 2.13 and 2.14 do not, on balance, justify taxation of charity business income:

- **Compliance cost savings** from the exemption are particularly vital for smaller and volunteer-run charities. These savings allow more funds to go directly to mission-driven work.
- **Capital accumulation advantages** cited in 2.14 are overstated. While charities can reinvest profits, they generally lack access to equity markets and face donor and regulatory constraints that limit commercial expansion.
- **Competitive neutrality concerns** are often hypothetical or overstated, particularly since passive investments, which remain untaxed, offer the same income retention benefits without community service provision.

International comparisons miss New Zealand's strong regulatory framework and public reporting requirements, which already provide transparency and accountability.

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?

Response:

Removing the exemption for unrelated business income would have serious implications:

- **Reduced charitable funding**: Business income often subsidises charitable programs, especially in sectors with few other revenue streams (e.g. housing, healthcare, social enterprise).
- **Distorted investment incentives**: Charities may pivot to passive investments which, while untaxed, generate fewer community benefits.
- **Increased compliance burden**: Distinguishing between related and unrelated activities is complex, especially for small or volunteer-led organisations.
- **Legal uncertainty**: Even with detailed guidance, drawing the line between related and unrelated purposes will invite disputes and potential litigation, further draining charitable resources.

The cumulative effect may be a chilling impact on innovative, self-funding charitable models that are currently encouraged by the existing tax settings.

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?

Response:

If a distinction must be drawn, the following principles should apply:

- A business is *related* if it is a means of achieving, enabling, or funding a charitable purpose.
- Activities should be considered *related* if they are integral to service delivery, employment of beneficiaries, or mission-aligned fundraising.
- Consistency with the charity's stated purpose in its Charities Act registration should carry weight.
- Where profits are immediately and fully applied to charitable purposes, the activity should be considered aligned—even if not directly mission-driven.

Importantly, definitions must be guided by substance over form, with the presumption in favour of charitable status unless there is clear evidence to the contrary.

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?

Response:

A de minimis threshold is essential to avoid disproportionate compliance costs. We support aligning thresholds with New Zealand's existing reporting tiers:

- **Tier 3 and 4 charities** (annual expenses below $5 million) should be exempt from any new unrelated business income rules.

This approach preserves incentives for small-scale trading while limiting revenue loss from larger commercial operations.

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?

Response:

Yes, I strongly support continued exemption for income that is distributed for charitable purposes. This aligns with the destination-based principle and reflects international practice.

The most effective mechanism would be:

- **A deduction-based model**: Allow charitable businesses to deduct any distributions made to a registered charity within the tax year.
- **A carry-forward system**: Enable tax credits for future distributions where income is retained short-term for reasonable charitable planning (e.g. capital projects).
- **Anti-avoidance rules**: Address circular reinvestment only where there is no genuine charitable benefit.

This strikes a balance between accountability and flexibility, ensuring charitable outcomes remain the focus.

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?

Response:

Additional considerations include:

- **Reviewing the territorial restriction**: The current rule complicates operations for charities with legitimate international purposes. Any new framework should clarify or relax these provisions to ensure alignment with global charitable networks.
- **Hybrid structures**: Rules should fairly account for modern charity-business models, including limited partnerships and social enterprises, to prevent unintended taxation or legal uncertainty.
- **Impact on giving**: Public perception of how charities use and manage business income can influence donor behaviour. Any changes should be clearly communicated to avoid undermining trust in the sector.

Finally, a comprehensive transition period and guidance package will be critical to ensure smooth implementation and ongoing sector engagement.

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?

Response:

New Zealand should proceed cautiously before introducing a new legal distinction for donor-controlled charities. While integrity concerns warrant oversight, creating a separate tax class may undermine genuine philanthropic activity and deter long-term giving.

If a distinction is introduced, it should:

- **Be narrow and targeted**, applying only where donors or their associates exert significant financial and governance control without any independent trustees.
- **Exclude active operating charities** that deliver services directly, regardless of donor involvement.

The focus should be on *identifying potential abuse*, not penalising legitimate structures such as family foundations or Māori trusts that operate transparently and for public good.

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?

Response:

Yes — **carefully targeted investment restrictions** can reduce abuse risks, but must not compromise legitimate investment strategies or charitable autonomy.

We support introducing:

- **Arm's length rules** for transactions with donors or associates, including requirements for market-rate terms and full disclosure.
- **Anti-avoidance provisions** specifically targeting:
    - Circular transactions (e.g. where funds are recycled back into donor-controlled entities),
    - Overvalued purchases or services from donors or associates.

However, blanket restrictions on classes of investments would be **overly blunt** and could unintentionally constrain prudent management or impact Māori and Pasifika entities that operate within kin-based governance structures.

Transparency and good governance — not rigid restrictions — are the most effective safeguards.

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?

Response:

A **minimum distribution rule** could help ensure public benefit, but any such requirement must balance integrity with operational flexibility.

If introduced, the distribution rate should be:

- **Low and achievable** — 3.5% to 5% of non-charitable-use assets aligns with international norms.
- **Capped at a floor value** (e.g. $5,000–$10,000), so that small or newly endowed foundations are not penalised.
- Subject to **exceptions**, such as:
    - Accumulation for major projects (e.g. capital works, long-term scholarships),
    - Financial hardship or volatile market years,
    - Cultural or faith-based traditions that emphasise long-term stewardship.

Incorporating a **carry-forward mechanism** for excess distributions (as used in the US) would allow flexibility without undermining public benefit objectives.

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

31 March 2025

Tēnā koe Deputy Commissioner

INLAND REVENUE CONSULTATION ON TAXATION AND THE NOT-FOR-PROFIT SECTOR

Ngāti Whakaue Education Endowment Trust Board (NWEET) is writing to submit on the recent Officials' Issues Paper; taxation and the not-for-profit sector (the "Issues Paper"). This is an issue of direct relevance to NWEET as a charitable iwi trust operating in New Zealand. It is in this context that our submission is made.
This submission provides background to NWEET to assist in your understanding of our position, responses to questions raised in the Issues Paper, and specific examples on the practical impacts for NWEET if charitable reform was made.

Background

Historical Context
The Ngāti Whakaue Education Endowment was established in 1880 by the iwi of Ngāti Whakaue through the setting aside of land for the purposes of secondary school education in Rotorua. In the early 1900's, as the township developed, the government handed the management of these lands and the funds generated from leases, to the local High school boards.
In October 1995, the Board was created by the Reserves and Other Lands Disposal Act 1995, and through a Crown/Iwi settlement process, NWEET requested the land be handed back to the Endowment Board. The composition of the Board and purpose of the Endowment were amended to give Ngāti Whakaue control and to apply its funds for the 'general purposes of education.'
Negotiations over many years with Government officials has resulted in an agreement reached for amending legislation and this is now awaiting Parliamentary approval which is delayed given the overloaded Government legislative agenda.

Establishment and Purpose of Ngāti Whakaue Education Endowment Trust Board
Our mission is "to enhance the legacy of Ngāti Whakaue Tupuna by the responsible and effective management of the Endowment and the provision of financial support to the beneficiaries of the Trust for Education purposes, that add value and benefit to our community."
NWEET's primary function is to control funds and land assets to ensure the long-term prosperity of our iwi through applying funds toward the iwi's development and education.
NWEET acknowledges that while the charitable trust status we hold brings tax benefits, we assume the corresponding obligation to carry out our charitable activities in a transparent way. The overarching aim of our charitable activities is to generate support, educational development and positive outcomes for our iwi and our communities that complements Government responsibilities.

Organisational Structure and Subsidiaries
As mentioned, the Board was created by the Reserves and Land Disposals Act 1995. Six board members are appointed by the trustees of Pukeroa Oruawhata Trust. These appointments are reviewed three-yearly in accordance with the Act. The remaining five board members are appointed by the five Rotorua high schools.
NWEET has one subsidiary company, 100% owned and operated by the Endowment.
NWEET manages 94 perpetually renewable ground leases with the majority having 21 year rent reviews. The Board has accumulated reserves for investment to offset the 21 year rent review period which

essentially fixes rental for long periods of time. The Board has a finely tuned financial model to balance growth in income and grant demands over time.

Response to Questions in the Issues Paper

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?

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?

NWEET submits that Officials should not proceed with any of the changes set out in the consultation document regarding the taxation rules applying to those business activities carried on by iwi / Māori charities. There are several strong reasons to not tax charitable business income relating to iwi / Māori charities. These are set out below:

1. ***Decrease the funds available for reinvestment and impact the ability to support those vulnerable.***

We have set out above our purpose of providing education and support to our iwi and communities. This is entirely funded from charitable rental income and hence any tax imposed as set out would significantly reduce the funds available to deliver on this purpose.
Increased taxation on operating profits would also directly reduce the funds that NWEET has available for reinvestment. This is an important part of NWEET's operations as it allows us to develop our Endowment and increase our portfolio, allowing us to meet intergenerational needs.
A reduction in these funds means that NWEET will need to ensure that it does not overdistribute charitable income and restrict our ability to provide and support future generations of our iwi on a continual basis.
With higher tax liabilities, the total funds we have and therefore the funds we have available to apply to our charitable purposes would decrease. This reduction would directly affect our ability to fund necessary educational based investments and programs many of which are based on high needs sectors of our community.
If the Tax benefit is removed NWEET may not qualify for the Māori authority tax rate of 17.5% and may suffer the added burden of a 39% Trustee Tax rate which would be an unintended consequence of the Government intention and be disastrous for Ngāti Whakaue Iwi.

2. ***Restrict economic growth and education within the Rotorua region***

Economic activity for NWEET is based in Rotorua. The business activity of holding ownership and investing in commercial land and other commercial opportunities would be significantly impacted by a tax on charitable business income. NWEET's investment in this sector has been pivotal in creating jobs for our iwi members and regional communities in Rotorua.
NWEET's land-based investments are integral to our economic strategy, providing employment and educational opportunities, for example, through student accommodation. Increased taxation could limit our ability to manage and expand these investments effectively, affecting both economic returns and our ability to support the advancement of education for our iwi and communities. This goes against the intended economic growth agenda of the Government and will impact our ability to contribute to improved educational outcomes which in turn will impact on other community outcomes.

3. ***Impact on our equity***

The introduction of a tax on charitable business income could have a negative effect on our equity position. It would add constraints to our access to borrowings and increase compliance costs. This would affect our ability to manage funds, grow the investment in our regional economy and ability to apply our funds for charitable purposes.

4. ***Impact on Treaty of Waitangi Settlement***

A change in the tax treatment of charitable business income would impact on the settlement itself. The origins of NWEET have its whakapapa in the WAI 93 Waitangi Tribunal claim. To the extent that the ability to deliver on the kaupapa of NWEET is impacted through changes, the trustees would be compelled to consider whether this impacts the validity of the settlement of the WAI 93 claim and goes to the heart of the 1880 negotiations with the Crown and whether there are further breaches of the original good faith agreement.

5. Impact on entities with mixed income

The Issues Paper discusses creating distinctions between related business income and business income unrelated to charitable purpose. This change would create added complexity and uncertainty for Māori entities such as NWEET, where multiple streams of income are collected some of which are passive and some of which are active in nature. We submit that taxing charity business income will create a significant additional compliance burden diverting further resources away from the charitable purposes.

In response to 2.13 and 2.14 set out in the Issues Paper, we respond as follows:

- We submit that charitable trading entities have no competitive advantage relative to non-charitable trading entities. Both types of businesses face similar tax compliance costs in terms of indirect and employer taxes and whilst charitable entities might not face the same income tax compliance costs, they face a legal obligation to ensure they are acting in line with the Charities Act. Introducing an income tax obligation for charitable entities would, in our opinion, make the total compliance cost for charitable entities greater than that of non-charitable entities.

- We do not agree that the non-refundability of losses for taxable businesses creates any disadvantage for non-charitable entities compared to tax exempt charitable entities. If anything, charitable entities face a higher burden in the case of losses as they are still required to distribute funds to support those in need. Additionally, a business loss has the same economic impact in dollar terms in both cases.

- Charitable trading entities looking to borrow funds are at a disadvantage as they are only able to rely on their retained earnings as a source of security. A tax on charitable business income would result in little to no capacity to borrow going forward for these entities.

- NWEET must balance accumulation and distribution of business profits today and in the future, to ensure an intergenerational view is adopted. Decisions to accumulate are out of the necessity to balance the needs and charitable purposes of NWEET on an intergenerational basis and not through a simple desire to retain funds.

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

The criteria for an unrelated business activity should be that:

- The nature of the activities carried on is in the nature of the business;
- The business activity does not include carrying out a charitable purpose;
- It only applies to active business income and does not include passive income, e.g. interest, dividends, rents, royalties etc.

We would like to emphasise on this point that for Māori iwi businesses, in most cases, very little happens from a commercial perspective without having a wider charitable purpose linked to kaupapa. Hence, merely distinguishing between business activities that are related and unrelated has a high degree of complexity for these entities.
For example, NWEET holds ownership over some sections of land that are used as student accommodation facilities for educational purposes. Needing to classify activities between related and unrelated business activities will add significant compliance costs.

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

We put forward that a revenue threshold of $1,000,000 net of costs would be appropriate for smaller scale businesses.

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 again emphasise that we disagree with the removal of the tax exemption for charity business income. However, if this is the outcome of the consultation, charity business income distributed for charitable purposes should remain tax exempt.

Further consultation should occur on the process adopted to exempt income distributed for charitable purposes. Given the obligation of iwi to support generations to come, it would make sense for them to have the ability to retain profits within a safe harbour limit without any tax impositions.

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

We emphasise again that we do not agree with the removal of the exemption as the Issues Paper discusses. As mentioned, for Māori iwi businesses, in most cases, very little happens from a commercial perspective without having a wider charitable purpose linked to kaupapa. This is unique to an iwi Māori context.
Removing the exemption for charity business income would be a significant change to the charitable sector and sufficient consideration should be had to the consequences to charitable entities and the tax system as a whole. Due to the short turn around period this submission required, we put forward the following points:

- The ability to restructure out of the Charities Act – with an added income tax compliance cost, a transition option should be provided to support entities in restricting out of the Charities Act. This will allow them to avoid the significantly increased compliance cost placed on them.

- Grandfather existing charitable reserves – currently existing reserves and profits of charitable entities should keep their tax-free status.

Integrity and simplification

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

The removal of the FBT exemption will increase compliance costs for charitable entities, resulting in increased operating costs and less funds for delivering on charitable purposes.

Conclusion
The proposed changes set out in the Issues Paper poses significant risk for Ngāti Whakaue Education Endowment Trust operations and ability to support and uplift the education and general well-being of our iwi. We urge the Inland Revenue to consider the potential impacts we have discussed in this submission to preserve the Māori charitable sector in Aotearoa and ensure we can continue to provide for generations to come.

Ngā mihi nui,

s 9(2)(a)

Malcolm Short
Chair

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s 9(2)(a)

From: Michael Gilchrist s 9(2)(a)
Sent: Monday, 31 March 2025 7:52 pm
To: Policy Webmaster
Cc: Michael Gilchrist
Subject: Taxation and the not-for-profit sector

Kia ora
E tū represents members employed in a number of not-for-profit organisations across a range of industries. This includes rest home and home care providers and others in health.

However, this submission is prompted by the concerns of delegates (i.e. members representing fellow members) in the Arts sector, including in workplaces such as the NZ Symphony Orchestra (NZSO),the Royal New Zealand Ballet (RNZB) and Orchestra Wellington. As the organiser in these areas only I cannot comment any more broadly than in the Arts Sector. This submission is however severely attenuated due to a lack of time and the late stage at which this issue was brought to our attention.

The NZSO is a crown owned company but has a supporting foundation which is a charitable trust.

The RNZB is itself a charitable trust and also has a supporting foundation which is a charitable trust.

Orchestra Wellington is an Incorporated Society and has a supporting foundation which is a charitable trust.

I am not sure how far these foundations can be said to have business income – however, we want to state clearly that we believe the existing tax rules for business income by not-for-profits are fair and reasonable in the case of these organisations.

If the target is organisations in which there is unjustified enrichment and market domination by the use of the existing tax rules then they need to be tweaked very carefully to avoid collateral damage in the fragile arts sector.

The key points we wish to make in these submissions are:

1. The charitable purposes of arts organisations need to be interpreted very broadly.
2. There is no evidence of unjustified enrichment through tax avoidance in the use of not for profit tax rules in the arts sector. On the contrary, practitioners, administrators and active supporters on boards and in foundations make significant sacrifices to maintain their contribution.
3. These organisations face plenty of international and domestic competition and, far from having an unfair advantage, contribute much more to the development of audiences than they receive in return.

The contribution to the wellbeing of our society by these organisations is immense. It involves a lot of direct education, teaching, encouragement and role modelling that develops individuals and communities.
They also contribute to what is sometimes called ‘Aotearoatanga’ – our national culture and social cohesion,

which has an ever more important role to play in our future, in times of increasing social division and fragmentation. So for example, commissioning works from local coreographers is just as much a charitable purpose as a visit by dancers to a school.

Practitioners – and, equally, administrators – make huge sacrifices to deliver their contribution. It is only in the last two years, for example, that dancers at RNZB are receiving the Living Wage after it was accepted that it was wrong that these performers who have already made a huge sacrifice in time and funding in order to become highly trained and disciplined professionals would otherwise be paid less than the cleaners employed by Wellington City Council to clean the theatre in which they had just performed.

It may be noted that in the 2023 Annual Report of the RNZB, Dame Keri Prendergast, chair of the board is remunerated to the tune of around $8,000 for a stint, as I recall, of some months filling in as Chief Executive.

Arguably, employees of charitable trust should be paid just like every other employee. The point here is to show just how far these organisations are from utilising their status for personal enrichment.

Fra from competing unfairly against other international or domestic entertainment businesses, organisations like RNZB educate and cultivate audiences, creating opportunities for others. Further, many countries (Australia, UK) require visiting acts to contribute to the local entertainment industry, in some form of reciprocity. We are lobbying, for example, to have the Government reinstate the requirement that was removed in 2011 for visiting musical acts to contract local support acts and, likewise, dance companies to make some equivalent provision for local dancers.

From this point of view, taxing business income for local arts organisations that are charitable trusts or are supported by charitable trusts would be a double whammy.

Thank you for the opportunity to make this submission. I am happy to engage further through the details below.

Ngā mihi
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From: Craig Kilmister s 9(2)(a)
Sent: Monday, 31 March 2025 7:55 pm
To: Policy Webmaster
Subject: Taxation and the not-for-profit sector

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

The New Zealand Vet Club Association Inc (NZVCA) submits its support for the submissions sent by all members of our Incorporated Society for the retention of the income tax-exempt status for veterinary service bodies operating under the not-for-profit model.

The NZVCA represents Vet Clubs from all over New Zealand including;

- Wellsford Vet Clinic
- Anexa Animal Health
- Vetora Bay of Plenty
- Vetora Waikato
- Eltham District Vet Services
- Hunterville Vet Club
- Taranaki Veterinary Centre
- Golden Bay Rural Service Centre
- Clutha Vets Animal Health Centre

Our members have for many years operated within rural communities of New Zealand to provide essential access to veterinary services, especially in remote areas.

We believe the removal of the tax-free exemption will directly impact the sustainability and access to veterinary services in rural communities and that it will significantly reduce reinvestment back into those local communities.

Thank you for considering this submission and those of all our members.

Thanks

Craig Kilmister CA, BCA, BBS
Director
s 9(2)(a)

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31 March 2025
Via email: policy.webmaster@ird.govt.nz

SUBMISSION TO INLAND REVENUE (TE TARI TAAKE) ON TAXATION AND THE NOT-FOR-PROFIT SECTOR

Thank you for the opportunity to present this submission on the proposed changes to the tax treatment of unrelated business income for registered charities.

The Queenstown Lakes District Council (QLDC) acknowledges the Inland Revenue Department's intention to explore ways to strengthen the integrity and fairness of the tax system. QLDC strongly opposes the removal of the tax exemption for unrelated business income earned by registered charities. This proposal risks undermining financial sustainability, with a potential to impact the diverse range of community services and increasing pressure on already stretched community funding. The ambiguity in defining "unrelated business" creates compliance risks, especially for volunteer-reliant organisations, while the fiscal return is uncertain and likely outweighed by social and administrative costs.

This submission outlines key points that are supported by QLDC and key points that QLDC would recommend for further consideration. The following recommendations are explained in more detail in the body of the submission:

- The current tax exemption for unrelated business income generated by registered charities should be retained.
- Non-regulatory options to strengthen oversight of charities should be considered, such as improved reporting requirements or targeted investigations into misconduct, rather than sector-wide tax changes.
- Direct engagement with the charitable sector to co-design sustainable funding approaches that reinforce, rather than undermine, innovation and community impact is recommended.

QLDC is available to be contacted by Inland Revenue to discuss the points raised in this submission.

Thank you again for the opportunity to comment.

Yours sincerely,

Kenneth Bailey
GM, Community Services
Queenstown lakes District Council

SUBMISSION TO INLAND REVENUE (TE TARI TAAKE) ON TAXATION AND THE NOT-FOR-PROFIT SECTOR

1.0 Context

1.1 Queenstown-Lakes District (QLD) is a district with an average daily population of 70,205 (visitors and residents) and a peak daily population of 99,220. By 2053 this is forecast to increase to 150,082 and 217,462 respectively[1].

1.2 The district has a rich network of charitable organisations that play an essential role in social cohesion, community resilience and wellbeing, and service delivery. There are more than 500 formally recognised not-for-profit organisations operating in the Queenstown Lakes District. These charities operate in areas such as housing, health, mental and physical wellbeing, education, community connection, arts and culture, and the environment. Many of these groups have adapted by establishing business arms or pursuing unrelated income-generating activities to secure their sustainability in a challenging funding environment.

1.3 QLDC also acknowledges the significant role that play, active recreation, and sport organisations play in community wellbeing and cohesion. Many of these organisations, including local sports hubs, regional trusts, and foundations, are registered charities that rely on a mix of funding sources including donations, grants, and business income from unrelated activities such as events, merchandise, or sponsorships.

1.4 These income-generating activities help keep community groups and sport accessible and affordable, particularly for children, youth, and underserved groups. Taxing unrelated business income risks placing these organisations under even greater financial pressure and may undermine their capacity to deliver inclusive and equitable access to communities. This would be a step backward in terms of promoting physical and mental wellbeing across the community.

2.0 The sustainability of the charitable sector must be supported

2.1 QLDC strongly supports the principle that charitable organisations should be encouraged to develop sustainable income streams, including through business activities, regardless of whether those activities are directly related to their charitable purpose.

2.2 Introducing a tax on unrelated business income would create a significant disincentive for innovation, enterprise, and financial self-sufficiency within the sector. It risks undermining the ability of charities to be financially resilient, particularly smaller organisations that are already operating on limited resources. These charities often seek unrelated income to reduce reliance on grants and donations, ultimately reinvesting all surplus funds back into initiatives that benefit communities.

2.3 The current approach recognises that all income earned by charities is ultimately used for charitable purposes, subject to regulatory safeguards. Registered charities undergo a rigorous application process and are required to submit transparent annual reporting. These mechanisms already ensure public trust and accountability.

3.0 The proposal introduces risks due to definitional ambiguity and compliance burden

3.1 QLDC is concerned that the proposal introduces uncertainty regarding what may be deemed "unrelated" income, and how such definitions will be applied. This ambiguity risks placing a disproportionate compliance burden on charities and may deter them from pursuing legitimate and socially beneficial business ventures.

[1] https://www.qldc.govt.nz/community/population-and-demand

3.2 There is a particular risk for charities engaged in commercial activity that is closely integrated with their broader mission, such as hiring out facilities, selling merchandise, or offering fee-based services. These activities often exist within a grey area where the boundary between “related” and “unrelated” is difficult to determine in practice. Greater clarity and legal certainty are essential if compliance costs and unintentional breaches are to be avoided.

3.3 There is also concern that the introduction of this tax could establish a basis for broader taxation of related income or passive income streams in the future, eroding the foundational principle that income applied to charitable purposes should be exempt from tax.

4.0 Financial and social consequences of taxing reinvested business income

4.1 Any short-term fiscal gains to the Crown are likely to be outweighed by long-term costs if charities reduce services or close operations, shifting pressure onto central and local government. Charities often deliver services more efficiently due to strong community ties and volunteer support.

Across the district, most major community grant funding rounds are now oversubscribed by two to four times, and the gap between demand and available funding continues to grow. As expectations on councils increase, limited funding tools such as ratepayer revenue make it difficult to meet rising community needs. Taxing charities risks compounding this unfunded mandate without addressing the underlying structural funding shortfall.

4.2 This is particularly true for charities that use business income to cross-subsidise free or low-cost services. For example, a community theatre may hire its venue for weddings in order to fund free youth performances; a charitable trust may run a café to support job training for rangatahi; or a regional sports trust may sell advertising space or run commercial tournaments to keep participation fees affordable. Taxing this income will limit the ability of these organisations to reinvest in their communities and maintain affordability and inclusion.

4.3 The proposed changes could create perverse incentives, whereby organisations either scale back revenue-generating efforts or restructure in ways that obscure business income – neither of which serve the intent of tax transparency or public good.

5.0 Further points of consideration

5.1 QLDC recommends a more holistic review of the funding ecosystem for charities, including examining ways to better support the sector's long-term sustainability. Rather than taxing charities for seeking independence, it recommends that the government focus on encouraging investment in capability-building, innovation, and sustainable income development.

Recommendations:

R.1. Retain the current tax exemption for unrelated business income generated by registered charities.

R.2. Clarify and uphold the principle that income used for charitable purposes should remain tax-exempt, regardless of the source.

R.3. Consider non-regulatory options to strengthen oversight of charities, such as improved reporting requirements or targeted investigations into misconduct, rather than sector-wide tax changes.

R.4. Engage directly with the charitable sector to co-design sustainable funding approaches that reinforce, rather than undermine, innovation and community impact.

s 9(2)(a)

From: s 9(2)(a)
Sent: Monday, 31 March 2025 7:58 pm
To: Policy Webmaster
Subject: Taxation and the not-for-profit sector

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Submission RE Taxation and the not-for-profit sector.

Chapter 2
Q1: What are the most compelling reasons to tax, or not to tax, charity business income?
I think that creating a level playing field for all businesses is a compelling reason to tax all business income the same, regardless of whether the organisation is a charity, non-profit or commercial business. Commercial businesses can already donate the entirety of their profits to a charity and they receive tax relief for doing so. I do not feel there is a compelling reason to have an entirely different set of rules for businesses backed by charities or non-profits, because the existing rules for commercial businesses already cover the scenario of businesses donating profits to charity. I do not distinguish between related and non-related businesses because all businesses can be treated as non-related to charity work. Treating all businesses as businesses could significantly simplify the administrative and tax rules in this area, and promote fair competition between all businesses. If all businesses are taxed the same, then the points raised in 2.13 and 2.14 become meaningless technicalities which do not apply.

Q2: Practicalities
The practicality of implementing the existing system which is already broadly in use for non-charity businesses is likely to be much simpler than implementing any other system of accounting or taxation.

Q3: Division between related and non-related businesses I don't think that we should distinguish between related and non-related businesses, because doing so would require yet another complex set of technicalities which increase the cost and difficulty of compliance. No justification was given in the consultation document about what benefits might possibly arise from treating some businesses as related and some as unrelated, the document presupposes benefits for treating some businesses as related which may not exist, without providing explanation or justification. The justification provided for a de minimus on the basis that compliance costs may exceed very small revenue can be equally applied to hobby-sized businesses. In my opinion any de minimus should be set at a level above which the tax collected on the income would exceed the cost of collecting the tax. Any de minimus should be cumulative across related entities, so that businesses can't avoid their tax obligations simply by creating more legal entities which each sit under the de minimus.

Q4:
No business income should be exempted from taxation. A properly set de minimus is about saving the government money by removing the cost of assessing tax in cases where the tax income recovered is less than the cost of assessing tax. Tax income should always exceed the cost of collecting tax, otherwise the government is wasting money by collecting tax.

Q5:
I do not agree that there needs to be any division between related and non-related business activities. The rules could be so much simpler if we don't establish any such distinction. I think that the rules for distributions of income from a business to a charity could be exactly the same as the current rules which apply to charitable donations made

by commercial businesses. In the case of commercial businesses, the income donated to charity is exempted from tax, the same rules could be applied to related or unrelated businesses distributing money to associated charities. I agree that some anti-avoidance rules may be required to prevent circular donations made from businesses to charities from being reinvested into the business where it could then be re-donated again for even more tax relief.

Chapter 3:
Q7:
I don't think there needs to be separate tax rules for donor controlled charities compared to arms length charities, as long as the aforementioned rules for preventing circular donations are made sufficiently robust.
Rules for disclosing related party transactions should be evenly enforced regardless of whether an organisation is a charity or a business.
If tax is applied to all business activities regardless of relationship to a charity then the concern about lag of tax concessions evaporates. Tax is applied at the time the income is earned, and tax relief applies at the time the money is donated ie. at the same time as the public benefit is received.
Q8:
I think that transactions between donor controlled charities and their associates should be prohibited outright. This rule would be simple to apply and would effectively prevent circular donations and all other transactions which the public might consider non-charitable. Simple rules are often cheaper to apply, lowering compliance costs and the cost of litigation should it arise. I consider this point to be the most important proposition to prevent abuse of charitable status for individual gain.
Q9:
I think that this question would be irrelevant if all business income was taxed to begin with. This would mean that the income is taxed at the time it is earned, and any tax relief would be timed to coincide with the actual distributions.
If some charity-related business income remains untaxed then I think that a minimum distribution is a practical way to minimise abuse of charitable funds as an investment vehicle. The international precedent of 5% is an easy solution to choosing a rate. I don't think there is really a need for a minimum, if a charity has so few assets that 5% of the value of the fund is a very small amount then it shouldn't be a bother for the fund to distribute the benefits. I can foresee a practical reason for exemptions or rule modifications for cases where the purpose of a charity's funds is to be paid out in a certain amount of time. For example, a charity may identify a need for future maintenance of an asset to be carried out in several years' time. Additionally, charities with illiquid assets may require exemptions or rule modifications to prevent forced sale of assets to meet distribution requirements.
Again, minimum distributions and complex rules for how these are applied would be entirely unnecessary if the income was taxed in the first place.

Chapter 4:
Q10:
I think that removing small scale NFPs from the tax system is a good idea. The potential tax which could be collected from this group is unlikely to exceed the cost of collecting the tax, so the government could save money by removing them from the tax system.
Q11:
I think that credit union transactions should be subject to the same tax treatment as bank transactions. As bank transactions are untaxed, credit unions should also be able to conduct business in the same way without the overhead of compliance requirements which would be introduced if bank-like transactions were taxed. I think that level tax treatment with banks is the best way to foster competition between banks and credit unions, ultimately for the benefit of the general public.
Q15:
I believe that the current DTC system is ineffective at achieving its intended objectives. It's too hard to claim DTC and many people don't know it exists or don't bother.
I believe that the DTC system may be vulnerable to abuse. I have encountered multiple cases linked to the same mega church where people were encouraged to donate much more than they could afford, because they could claim the excess amount back through DTC.
I think it would be far more efficient to deliver DTC directly to charities as a donation uplift. Asking charities to apply for DTC rather than donators would allow for better data collection and oversight over which charities are receiving the benefits of these amounts. It would also remove the hassle of collecting back a usually tiny amount of tax. If the

current rate was predicated on low uptake, it would be wise to review the rate to determine whether it is still appropriate.

Submission by:
Angela Rose

s 9(2)(a)

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Taxation and the not-for-profit sector
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31 March 2025

Dear David,

Taxation and the not-for-profit sector

Thank you for the opportunity to comment on the consultation on **Taxation and the not-for-profit sector** prior to its finalisation.

CPA Australia represents the diverse interests of more than 175,000 members, including over 3,300 members in New Zealand, working in over a 100 countries and regions supported by 19 offices around the world. We make this submission on behalf of our members and in the broader public interest.

We make the following summary comments and key points for your consideration:

The existing rules for charities in New Zealand are fit for purpose and do not require reform. The current framework provides a stable and well-understood basis for the operation of charitable entities, ensuring that they can effectively pursue their missions while benefiting from tax concessions. The definition of "charitable purpose" under the Income Tax Act 2007 is comprehensive, encompassing relief of poverty, advancement of education or religion, and other community-beneficial activities, which aligns with international standards and practices. This broad definition allows for flexibility and adaptability to the evolving needs of society.

The regulatory environment, including the ***Charities Act 2005***, provides robust mechanisms for registration, reporting, and monitoring of charities, ensuring transparency and accountability. Charities Services, under the Department of Internal Affairs, maintains a public register of charities, which enhances public trust and confidence in the sector.

Furthermore, the current tax concessions, including income tax exemptions and donation rebates, are well-targeted to support the charitable sector without imposing undue compliance burdens. The existing system strikes a balance between encouraging charitable activities and maintaining the integrity of the tax system.

In conclusion, the current rules governing charities are effective in supporting the sector's growth and contribution to society. Any changes to the existing framework should be approached with caution to avoid unnecessary disruption and to preserve the benefits currently enjoyed by the charitable sector.

Please refer to the Appendix for our response to the questions raised in the consultation paper. If you have any queries about this submission, please contact me on s 9(2)(a) or Bill Leung, Tax Technical Advisor on s 9(2)(a)

Yours sincerely,

s 9(2)(a)

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CPA Australia would like to acknowledge the following Tax Committee members for their input and guidance in shaping this submission:

- Mr Angus Ogilvie FCPA (Aust.), Chair of Tax Committee – New Zealand
- Mr Adrian Sawyer FCPA (Aust.), Tax Committee – New Zealand

Appendix

Detailed discussion

Response 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?

CPA Australia acknowledges that a comparatively small number of charities run businesses. Arguments about levelling the playing field with private businesses are advanced by some.

However, we also recognise that many charities need to have some form of business income to supplement their revenue, particularly in the face of declining incomes and government grants.

There are several reasons why taxing business income might be considered.

1. **Competitive Neutrality**: One of the primary arguments for taxing charity income is to ensure a level playing field between charitable and non-charitable businesses. Charities that engage in business activities can have a competitive advantage over for-profit businesses because they do not pay income tax. This can lead to market distortions where charities can potentially undercut competitors due to their tax-exempt status, allowing them to accumulate capital more rapidly and expand their operations faster than their taxed counterparts. This competitive advantage is seen as unfair to other businesses that do not have the same tax benefits. However, we note that there seems to be very little data to support that this is an issue in the New Zealand context.

2. **Revenue Generation**: Taxing the income of charities could provide additional revenue for the government. This revenue could be used to fund public services or reduce the tax burden on other taxpayers. The exemption of charities from income tax means that the government forgoes potential tax revenue, which must be compensated for by higher taxes elsewhere or reduced public spending.

3. **Accountability and Transparency**: Imposing tax obligations on charities could enhance accountability and transparency. By requiring charities to file tax returns, the government can ensure that these entities are genuinely pursuing charitable purposes and not accumulating excessive funds without clear charitable objectives. This could also help prevent the misuse of charitable status for personal gain.

4. **Targeted Support**: Taxing charities could allow for more targeted support. Instead of a blanket exemption, the government could provide tax relief or subsidies to charities that meet specific criteria or demonstrate a significant public benefit. This approach could ensure that tax benefits are directed towards charities that provide the most value to society.

5. **Encouraging Efficiency**: Taxing charities might encourage them to operate more efficiently. Without the cushion of tax exemptions, charities would need to manage their resources more effectively to maintain their operations and achieve their charitable goals. This could lead to better use of resources and improved outcomes for the communities they serve.

The most compelling reasons not to tax charity business income in New Zealand are primarily based on the legislative framework provided by the ***Income Tax Act 2007***, specifically sections **CW 41** and **CW 42**, which outline the conditions under which income derived by charities can be exempt from tax:

1. **Charitable Purpose and Public Benefit**: The definition of a charitable purpose under the *Income Tax Act 2007* includes purposes that are beneficial to the community, such as the relief of poverty, advancement of education or religion, and other community-beneficial activities. The public benefit requirement is a key factor in determining whether an entity qualifies as a charity and thus can access tax exemptions. This ensures that the tax exemption is only available to entities that genuinely serve the public interest.

2. **Encouragement of Charitable Activities**: By exempting business income of charities from tax, the legislation encourages the growth and sustainability of charitable activities. This exemption allows charities to retain more of their income, which can be reinvested into their charitable purposes, thereby enhancing their ability to serve the community.

3. **Territorial Restriction**: Section CW 42 imposes a territorial restriction, meaning that the exemption applies only to the extent that the charity's purposes are carried out within New Zealand. This ensures that the tax benefits are aligned with the national interest, supporting local charitable activities. If a charity's purposes extend beyond New Zealand, the income must be apportioned, and only the portion related to New Zealand activities is exempt.

4. **Control Restriction**: The exemption is also contingent on the control restriction, which prevents individuals with control over the charity from directing or diverting income for personal gain. This ensures that the tax exemption is not abused for private benefit and remains focused on supporting charitable purposes.

5. **Historical and Policy Considerations**: Historically, the exemption for charitable business income has been a long-standing feature of New Zealand's tax system, reflecting a policy decision to support entities that contribute to the public good. This policy is rooted in the recognition that charities play a vital role in society, and taxing their income could hinder their ability to fulfil their missions.

These reasons collectively form a robust framework that justifies the exemption of charity business income from taxation, ensuring that the benefits of such exemptions are directed towards enhancing public welfare and supporting charitable activities within New Zealand. For further details, one can refer to sections CW 41 and CW 42 of the *Income Tax Act 2007*, which provide comprehensive rules on the tax treatment of charitable income. On balance, CPA Australia favours the retention of the current rules.

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 tax exemption for charity business income that is unrelated to charitable purposes is removed, several significant practical implications could arise:

1. **Increased Administrative Burden:** Charities would face increased administrative and compliance costs. They would need to maintain detailed records to distinguish between income related to charitable purposes and unrelated business income. This would require more sophisticated accounting systems and potentially more frequent audits to ensure compliance with tax obligations.

2. **Financial Impact on Charities:** The removal of the exemption could reduce the financial resources available to charities. Income that was previously tax-exempt would now be subject to taxation, potentially reducing the funds available for charitable activities. This could lead to a decrease in the scope and scale of services provided by charities, particularly those heavily reliant on business income.

3. **Impact on Charitable Activities:** Charities might need to reassess their business models and potentially reduce or eliminate certain business activities that are not directly related to their charitable purposes. This could lead to a refocusing of efforts on core charitable activities, but it might also result in the loss of innovative or entrepreneurial activities that indirectly support charitable goals.

4. **Revenue Generation for the Government:** Taxing unrelated business income could generate additional revenue for the government. This revenue could be used to fund public services or provide targeted support to charities that demonstrate significant public benefit. However, the overall impact on government revenue would depend on the scale of unrelated business activities conducted by charities.

5. **Potential for Legal and Policy Challenges:** The change could lead to legal challenges and policy debates about the definition of "unrelated business income" and the criteria for determining tax liability. This could necessitate further legislative and regulatory clarification to ensure consistent application of the new rules.

Overall, while the removal of the tax exemption for unrelated business income could address certain competitive and revenue concerns, it would also introduce new challenges for charities in terms of compliance, financial planning, and strategic focus. We submit that the definition of business income may become fraught with uncertainty and lead to an increase in subjective judgement.

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?

With not-for-profits and charities, a key issue relates to the purpose for which an (business) activity is being carried out, or as in the United Kingdom (UK), the "carrying out of a primary purpose." O'Halloran[1] states:

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

What is important is that the primary purpose trading is directly related to the charitable purpose of the entity, and therefore exempt from income tax. On the other hand, there is also "non-primary purpose trading", which O'Halloran states (at 67-68):

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

A similar issue arises in the United States (US) with the **Unrelated Business Income Tax (UBIT).** O'Halloran cites the following in explanation (at 280):

> "Unrelated business income is produced from an activity that is conducted on a regular basis and is not directly related to an organization's tax-exempt mission. Income earned by an organization is treated as unrelated business income if it meets two basic requirements. First, the income is derived from a trade or business that is regularly carried on by the organization. Second, the income is earned from a trade or business that is not substantially related to the performance of the organization's exempt purpose or function. Even if profits from such activities are used by tax-exempt organizations to finance their exempt purposes, income that meets these two requirements generally is treated as unrelated business income [therefore liable to income tax under 26 U.S.C ss 511-14 of the **Internal Revenue Code** with respect to s 501(c)(3) tax-exempt organizations]."

Effectively, for most organisations that are charities or non-profits, an activity is an unrelated business (and subject to unrelated business income tax) if it meets three requirements:

1. It is a trade or business,
2. It is regularly carried on, and
3. It is not substantially related to furthering the exempt purpose of the organisation.

This is subject to a number of modifications, exclusions and exceptions. In 2017 the accounting for tax purposes was changed such that nonprofits must calculate their taxes on each "trade or business" separately and not aggregate profits and losses of all entities. The IRS provides guidance in **Publication 598** (Rev March 2021) *Tax on Unrelated Business Income of Exempt Organizations.* This approach could be worth exploring for New Zealand if IR wishes to recommend a more significant change.

A provision in the ITA 2007 is also worth considering for amendment is s **CW 41 Charities: non-business income**, Section CW 41 could be amended to provide that primary purpose trading is exempt from income tax, along the lines of that in the UK. Section CW 41 (1) might be simply amended to read:

> "*Income derived directly from a primary purpose business* … is exempt income if …."

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[1] Kerry O'Halloran, "The Profits of Charity: International perspectives on the law governing the involvement of charities in commerce" (Oxford University Press, 2012) at 67.

This would also require a review of **s CW 42 – Charities: business income**.

This should not be a complicated exercise, with the issue being the distinction between primary (or related) business activity and non-primary (or unrelated) business activity. However, this would need a clear distinction between these types of activities, preferably one made in legislation (which may need refinement through a public ruling, etc). Therefore, determining which definition to use for "unrelated business" in the context of taxing charity business income presents several challenges:

1. **Complexity and Ambiguity:** Different definitions may lead to varying interpretations of what constitutes an "unrelated business." This can create ambiguity and complexity, making it difficult for charities to understand their tax obligations. The lack of a clear, standardised definition can result in inconsistent application and increased compliance costs for charities.

2. **Balancing Flexibility and Precision:** A definition needs to be precise enough to provide clear guidance but flexible enough to accommodate the diverse activities of charities. Striking this balance is challenging, as overly rigid definition may not account for the unique circumstances of different charities, while overly broad definitions may fail to provide the necessary clarity.

3. **Alignment with Policy Objectives:** The definition must align with the broader policy objectives of supporting charitable activities while ensuring fair competition with for-profit businesses. This requires careful consideration of the economic and social impacts of different definitions, as well as their alignment with legislative intent.

4. **Administrative and Compliance Burden:** Implementing a new definition may increase the administrative burden on both charities and tax authorities. Charities may need to invest in new systems and processes to track and report unrelated business income, while tax authorities may face challenges in enforcing compliance and resolving disputes.

5. **Potential for Legal Challenges:** Any new definition is likely to be subject to legal scrutiny and potential challenges. Charities may contest the classification of certain activities as unrelated, leading to litigation and further complicating the tax landscape.

6. **Historical Precedents and International Comparisons:** The definition should consider historical precedents and international practices to ensure consistency and fairness. However, differences in legal and cultural contexts can make it difficult to directly apply international models to the New Zealand context.

These challenges highlight the need for a carefully considered approach to defining "unrelated business" that balances clarity, fairness, and administrative feasibility. A standardised definition, as suggested in the context of associated persons, might help address some of these issues by providing a coherent and consistent framework. CPA Australia believes that income earned through investments should be explicitly excluded from any proposed definition.

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?

While CPA Australia questions whether any reform is desirable or achievable, we do believe that any threshold should exclude any small and medium-sized charities for the reasons set out earlier in the document. Cost and administrative compliance will be significant and for that reason any de minimis threshold should be set above Tiers 3 & 4.

Including Tier 3 and Tier 4 charities in a de minimis exemption for unrelated business income taxation is important for several reasons:

1. **Resource Limitations**: Tier 3 and Tier 4 charities are typically smaller organisations with limited resources. They often lack the administrative capacity and financial resources to manage complex tax compliance requirements. A de minimis exemption would alleviate the compliance burden on these smaller charities, allowing them to focus their limited resources on their core charitable activities rather than on tax administration. This is consistent with the policy of reducing compliance costs for entities with limited resources.

2. **Proportionality and Fairness**: Applying a de minimis exemption ensures that the tax system is proportionate and fair. Smaller charities, which may engage in minimal unrelated business activities, should not be subject to the same tax obligations as larger organisations with significant business operations. This approach recognises the different scales of operation and ensures that the tax system does not disproportionately impact smaller entities.

3. **Encouragement of Charitable Activities**: By providing a de minimis exemption, the tax system can encourage the continued operation and growth of smaller charities. These organisations often play a crucial role in their communities, providing essential services and support. Exempting them from tax on small-scale business activities allows them to retain more of their income for charitable purposes, thereby enhancing their ability to serve the community.

4. **Administrative Efficiency**: From an administrative perspective, it is inefficient for tax authorities to dedicate resources to enforcing tax compliance on small-scale activities that generate minimal revenue. A de minimis threshold helps focus tax enforcement efforts on larger entities where the potential tax revenue is more significant, thereby improving the overall efficiency of the tax system.

5. **Consistency with Existing Policy**: The use of de minimis thresholds is a common practice in tax policy to simplify compliance and administration. For example, similar thresholds are used in other areas of tax law, such as GST registration and minor beneficiary rules, to ensure that the tax system is manageable for smaller entities. Applying a de minimis exemption for Tier 3 and Tier 4 charities aligns with this broader policy approach.

In summary, including Tier 3 and Tier 4 charities in a de minimis exemption for unrelated business income taxation supports the principles of fairness, efficiency, and encouragement of charitable activities, while recognising the unique challenges faced by smaller charitable organisations.

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?

To argue that charity business income distributed for charitable purposes should remain tax-exempt, even if the tax exemption is removed for unrelated business income, we can consider several points grounded in the principles and legislative framework governing charitable tax exemptions in New Zealand.

1. **Purpose of Charitable Tax Exemptions**: The primary rationale for providing tax exemptions to charities is to support their public benefit activities. Charities operate for the public good, often addressing needs that would otherwise fall to the government or remain unmet. The exemption from tax on income used for charitable purposes aligns with the policy objective of encouraging and facilitating charitable activities that benefit society. This is reflected in the legislative framework, where income applied to charitable purposes within New Zealand is generally exempt from tax under sections CW 41 and CW 42 of the *Income Tax Act 2007*.

2. **Distinction Between Business and Charitable Purposes**: The legislation distinguishes between business income and non-business income, with specific provisions for the exemption of business income when it is applied to charitable purposes. Section CW 42 provides that business income is exempt if it is derived by a registered charity and applied to its charitable purposes in New Zealand, provided certain conditions are met, such as the absence of control by individuals who could benefit personally.

3. **Policy Intent and Fairness**: The policy intent behind the exemption is to ensure that funds used for charitable purposes are not diminished by tax liabilities, thereby maximizing the resources available for public benefit activities. Removing the exemption for unrelated business income should not penalize charities that use their business income for charitable purposes. The fairness principle suggests that income genuinely applied to charitable purposes should remain exempt to avoid discouraging charitable activities and to maintain the integrity of the charitable sector's contribution to society.

4. **Compliance and Administrative Considerations**: Allowing the exemption for business income distributed for charitable purposes can reduce compliance and administrative burdens on charities. Charities often

operate with limited resources, and imposing additional tax liabilities on income used for charitable purposes could divert resources away from their core activities.

5. **Historical and Legislative Context**: Historically, the charitable exemption has been a longstanding feature of New Zealand's tax system, reflecting a societal consensus on the value of supporting charitable activities. The legislative history shows that the exemption for business income has been carefully crafted to balance the need for oversight with the encouragement of charitable work.

In conclusion, maintaining the tax exemption for charity business income distributed for charitable purposes aligns with the legislative intent, supports the public benefit role of charities, and ensures that resources are directed towards societal needs rather than tax liabilities. For further details, one can refer to sections CW 41 and CW 42 of the *Income Tax Act 2007*, which outline the conditions under which charitable income is exempt.

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

If the tax exemption is removed for charity business income that is unrelated to charitable purposes, several additional policy settings and issues should be considered to ensure a fair and effective tax system for charities:

1. **Apportionment of Income**: The current framework under section CW 42 of the *Income Tax Act 2007* requires charities to apportion their business income between charitable purposes in New Zealand and those outside New Zealand. This apportionment should be reasonable and reflect the actual use of funds. Policymakers should consider providing clearer guidelines or safe harbour rules to assist charities in determining a reasonable apportionment, reducing compliance costs and uncertainty.

2. **Impact on Charitable Activities**: Removing the exemption for unrelated business income could impact the ability of charities to fund their charitable activities. Policymakers should assess the potential impact on the charitable sector and consider transitional measures or support to mitigate any negative effects on the delivery of charitable services.

3. **Encouragement of Charitable Giving**: The tax system plays a role in encouraging charitable giving. Policymakers should consider whether changes to the business income exemption might affect donor behaviour and whether additional incentives or adjustments to donation tax credits are needed to maintain or enhance charitable giving.

4. **Equity and Fairness**: The policy should ensure that the tax treatment of charities is equitable and does not disadvantage them compared to other entities. This includes considering the unique nature of charitable organisations, which often rely on volunteer labour and donated goods, and ensuring that the tax system recognises these contributions to society.

5. **Monitoring and Compliance**: Effective monitoring and compliance mechanisms should be in place to ensure that charities adhere to the new rules. This could include regular audits or reviews by the Inland Revenue Department to ensure that charities are correctly apportioning their income and complying with the new tax obligations.

These considerations aim to balance the need for a fair tax system with the recognition of the valuable role that charities play in society. For further details, one can refer to section CW 42 of the *Income Tax Act 2007*, which outlines the conditions under which charitable income is exempt.

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?

CPA Australia does not believe that any such distinction should be made.

1. **Complexity and Compliance Costs**: Introducing a distinction could add complexity to the tax system, increasing compliance costs for charities and administrative burdens for the Inland Revenue Department. This could be particularly challenging for smaller charities with limited resources.
2. **Potential for Unintended Consequences**: A distinction might inadvertently penalise charities that rely on significant donor support but still operate with a strong public benefit focus. It could also discourage large donations if donors perceive that their influence might lead to negative tax implications for the charity.
3. **Existing Safeguards**: Current regulations and oversight mechanisms, such as the requirement for charities to register with the Charities Services and adhere to reporting obligations, may already provide sufficient safeguards against misuse of charitable status.

There appears to be no known abuse of donor-controlled charities and in the absence evidence, rules setting aside donor-controlled charities from all other charities would lack any overarching purpose.

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?

CPA Australia does not support the introduction of investment restrictions for donor-controlled charities to address the risk of tax abuse for the following reasons:

1. **Existing Safeguards**: The current tax framework already includes provisions to prevent tax abuse by ensuring that income derived by charities is used for charitable purposes. Section CW 42 of *the Income Tax Act 2007* requires that no person with control over the business can direct or divert income for non-charitable purposes. This control restriction is designed to prevent misuse of charitable funds and ensures that the income is applied to the charity's objectives.
2. **Flexibility in Investment**: Charities, including donor-controlled ones, often rely on investment income to fund their activities. Imposing investment restrictions could limit their ability to generate income, thereby reducing the resources available for charitable purposes. This could be counterproductive, as it might hinder the charity's ability to fulfil its mission.
3. **Administrative Burden**: Introducing investment restrictions would likely increase the administrative burden on charities, requiring them to track and report on their investments in detail. This could divert resources away from their core charitable activities and increase compliance costs, particularly for smaller charities with limited administrative capacity.
4. **Potential for Unintended Consequences**: Investment restrictions could lead to unintended consequences, such as discouraging donations from individuals who wish to have some influence over how their contributions are used. This could reduce overall charitable giving and negatively impact the sector.
5. **Encouragement of Charitable Activities**: The tax system aims to encourage charitable activities by providing tax exemptions. Restricting investments could undermine this objective by making it more difficult for charities to sustain their operations and expand their impact.
6. **Equity and Fairness**: It is important to ensure that any measures introduced are equitable and do not disproportionately affect certain types of charities. Donor-controlled charities may have legitimate reasons for their governance structures, and blanket restrictions could unfairly penalise them.

In conclusion, while the risk of tax abuse is a theoretical concern, the existing legal framework provides mechanisms to address this risk without the need for additional investment restrictions. The focus should remain on ensuring compliance with existing rules and supporting the charitable sector's ability to carry out its public benefit activities effectively. For further details, one can refer to section CW 42 of the *Income Tax Act 2007*, which outlines the conditions under which charitable income is exempt.

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?

The question of whether donor-controlled charities should be required to make a minimum distribution each year involves balancing the need to ensure that charitable funds are actively used for public benefit against the administrative and operational flexibility required by charities.

CPA Australia does not support any change to the status quo for the following reasons:

1. **Operational Flexibility**: Charities, including donor-controlled ones, often need flexibility in managing their funds to respond to changing circumstances and opportunities. A rigid minimum distribution requirement could hinder their ability to plan for long-term projects or to accumulate reserves for future needs, such as capital projects or economic downturns. This flexibility is crucial for the sustainability and effectiveness of charitable activities.

2. **Existing Oversight Mechanisms**: The current regulatory framework already includes mechanisms to ensure that charities use their funds for charitable purposes. For instance, charities must be registered and comply with reporting requirements, which provide transparency and accountability. These mechanisms can be strengthened, if necessary, without imposing a minimum distribution requirement.

3. **Potential for Unintended Consequences**: Imposing a minimum distribution requirement could lead to unintended consequences, such as encouraging charities to make distributions that are not strategically aligned with their mission, simply to meet the requirement. This could result in inefficient use of resources and undermine the charity's long-term goals.

4. **Administrative Burden**: A minimum distribution requirement would add an administrative burden on charities, requiring them to track and report distributions in detail. This could divert resources away from their core activities and increase compliance costs, particularly for smaller charities with limited administrative capacity.

5. **Diverse Nature of Charities**: Charities vary widely in their size, mission, and operational model. A one-size-fits-all minimum distribution requirement may not be appropriate for all charities. For example, some charities may focus on accumulating funds for a specific future project, while others may operate on a more immediate distribution model.

If a minimum distribution requirement were to be considered, it would be important to set a reasonable rate that reflects the diverse nature of charities and to allow for exceptions where appropriate. Exceptions could include situations where a charity is saving for a large capital project, experiencing financial hardship, or operating in a sector with cyclical funding needs.

In conclusion, while ensuring that charitable funds are used effectively is important, the existing regulatory framework provides mechanisms to achieve this without imposing a minimum distribution requirement. The focus should remain on enhancing transparency and accountability through existing oversight mechanisms.

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.**

To address the impact of the Commissioner's updated view on not-for-profits (NFPs), particularly smaller NFPs, several policy changes could be considered:

1. **Increasing and/or Redesigning the Current $1,000 Deduction**: The current $1,000 deduction threshold for NFPs could be increased or redesigned to remove small-scale NFPs from the tax system. This would reduce compliance costs and administrative burdens for smaller NFPs, allowing them to focus more on their charitable activities. The threshold could be adjusted to reflect inflation or the average operating costs of small NFPs, ensuring that only those with significant income are required to engage with the tax system.

This approach aligns with the principle of reducing compliance costs for smaller entities, as highlighted in various discussions on tax simplification.

2. **Modifying Income Tax Return Filing Requirements for NFPs**: Simplifying the filing requirements for NFPs could significantly reduce their administrative burden. For instance, smaller NFPs could be allowed to file a simplified return or be exempt from filing if their income falls below a certain threshold. This would be consistent with the approach of reducing compliance costs for small entities and ensuring that the tax system does not impose unnecessary burdens on organisations with limited resources.
3. **Modifying Resident Withholding Tax (RWT) Exemption Rules for NFPs**: The RWT exemption rules could be modified to provide greater flexibility for NFPs. For example, smaller NFPs could be automatically exempt from RWT on certain types of income, or the process for obtaining an exemption could be simplified. This would help reduce the administrative burden on NFPs and ensure that they are not disadvantaged by complex tax rules.
4. **Providing Transitional Support and Guidance**: As the Commissioner's updated view may require NFPs to adjust their operations, providing transitional support and guidance could help them navigate the changes. This could include offering workshops, online resources, and direct support from Inland Revenue to ensure that NFPs understand their obligations and can comply with the new requirements effectively.
5. **Engaging in Consultation with the NFP Sector**: Engaging with the NFP sector to gather feedback and insights on the proposed changes can help identify potential issues and ensure that the policy is practical and effective. This consultation process can also help build trust and cooperation between the government and the NFP sector.

These policy changes aim to balance the need for a fair tax system with the recognition of the valuable role that NFPs play in society. They also seek to ensure that smaller NFPs are not disproportionately affected by the updated view and can continue to contribute to their communities effectively.

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

The removal of current tax concessions for friendly societies and credit unions would have several implications, both positive and negative, which need to be carefully considered:

1. **Impact on Credit Unions and Friendly Societies**: Credit unions and friendly societies may face increased financial pressure if tax concessions are removed. These organisations often operate with limited resources and serve niche markets, such as providing savings and loan facilities to members. The removal of tax exemptions could reduce their ability to offer competitive rates and services, potentially impacting their viability and the financial well-being of their members.
2. **Compliance Costs**: The removal of tax concessions would likely increase compliance costs for credit unions and friendly societies. These organisations would need to adapt to new tax obligations, including filing tax returns and managing tax liabilities. This could be particularly burdensome for smaller entities with limited administrative capacity.
3. **Regulatory Considerations**: The regulatory framework for credit unions and friendly societies is already quite prescriptive, with restrictions on borrowing, lending, and investment activities. Any changes to their tax status would need to be carefully coordinated with regulatory requirements to avoid unintended consequences, such as reducing their ability to meet prudential requirements or serve their members effectively.
4. **Potential for Restructuring**: If tax concessions are removed, some credit unions and friendly societies may need to restructure to maintain their financial viability. This could involve changes to their governance structures, business models, or service offerings. Such restructuring could incur significant costs and require careful planning and support from regulatory bodies.

5. **Social and Economic Impact**: Credit unions and friendly societies often play a vital role in providing financial services to underserved communities. The removal of tax concessions could impact their ability to fulfil this role, potentially leading to reduced access to affordable financial services for certain groups. Policymakers would need to consider the broader social and economic implications of such a change.

In conclusion, any change would pose significant challenges and risks. Policymakers should carefully weigh these factors. In the absence of any pressing need for reform, CPA Australia favours the status quo.

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?**

- **local and regional promotional body income tax exemption**

The removal of the income tax exemption for local and regional promotional bodies, as provided under section CW 40 of the *Income Tax Act 2007*, would have two specific implications.

1. **Impact on Public Amenities and Tourism**: The removal of the exemption could lead to a decrease in the activities aimed at promoting tourism and public amenities, as these bodies might have less financial capacity to invest in such projects. This could have a broader economic impact, potentially reducing tourism and related economic activities in the regions they serve.

2. **Potential for Reduced Donations and Sponsorships**: If these bodies rely on donations or sponsorships, the removal of the tax exemption could make them less attractive to donors or sponsors who might prefer to support tax-exempt entities. This could further reduce their funding and operational capacity.

- **herd improvement bodies income tax exemption**

The income tax exemption for herd improvement bodies, as outlined in section **CW 51** of the *Income Tax Act 2007*, provides that income derived by a herd improvement association or society is exempt if the association or society is established mainly to promote the improvement of the standard of dairy cattle in New Zealand, and none of its funds is used for the private pecuniary profit of a member, proprietor, shareholder, or associate. The removal of this exemption would have two specific implications:

1. **Impact on Dairy Industry:** The removal of the exemption could lead to a decrease in activities aimed at improving dairy cattle standards, which could have a broader impact on the dairy industry in New Zealand. This could affect the quality and productivity of dairy cattle, potentially impacting the competitiveness of New Zealand's dairy industry.

2. **National Significance:** Originally, herd improvement bodies were considered of national significance, which justified their tax-exempt status. Removing the exemption could be seen as a shift in policy regarding the importance of these bodies to national interests.

- **veterinary service body income tax exemption**

The income tax exemption for veterinary service bodies is outlined in section **CW 50** of the *Income Tax Act 2007*. This exemption applies to income derived by veterinary associations, clubs, or societies established mainly to promote efficient veterinary services in New Zealand, provided that none of their funds is used for the private pecuniary profit of any member, proprietor, shareholder, or associate. Additionally, the income derived by the Veterinary Council of New Zealand is also exempt.

If this exemption were removed, it could lead to a decrease in activities aimed at improving veterinary services, which could have a broader impact on animal health and welfare in New Zealand. This could affect the quality and availability of veterinary services, potentially impacting the agricultural sector and pet owners.

- **bodies promoting scientific or industrial research income tax exemption**

The income tax exemption for bodies promoting scientific or industrial research is provided under section **CW 49** of the *Income Tax Act 2007*. This exemption applies to income derived by a society or association established mainly to promote or encourage scientific or industrial research, provided that the society or association is approved by the Royal Society of New Zealand and none of its funds is used for the private pecuniary profit of a member, proprietor, shareholder, or associate. This exemption does not apply to Crown Research Institutes.

If this exemption were removed, two specific implications could arise:

1. **Impact on Research and Development (R&D)**: The removal of the exemption could lead to a decrease in activities aimed at promoting scientific or industrial research, which could have a broader impact on innovation and technological advancement in New Zealand. This could affect the competitiveness of New Zealand's industries and their ability to innovate.
2. **Eligibility for R&D Tax Incentives**: Currently, entities that receive exempt income under section CW 49 are eligible for the R&D Tax Incentive, which allows them to claim R&D tax credits. If the exemption were removed, these bodies might still be eligible for the R&D Tax Incentive, but they would need to manage their tax liabilities differently.

- **non-resident charity tax exemption?**

In New Zealand, non-resident charities can qualify for certain income tax exemptions, but there are specific conditions and limitations that apply. The key provisions are found in sections CW 41 and CW 42 of the *Income Tax Act 2007*.

1. **Non-Business Income Exemption**: Under section CW 41, non-resident charities can be exempt from income tax on their non-business income if they are approved as a "tax charity" by the Commissioner. To qualify, the charity must not be able to register with Charities Services due to an insufficient connection to New Zealand, and it must carry out its charitable purposes overseas. The charity must also not be carried on for private profit and should be recognised as charitable by overseas regulators.
2. **Business Income Exemption**: Section CW 42 provides an exemption for business income, but this is generally limited to income used for charitable purposes within New Zealand. Non-resident charities with business income used to carry out charitable purposes in New Zealand must be registered with Charities Services to be eligible for this exemption. Business income applied overseas is not exempt.
3. **Approval Process**: Non-resident charities seeking tax charity status must apply to the Commissioner and provide evidence of their charitable status and the reasons they cannot register with Charities Services. This includes demonstrating that they are not resident in New Zealand, carry out all charitable purposes overseas, and are recognised as charitable by overseas authorities.
4. **Double Tax Agreements**: If a non-resident charity does not qualify for the exemption under section CW 41, it may still be eligible for relief from New Zealand taxation under a double tax agreement between New Zealand and the charity's country of residence.

Overall, while non-resident charities can access certain tax exemptions in New Zealand, these are contingent on meeting specific criteria and often require approval from the Commissioner.

If the tax exemption for non-resident charities were removed, two specific implications could arise:

1. **Impact on Charitable Activities**: The removal of the exemption could lead to a decrease in charitable activities carried out by non-resident charities in New Zealand, as they might have less financial capacity to invest in such projects. This could have a broader impact on the communities and causes they support.

2. **Double Tax Agreements**: Non-resident charities might seek relief from New Zealand taxation under a double tax agreement between New Zealand and their country of residence. However, this would depend on the specific terms of the relevant agreement.

Overall, the removal of the tax exemption for non-resident charities would likely lead to increased financial and administrative burdens on these organisations, potentially reducing their ability to fulfil their charitable objectives effectively. For more detailed analysis, one could refer to sections CW 41 and CW 42 of the *Income Tax Act 2007*, which outline the provisions related to income and exemptions for charities.

Overall impact to all sectors

Common to all sectors in question 12 are the following consequences that would arise if the tax exemption were to be removed:

1. **Increased Tax Liability**: These bodies would become subject to income tax on their income, which was previously exempt. This would increase their tax liability and potentially reduce the funds available for their primary activities, such as promoting scientific or industrial research. The exemption currently allows these bodies to use all their funds for these purposes without the burden of income tax. Without the exemption, they would need to allocate a portion of their income to tax payments, which could reduce their operational capacity.
2. **Administrative and Compliance Costs**: These bodies would face increased administrative and compliance costs associated with preparing and filing income tax returns. This could be particularly burdensome for smaller organisations that may not have the resources to manage these additional requirements efficiently.
3. **Equity and Fairness Considerations**: The removal of the exemption could raise questions about equity and fairness, particularly if similar exemptions remain in place for other types of organisations, such as charities or educational institutions. This could lead to calls for a broader review of tax exemptions to ensure consistency and fairness across different sectors.

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?

If the compliance costs associated with Fringe Benefit Tax (FBT) are reduced following the current review of FBT settings, and the exemption for charities is removed or reduced, several implications could arise and a largely similar to the previous question:

1. **Increased Tax Liability for Charities**: Charities would be required to pay FBT on benefits provided to their employees, which were previously exempt. This would increase their tax liability and potentially reduce the funds available for their charitable activities. The exemption currently allows charities to use all their funds for charitable purposes without the burden of FBT. Without the exemption, they would need to allocate a portion of their resources to tax payments, which could reduce their operational capacity.

2. **Impact on Charitable Activities**: The removal or reduction of the exemption could lead to a decrease in charitable activities carried out by these organisations, as they might have less financial capacity to invest in such projects. This could have a broader impact on the communities and causes they support.

3. **Equity and Fairness Considerations**: The removal of the exemption could address equity concerns, as it would align the tax treatment of employees of charities with those of other organisations. Currently, employees of charities may receive untaxed fringe benefits, which can create a tax advantage compared to employees in other sectors. Removing the exemption would ensure that all employees are treated similarly for tax purposes.

4. **Potential for Salary Restructuring**: Charities might respond to the removal of the exemption by restructuring their remuneration packages, potentially reducing fringe benefits and increasing cash salaries to minimise FBT liabilities. This could lead to changes in how employees are compensated.

5. **Administrative and Compliance Costs**: While the review aims to reduce compliance costs, the removal of the exemption could still result in increased administrative burdens for charities, as they would need to track and report fringe benefits for tax purposes. However, if the review successfully simplifies FBT compliance, the overall administrative burden might be mitigated.

6. **Policy and Economic Considerations**: The government may need to consider the broader economic and social impacts of removing the exemption, as charities play a significant role in providing services that complement government programs. The removal of the exemption could affect the level of support charities can provide to the community.

Overall, while reducing compliance costs could ease some administrative burdens, the removal or reduction of the FBT exemption for charities would likely lead to increased financial burdens on these organisations, potentially affecting their ability to fulfil their charitable objectives effectively.

Tax simplification

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

Extending the FENZ (Fire and Emergency New Zealand) simplification as an option for all Not-For-Profits (NFPs) could have several implications and benefits:

1. **Reduced Compliance Costs**: Extending the FENZ simplification to all NFPs could significantly reduce compliance costs. The FENZ model involves treating certain payments as subject to PAYE, which simplifies tax administration by reducing the need for individual volunteers to file income tax returns for small amounts of income. This approach could be beneficial for NFPs by streamlining tax obligations and reducing administrative burdens.

2. **Increased Efficiency**: By using the PAYE system, NFPs could ensure that taxes are withheld at the source, which minimizes the risk of non-payment or late payment of taxes. This system is more efficient as it places the tax obligation on the payer rather than the individual payees, which is particularly useful when dealing with a large number of volunteers or small honoraria payments.

3. **Encouragement of Volunteering**: Simplifying tax compliance for volunteers could encourage more people to volunteer, as the administrative burden and potential tax liabilities associated with volunteering would be reduced. This could lead to increased participation in charitable activities and greater support for community initiatives.

4. **Equity and Fairness**: Extending the simplification to all NFPs would ensure a level playing field among different types of organisations, as all would benefit from reduced compliance costs. This could address concerns about horizontal equity, where similar entities are treated differently under the tax system.

5. **Potential Challenges**: While the simplification could reduce compliance costs, it may also require changes to existing systems and processes within NFPs to accommodate the new approach. Additionally, there may be concerns about the potential for reduced accuracy in tax calculations and the risk of tax avoidance if the system is not carefully monitored.

Other Suggestions to Reduce Tax Compliance Costs for Volunteers:

- **Exempt Reimbursement Payments**: One suggestion is to exempt reimbursement payments below a specific threshold from income tax. This would reduce the need for volunteers to file tax returns for small reimbursement amounts, thereby lowering compliance costs.

- **Simplified Tax Code for Volunteers**: Implementing a simplified tax code declaration specifically for volunteers could help ensure they are not erroneously classified as employees, which would reduce the complexity of tax compliance for both volunteers and NFPs.

- **Clear Guidelines and Education**: Providing clear guidelines and educational resources to NFPs and volunteers about the tax treatment of reimbursements and honoraria could help reduce uncertainty and ensure compliance with tax obligations.

Overall, extending the FENZ simplification to all NFPs and implementing additional measures to reduce compliance costs could enhance the efficiency and effectiveness of the sector, encouraging greater volunteer participation and support for charitable activities.

Q15. What are your views on the donation tax credit (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?

The review highlights several key areas for improvement, including the need for better valuation mechanisms for non-cash donations, the potential for adopting international best practices such as the **UK's Gift Aid scheme**, and the introduction of private charitable trusts similar to those in Australia. These initiatives are designed to encourage more donations by providing clearer and more attractive tax incentives.

One of the main challenges identified is the difficulty in valuing non-cash donations, which could lead to tax avoidance and increased compliance costs. To address this, the review suggests modifying the current system to provide tax rebates instead of deductions for non-cash donations, which could simplify the process and reduce the risk of abuse.

Additionally, the review suggests increasing public awareness and education about the benefits of charitable giving, as seen in the UK and Australia, where campaigns have successfully fostered a culture of philanthropy. This could involve targeted efforts to inform potential donors about the impact of their contributions and the tax benefits available.

To further improve the current donation tax concession rules, it may be beneficial to consider the following suggestions:

1. **Expand the Scope of Eligible Donations**: Allow deductions for a wider range of non-cash donations, such as shares and other property, with appropriate valuation safeguards to prevent abuse.
2. **Increase the Rebate Cap**: Raising the cap on the tax rebate for individual donations could incentivize larger contributions from high-income donors, who are typically more responsive to tax incentives.
3. **Simplify the Process**: Streamline the process for claiming tax benefits on donations, possibly through digital platforms, to make it more accessible and user-friendly for donors.
4. **Encourage Corporate Giving**: Consider increasing the deduction limits for corporate donations and removing exclusions for close companies to encourage more corporate philanthropy.

These measures, combined with ongoing efforts to promote transparency and accountability within the charitable sector, could significantly enhance the effectiveness of New Zealand's donation tax concession framework.

E-mail address policy.webmaster@ird.govt.nz

subject line Taxation and the not-for profit sector

I am the Chair of the Kaiapoi Community Care and Employment Trust. The Trust is a registered charity under the Charities Act. The Trust wishes to make some comments in response to the IRD Issues Paper "*Taxation and the not-for-profit sector*", issued 24 February 2025 as it relates to possible imposition of taxation of charities carrying on a business or businesses "unrelated to charitable purposes".

Kaiapoi Community Care and Employment Trust was established (1997) to match unemployed Kaiapoi people with Kaiapoi people who needed small jobs done around their properties/flats but couldn't afford tradespeople. These jobs were subsided by Work and Income, Ministry of Social Development. Over time, with unemployment increasing and decreasing the Trustees had to find different ways and means to continue providing employment and training opportunities for unemployed Kaiapoi people. That led to the Trust employing a semi-retired painter and a semi-retired builder to quote for small jobs around North Canterbury and then provide the training and supervision of the formerly unemployed people. So, unintentionally, the Trust has become a social enterprise which has required no funding, loans or grants for 17 years. But our margins are very tight….always. For the first time in 17 years we are applying for some funding.

1. **The Issues Paper asks "What are the most compelling reasons to tax, or not to tax, charity business income" ?**

4.a The government is missing out on tax revenue, so were it can be shown that the business revenue and/or profit is wholly directed to the charitable purpose as per the constitution of said charity, then such business income should not be taxed. This is referenced in the **INTERPRETATION STATEMENT | PUTANGA WHAKAMĀORI** Charities – Business income exemption Issued Tukuna: 16 September 2024

4.b But large charitable businesses, clearly accumulating profit which is not overtly and within a reasonable period (to be defined) applied to it's charitable purposes, should be taxed on that profit. And perhaps the Objects of their constitutions should be reviewed.

4.c Taxing charity business income will just tip a charity business model such as our one into trading insolvent and ultimately closing it's doors. The net effect of that is the high likelihood of our staff returning to the Job Seeker benefit as jobs in the building industry right now are very difficult to attain. Weighing up the non fiscal benefits of having them in our training environment would, we suggest, outweigh the tax revenue collected from the charity business income.

Charities and not-for-profits are often the first responders to social issues; homelessness, mental health, addiction issues, youth development, food insecurity, domestic violence – the list goes on. When these organisations can't operate, their absence creates a vacuum the government must fill – at a much higher cost and with less agility and local trust.

By weakening the sector's financial resilience and curbing it's independence, this policy risks creating a chain reaction that ends with higher demand for public services and a ballooning social deficit.

4.d Stifling Innovation; To meet rising needs with limited resources, charities have turned to social enterprise models – blending business acumen with social good. These models are inherently innovative, creating sustainable revenue streams that reduce reliance on government or grants. Under the proposed model, these hybrid models could be penalised or disqualified from charitable status if a proportion of their work is considered 'too commercial". This is counterintuitive. If the anything, the government should be encouraging this kind of entrepreneurship in the sector, not punishing it.

4.eAnother reason to not tax charity business income that is not being clearly attributed to the charity's purposes would be the transfer costs involved in collecting it.

4.f The Issues Paper, at para 2.22, states that "Distinguishing between related and unrelated business activities could be difficult in practice unless the legislation and associated guidance is clear". We fully agree with this statement. In our view the current position is satisfactorily captured by the 2024 Inland Revenue interpretation statement at para 81, that is " a business will be carried on "for, or for the benefit of" a charity if the business is carried on for the benefit of trustees for charitable purposes or any society or institution exclusively for such purposes and not for private pecuniary purposes". The second part of that statement is vital, as it allows for a charity to carry on a business to support the functioning of the charitable body. Any alteration to the legislation must provide clear guidance to charities affected.

Do the factors described in 2.13 and 2.14 warrant taxing charity business income?

From my experience having been a funder of not-for-profits to create employment opportunities and local economic development I would argue that provided the requirements a charity must satisfy for business income it derives as described under Part One to be exempt from tax it's business income should then not be taxed .The requirements (set out in s CW 42(1)(aa) to (c)) must all be satisfied for business income to be exempt. Section CW 42(1) states: Exempt income (1) Income derived directly or indirectly from a business carried on by, or for, or for the benefit of a trust, society, or institution of a kind referred to in section CW 41(1) is exempt income if— (aa) and (a) the trust, society, or institution carries out its charitable purposes in New Zealand….
And the trustee or trustees of the trust, the society, or the institution is or are, at the time that the income is derived, a tax charity; and (c) no person with some control over the business is able to direct or divert an amount derived from the business to the benefit or advantage of private individuals.

Conclusion

New Zealand's charities are an essential part of our social fabric. The employ thousands, mobilise volunteers and reach corners of society that government can't. Rather than introducing policies that make their survival harder, we should be strengthening them – offering tax clarity that supports their operations, and policies that reflect the complexity of their work and value to our nation.

The proposed taxation changes will disproportionately harm the not-for-profit sector, undermine innovation, and shift social burdens back onto the state. At a time when we need a stronger, more resilient social sector, these proposed policy changes do the opposite – and New Zealanders will ultimately pay the price.

Submission on Taxation and the Not-for-Profit sector consultation

To: Inland Revenue Department | New Zealand

Date: 29 March 2025

Tēnā koutou,

We appreciate the opportunity to provide feedback on the proposed changes outlined in the issues paper, *Taxation and the Not-for-Profit Sector*.

Touch Compass is Aotearoa New Zealand's first and leading disability arts organisation. Founded by Catherine Chappell MNZM in 1997 to increase access to the arts for disabled people, Touch Compass has in recent years evolved into one of the very few disability-led arts organisations in our country; a platform for artists of lived experience to be empowered into arts leadership, create and develop work that represents the disability aesthetic, on their terms, their way.

As an organisation that lives, breathes and works closely with lived experience of disability, we understand the critical role that financial sustainability plays in enabling not-for-profit organisations to deliver their services.

Our submission is informed by our experience as a small but vital organisation in the arts sector. We seek to ensure that any changes to the tax system support, not provide a barrier, for the ability of not-for-profits to serve our communities.

"Tahi, kotahi tātou."

Together we are one.

We urge Inland Revenue to consider the broader implications of these proposals on the sector and the communities it serves.

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1. General concerns about the proposed changes

The issues paper raises several proposals that could have unintended consequences for organisations like ours. While we understand the intent to improve clarity and compliance, we believe some measures may disproportionately affect smaller not-for-profits, particularly those with minimal financial resources.

Key concerns:

- **Increased administrative burden**: Many small not-for-profits, including ours, operate with limited staff and rely heavily on volunteers. Additional tax compliance requirements could divert resources from our core mission, reducing our ability to support disabled artists.
- **Uncertainty around tax treatment of membership fees and trading income**: The reconsideration of tax exemptions for membership subscriptions creates financial unpredictability, which may discourage participation and reduce our ability to generate sustainable revenue.
- **Potential taxation of charity business income**: Many organisations, particularly in the arts sector, generate income through commissions, ticket sales, workshops, and venue rentals. Taxing this income could undermine financial viability, leading to reduced community services.

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2. Specific responses to the issues paper

Question 3(f): Should the current $1,000 deduction threshold for small-scale not-for-profits be increased or redesigned?

We strongly support an increase in the threshold for small-scale not-for-profits. The current $1,000 deduction is outdated and does not reflect the rising costs of operations. Many organisations, particularly those working in community arts, operate on modest budgets, and a higher exemption would ensure that compliance costs do not erode essential services.

Recommendation:

- Increase the small-scale not-for-profit deduction threshold to at least $5,000, adjusted for inflation periodically.

Question 4: Will taxation of charity business income include rental income?

For small not-for-profits, rental income is often a crucial source of revenue used to subsidise community programmes. If such income is treated as taxable business income, it may force organisations to increase fees or reduce services, disproportionately affecting those who rely on accessible arts programmes.

Recommendation:

- Rental income derived to fund charitable activities should remain exempt from taxation to protect financial sustainability.

Question 7: How should “donor-controlled charities” be defined?

While we acknowledge concerns about private foundations, any definition must be carefully crafted to avoid unintended impacts on small charities. Many disability and arts organisations rely on a small group of core supporters, including founders and their networks. Overly broad definitions of “donor control” could inadvertently capture legitimate community organisations and reduce public trust in charitable giving.

Recommendation:

- Exclude small charities that receive public donations or operate for the direct benefit of a wider community from any restrictive donor-controlled provisions.

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3. The impact on our organisation and the sector

Our organisation operates in a space where financial sustainability is already challenging. Government funding is limited, and private sponsorship is increasingly difficult to secure. The ability to generate income through membership fees, rentals, and trading activities is critical for most not for profits survival. Any additional tax burden or compliance requirement risks forcing organisations like ours amd those like us to scale back services or, in the worst case, cease operations entirely.

The arts are a powerful vehicle for self-expression, empowerment, and social inclusion—particularly for people with disabilities. Tax policies should support, rather than hinder, the ability of organisations like ours to deliver transformative experiences for the community.

"Mā te huruhuru ka rere te manu"

Adorn the bird with feathers, it will fly.

A fair and supportive tax framework is one of the key “feathers” that allow not-for-profits to thrive and serve our communities.

We urge Inland Revenue to carefully consider the unintended consequences of these proposals and to work collaboratively with the sector to find solutions that support compliance while maintaining financial sustainability.

Ngā mihi nui,

Jon Tamihere-Kemeys

Kaiwhakahaere Mātua | Executive Director

Touch Compass Dance Trust T/A Touch Compass

s 9(2)(a)

s 9(2)(a)

From: Jonathan Christiansen (WDHB) s 9(2)(a)
Sent: Monday, 31 March 2025 8:21 pm
To: Policy Webmaster
Subject: 'Taxation for the not-for-profit Sector'

Submission to the Inland Revenue Department *in relation to the Officials' Issues Paper "Taxation and the not-for-profit sector" dated 24 February 2025*
from the Trustees of the Three Harbours Health Foundation Trust - CC31691

The trustees of the Three Harbours Health Foundation Trust request that the IRD retains the existing tax exemption for the Three Harbours Health Foundation Trust - CC31691, the charitable activities of this Health New Zealand (Health NZ) affiliated trust, operating within the public health sector.

Health NZ is affiliated with a number of charitable trusts which have been established in different regions of New Zealand in a time when, either the 22 former district health boards, or their predecessors were responsible for the delivery of NZ's public health service. One such trust is the Three Harbours Health Foundation Trust - CC31691 which operates in the Waitematā Region of New Zealand.

Health NZ now holds the power to appoint some or all the trustees to these trusts, but Health NZ does not control the trusts. The primary purpose of such trusts is to provide a funding mechanism for the provision of additional health services to the public which are not able to be provided by (now) Health NZ.
The trusts' beneficiaries are in many cases limited to beneficiaries within specifically defined locations (often associated with hospitals in a particular region). In addition, many of the trusts provide funding for furthering educational training for health care professionals or funding for health research projects.

The creation of these trusts offered a way for a DHB (now Health NZ) to foster innovation and as a repository to accumulate funds for various health related purposes, which are not being directly funded by Health NZ. The business interests of these trusts remain closely aligned with the charitable purpose of the trusts.

The trustees request that the IRD carefully considers these health related trusts such as this trust, and retains the existing tax exemption for the Three Harbours Health Foundation Trust - CC31691

HCB Response to IRD NFP Tax Consultation

Background

Hutt City Baptist Church is a registered charity with an IRD tax exemption operating in the Hutt Valley. In 2008 we moved from suburban Lower Hutt to the city centre with the purchase of the former Hoyts cinema property in High Street. As well as providing for on premise church activities the building enables us to generate some lease income from shops on the street frontage. This income supplements income from member donations and, in addition to normal church activities, enables us to provide a number of services to our local community. These services include but are not limited to:

- The provision of facilities for the Lower Hutt foodbank at cost
- The provision of prepacked meals for the Lower Hutt foodbank
- The provision of cooking facilities for other charities (eg Bellyfull) free of charge
- The provision of facilities for community groups at cost or low margin
- Programs for Seniors
- Programs for young families (eg Mainly Music)
- Programs for Youth

Our annual turnover is in the vicinity of $500k with rental income variable but typically less than $100k of this amount. We do not fully account for the costs of providing the leased facilities but once fully accounted for (eg rates, insurance, management) the actual net return from these activities is unlikely to be positive.

We suspect that the review of the IRD NFP consultation paper is not specifically targeted at organisations like ours but we are concerned that we could become collateral damage of any resulting change (both in terms of overall income reduction and increased compliance/accounting costs) which would impact on the sustainability of our organization and would be a poor result for NZ as a whole.

Question	HCB Response
1. What are the most compelling reasons to tax, or not to tax, charity business income? Do the factors described in 2.13 and 2.14 warrant taxing charity business income?	While there are apparently some charities who are able to use their tax exempt status to gain an advantage over competitors and this should be addressed there is a high risk that charities with business income who do

	not exploit this advantage will be penalised and become less sustainable with an overall net cost to the NZ economy. Examples include: • Taxing charity business discourages them from being innovative and seeking sustainable income streams. • Increased compliance costs • perpetuates a view of charity that donations are their only domain
2. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what would be the most significant practical implications?	• The key point here is how the term "unrelated" is defined. In our case income received from full paying tenants could be seen as unrelated (because it isn't coming from church members) but in reality the income is ultimately used as part of the provision of community services. • Reducing this income would reduce the ability to provide these services which are provided to fill a need gap and are also delivered far more efficiently (because of the use of volunteer labour) than other alternatives.
3. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what criteria should be used to define an unrelated business?	• It will be necessary to make sure that the taxed income is truly unrelated. Also suggest that the burden of proof should not be put on individual charities to prove that the income is related (ie default should be status quo but maybe compliance/audit needs to be ramped up – especially where large values are involved). • There also needs to be thought to what the income is used for rather than just where it comes from. • Also note that the bar for becoming a registered charity is already significant. There may be some scope at the front end of charities registration and/or as part of the annual reporting

	process to focus on areas of concern.
4. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what would be an appropriate threshold to continue to provide an exemption for small-scale business activities?	• The current Tiered structure probably provides a way of targeting resources (and concern) more efficiently. Suggest that Tier 3 (<$5m annual turnover) and Tier 4 charities could remain tax exempt for all income. • There may also need to be some thought put into organisations with large (and perpetually increasing with operating surplus) balance sheets.
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?	• This seems to make sense as it replicates what any non-charitable business is able to do. • If this were not allowed, then would it impact on charitable giving from non-charity businesses as well reducing the amount they give.
6. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what policy settings or issues not already mentioned in this paper do you think should be considered?	• This will increase compliance cost for both government and charities, reducing funds available for charitable purposes • The valuation of volunteer services as input expenses. Labour cost is a significant input expense for most charities. Currently many in the charitable sector utilise significant volunteer labour. Accordingly, it would be important for charities to be able to claim the true cost of their business in any income tax return. This raises the conundrum for the tax department as to what the appropriate fair labour costs should be.

To:

Taxation and the not-for-profit sector

C/- Deputy Commissioner

Policy Inland Revenue Department

PO Box 2198, Wellington 6140

From:

The Christchurch Foundation

Lynne Umbers, Interim General Manager

PO Box 17, Christchurch 8140

31 March 2025

Re: INLAND REVENUE CHARITIES TAXATION REVIEW SUBMISSION

Christchurch Foundation Background

The Christchurch Foundation is the Community Foundation for Christchurch, Selwyn and Waimakariri districts. Our mission is to grow giving to benefit the communities of Canterbury for generations to come, by stewarding the generosity of local people and organisations in our region, to support local needs and aspirations. There is a strong network of community foundations across New Zealand supporting a successful model of place-based giving.

The Christchurch Foundation works with local people, families and businesses to build long-term reliable funding streams to support the community now and in the future. Our connections in the charity sector mean we are a trusted partner when it comes to facilitating community engagement and ensuring that philanthropic support is effectively managed.

General Comment

The charities sector plays a critical role in NZ supporting across a broad range of issues including social wellbeing, community development and the environment. Many for-purpose organisations are locked in a 'starvation cycle' where they are forced to underinvest in their core operational and infrastructure needs.

Generating alternative income streams to support indirect costs is crucial to the sustainability of these organisations. By taxing the income of charities, it will erode their ability to deliver social impact within their communities.

It is acknowledged that the changes being discussed to the taxation framework will not be applied to community foundations in NZ. However, we work closely with for-purpose organisations in our region and wish to make the following observations in support of these organisations:

Submission Points

1. Deterrent to give
   The changes outlined may deter individuals and businesses from giving. It is possible that donors will perceive that their contributions will have less impact due to higher taxation and choose to give less as a consequence. There is already a perception that for-purpose organisations can deliver services and overcome social and environmental challenges on the 'smell of an oily rag'. This combined with other deterrents to give, diminishes for-purpose organisations' capacity to deliver.
2. Growing generosity
   With the intergenerational transfer of wealth that is anticipated over the next 20 years, a tax system that encourages giving and philanthropy would create an environment supportive of for-purpose organisations' sustainability, allowing them to maximise their impact. For-purpose organisations often rely on income generated from investments. Reducing this income through taxation would force them to look for alternative income and distract them from their core mission.
   A shift in tax policy that would support sustainability and encourage greater generosity would seem a more constructive approach to building a resilient and sustainable for-purpose sector.
3. Impact on service delivery
   The for-purpose sector plays an important role in providing services to vulnerable populations. Changes in taxation could limit their ability to deliver these services, a shortfall that would need to be met elsewhere, but would likely impact the most vulnerable and exacerbate social inequity.
4. Increase in administrative workload
   The administrative burden placed on for-purpose organisations applying for funding can be onerous, having to complete lengthy applications and acquittal reports. Implementing a new taxation framework could increase this administrative workload further. Many for-purpose organisations have limited resources and staff. Adding greater compliance requirements to their workload, diverts time and funds away from the core mission and undermines their effectiveness and efficiency.
5. Economic impact
   The for-purpose sector in NZ contributes significantly to the economy through jobs and community development. Changes to the taxation framework could lead to job losses in the sector and impact the economy more broadly.
6. Equity and fairness
   The for-purpose sector often serves marginalised communities. Changes in taxation would disproportionately affect the organisations that support these groups. This could lead to greater disparities in access to services and support, perpetuating inequity and fairness.

CHRISTCHURCH FOUNDATION

Conclusion

The Christchurch Foundation supports building a resilient and sustainable for-purpose sector; one that supports the most vulnerable and marginalised and helps build thriving communities. The proposed changes to the taxation framework jeopardise for-purpose organisations' ability to deliver against their core mission and have the potential to deter giving, which may have broader economic implications.

Thank you for considering this submission.

Lynne Umbers

Interim General Manager, Christchurch Foundation

31 March 2025

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TAXATION AND THE NOT-FOR-PROFIT SECTOR: SUBMISSION BY DILWORTH TRUST

Introduction

This is a submission by the Dilworth Trust (**Trust**) on the IRD Officials' issues paper "Taxation and the Not-for-Profit Sector" (**Issues Paper**).

Our submission focuses on the issues raised in the Issues Paper regarding whether business income earned by charities that is "unrelated" to their charitable purposes should be subject to income tax, and how "unrelated" is to be defined.

All references to "sections" in this letter are to sections of the Income Tax Act 2007.

Summary of submission

Our submission consists of the following key points:

- Dilworth School (**School**) is an independent school for boys in Auckland. The School provides fully funded, high quality educational and boarding opportunities, worth over $55,000 per annum per student, to around 500 students in years 7-13. These opportunities are offered to students from backgrounds where there is an identifiable need.
- The charitable purpose of the Trust is set out in the will of the founder, James Dilworth, who died in 1894. The Trust has been in existence for over 130 years.
- The Trust's status as a tax-exempt charity was confirmed in an 1898 decision of the Privy Council.[1]
- The majority of the cost of running the School and its capital renewal programme is funded out of the Trust's property investment activities. That income is currently exempt from income tax under section CW 42.
- The revenues derived from the Trust's investment activities are entirely applied towards carrying out the Trust's charitable purpose, which is education and boarding at the School.
- The Trust employs approximately 245 staff, the majority of whom are engaged to educate and care for students.

[1] *Isabella Dilworth v Commissioner for Land and Income Tax* (PC) BS1567517.

If the “unrelated” business of the Trust was deemed to include the investment activities described below, and therefore the bulk of the income of the Trust was to become subject to income tax, the funds available to the Trust to offer free education to students would be significantly reduced. This would directly result in fewer students being able to attend our school, leading to students missing out on the high-quality education on offer. It would also require the Government to “fill the gap” by providing this education instead.

Imposing income tax on the Trust’s business income would also disrupt its ability to plan for and ensure the continued operation of the School and ongoing investment into its infrastructure.

Taxing the Trust’s business income would also introduce additional compliance costs that would hamper the Trust’s ability to carry out its charitable purposes.

We are concerned about the lack of certainty in the Issues Paper regarding what income will be “unrelated” to a charity’s charitable purposes. We are concerned that changes to the law will create uncertainty that will require charities’ resources to be consumed by addressing this uncertainty.

We are concerned about the ability for charitable organisations like the Trust to continue to employ the staff that they currently do, given the financial costs associated with the business income of the Trust being subject to income tax.

Finally, we are concerned that the proposal in the Issues Paper fails to draw a distinction between businesses that accumulate significant tax-free income only by virtue of being owned and controlled by a charitable organisation, and charitable organisations such as the Trust that derive business income only so that they can carry out their charitable purposes.

We expand upon these concerns in more detail below.

About the Trust

The Trust was established under the will of the late James Dilworth, who died in 1894. The Trust has been in existence for over 130 years. The Trust’s primary charitable purpose is to operate a school for boys who come from straitened and difficult circumstances, known as “Dilworth School”.

The Trust currently derives the following types of income:

Rent derived from ground leases over property owned by the Trust;

Rent from conventional commercial leases (i.e. leases of land and buildings owned by the Trust);

Income from development projects; and

Investments in financial assets (e.g. managed funds).

The abovementioned income streams are business income which are currently exempt from income tax under section CW 42.

The cost of running the School (i.e., offering free education and boarding to boys selected to attend the School) is funded out of the above, currently tax-exempt, income streams.

Unlike a conventional business, the Trust does not distribute dividends to private individuals or shareholders. Any surplus funds are reinvested into the Trust to undertake its charitable purposes.

Also, unlike a conventional for-profit business, the Trust is limited in terms of the sources it can draw on for funding. The Trust is not able to raise equity capital (as it cannot offer equity to other persons) and is limited in its ability to borrow for non-investment purposes. The Trust’s only options to generate funds are to earn income from carefully managing and growing the assets that it holds, and to a much lesser extent, seeking donations.

The Trust contributes over 100% of its income for its charitable purposes. The table below illustrates this:

	11 months to 31 December 2024 $000s	12 months to 31 January 2024 $000s	12 months to 31 January 2023 $000s
Net Investment Property Income (1)	$27,768	$34,362	$31,576
Net income available for school use	$20,068	$25,700	$22,489
School Operating Expenses	$33,586	$34,508	$31,577
School Capital Investment (2)	$11,097	$6,075	$19,331
Funds applied to school use	$44,683	$40,583	$50,908
Net Property Income applied to school operations	223%	158%	226%

About the School

The School is a school for boys in Auckland. The School provides education for approximately 500 boys in years 7 to 13 at a cost of over $55,000 annually for each boy.

Consistent with James Dilworth's wishes, as expressed in his will, the School provides free education to boys who are selected to attend the school. The School therefore plays a critical role in providing high-quality educational opportunities to students who may not otherwise have access to such an environment.

The School's students are selected on a case-by-case basis through a rigorous selection process. Students are often from homes with significant socio-economic pressures on the family. However, acceptance into the School can also be for reasons such as the death or illness of a parent, where there are other high-needs children in a household, or a large family size.

Despite the socio-economic profile and family background of many of the School's students, the students perform well against national averages for both NCEA and Literacy and Numeracy standards. Certainly, Dilworth students are far more likely than students from many other schools to gain University Entrance at Year 13, and this is especially the case for students who identify as Māori or Pasifika.

Dilworth students also do well in numeracy and literacy achievement levels, particularly as they progress from Year 11.

The School excels in terms of achievement in NCEA across all year levels – Year 11 (data up to 2023*), Year 12 and Year 13.

The gap between Dilworth students and others becomes more pronounced at the University Entrance level (Year 13). By Year 13, Dilworth students are:

72.4% higher than the national average for boys;

114.6% higher than the national average for Māori students; and

125.8% higher than the national average for Pasifika students.

At Year 11, Dilworth students achieved almost 20% higher than the national average for literacy (100% cf. 81.9%) and numeracy (99.4% cf. 80.8%).

Potential impact on the Trust if its business income is deemed to be "unrelated"

We are concerned about the proposal in the Issues Paper that business income which is "unrelated" to a charity's charitable purpose be subject to income tax. Our key concerns are as follows:

Potential reduction in student numbers

As Dilworth does not charge fees for students attending the School, there is no ability to pass on the additional cost that taxing this income would create.

If the Trust's business income were to become subject to income tax, the funds available to offer free education to students would decrease. This would directly result in fewer students being able to attend the School and a reduction in staffing required to operate a boarding school.

This would be highly detrimental to the affected students, as it would result in those students missing out on high-quality education at the School, which may result in those students never meeting their full potential.

A flow on effect would be to increase the burden on the Government to provide alternative educational opportunities, i.e., to "fill the gap" caused by having reduce the School roll.

In that regard, we understand one of the concerns associated with the exemption in section CW 42 is that it reduces Government revenue (see paragraph 2.15 of the Issues Paper). However, we foresee that limiting the exemption in section CW 42 would likely result in an increase in Government revenue, only for that revenue to be consumed by "filling the gap" left by imposing income tax on the business income of charitable organisations such as the Trust.

Impact on Trust's ability to plan for the future

We note the concern expressed at paragraph 2.6 in the Issues Paper about the income of certain charitable organisations being accumulated tax-free for many years before the public receives any benefit.

All income generated by the Trust is either directed toward the School's current year operations; invested in upgrading school facilities; or reinvested in the Trust to ensure the operation of the School in the long term. This includes investment into School buildings and other essential educational infrastructure. Imposing tax on that income would therefore significantly disrupt our ability to maintain financial stability and ensure the continued operation of the School into the future.

Compliance costs and administrative burden

If the proposal to tax "unrelated" business income proceeded, and the Trust's income was captured by this law change, there would be a significant compliance burden on the Trust. Devising the Trust's tax position would necessitate the preparation of income tax returns and seeking the professional advice in relation to same. This would have the following detrimental effects:

A further reduction in funds available to fund the operation of the School; and

Trust staff would be required to use their time and resources on tax compliance rather than on fulfilling the Trust's purposes through carrying out its charitable activities.

<u>Potential non-deductibility of costs</u>

One specific issue from a tax compliance perspective that we are concerned about is potential non-deductibility of the Trust's costs. We expect that this will be an issue for other charitable organisations who offer "free" services too.

While the Trust's income is generated from investments in commercial property (and managed funds), the services the Trust provides (offering education and boarding) are free. We are concerned that the Trust's operational costs may not be deductible under the framework proposed in the Issues Paper. If so, that would further strain our ability to continue to provide education and boarding to approximately 500 students as we do now.

<u>Definition and application of "unrelated business income"</u>

We are very concerned about the lack of certainty in the Issues Paper as to how "unrelated" business income would be defined. We note that Inland Revenue Officials have also signalled some concern about this issue on page 8 of the Issues Paper.

We anticipate that defining when business income is "unrelated" may prove difficult. This will potentially result in (i) law that is difficult to apply; (ii) time consumed and resources wasted by charitable organisations working out which income is required to be included in an income tax return; and (iii) disputes between charitable organisations and the IRD that consume both the charitable organisation's resources and time (diverting those away from their charitable activities) as well as Government resources.

Given these potential downsides, we believe the focus of section CW 42 should remain on where the money goes (i.e. a destination approach). The current approach is more certain and less likely to result in wasted time and resources by charitable organisations and the IRD.

<u>Concern about ability for charitable organisations to continue to employ staff</u>

We are concerned that the financial cost of taxing the business income of charitable organisations may require some of those organisations to re-evaluate whether they can maintain current staff numbers. If such organisations needed to disestablish positions, there would be a detrimental effect on the community due to an increase in jobseekers and the cost of this to the Government.

<u>Concerns about blanket application of the proposal</u>

We understand that there is concern about giving charities a competitive advantage over "for profit" businesses, in the form of charitable "business" organisations being able to accumulate significant income on a tax-free basis, only because the business happens to be owned and controlled by a charity.

It is difficult to create policy that will strike the right balance here even if the goal was to prevent charities from having a competitive advantage. The proposal in the Issues Paper takes a blanket approach that could cause more harm than good. There are many charities that need to generate income with a long-term view to fund their charitable purposes.

We consider that Charities Services', the Attorney General and, in the Dilworth Trust's case, the High Court's role in overseeing charities, already provide sufficient mechanisms to ensure compliance and prevent misuse of charitable status.

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Conclusion

Thank you for taking the time to consider our submission. The opportunity to submit on the Issues Paper is greatly appreciated and we are happy to be contacted at any stage if the Deputy Commissioner would like any additional information about the Trust to support our submission.

Yours sincerely

DILWORTH TRUST

s 9(2)(a)

Ewen Anderson
Chief Executive Officer

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31 March 2025

Taxation and the not-for-profit sector
C/- Deputy Commissioner, Policy
Inland Revenue Department
PO Box 2198
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Via email policy.webmaster@ird.govt.nz
Attn Stewart Donaldson

Dear Stewart

Officials' issues paper: Taxation and the not-for-profit sector

Deloitte appreciates the opportunity to make a submission on the Officials' issues paper, *Taxation and the not-for-profit sector* (the issues paper). Deloitte acknowledges the issues paper is part of the Government's policy review of charities and not-for-profits (NFPs) announced in the tax and social policy work programme. The objective of the issues paper is to determine the effectiveness of certain tax concessions, both in meeting their objectives, and relative to alternative methods of providing assistance.

General comments

Business income of charities

The decision whether to tax charity business income is a government policy issue that should involve wide and robust consultation with the affected stakeholders. It is not the tax community's role to comment on the social worthiness of an existing tax exemption. The tax community's role is to provide considered feedback on technical issues that could arise implementing a specific policy or legislative change, alert Officials to potential unintended tax consequences and support Officials to develop effective and robust tax rules.

Deloitte is concerned that there has not been a sufficient consultation period to allow affected stakeholders to adequately consider and discuss the issues with their constituents and provide considered feedback, this includes sufficient time for Māori Organisations to organise hui to discuss the issues that will affect them.

The issues paper states that:

> *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 business reduce government revenue, and therefore shift the tax burden to other taxpayers.*

No empirical evidence is provided by Officials to support the use of the word "significant". The issues paper also appears to be framed on the assumption that business income is not earned in order for profits to be applied for a charitable purpose. In many instances a charity will run a business in order to provide a source of funds to be applied to its charitable purpose. Having business income is an important diversification of risk to ensure a charity is not reliant solely on donations, fundraising or grants, which are all unpredictable; or passive investments which can provide fluctuating returns based on market conditions. In some instances, profits will be left within a business to be further invested until needed in order to maximise the total amount available for charitable purposes.

What also needs to be considered as part of this 'fiscal cost' is the benefit charities provide to the government, the taxpayer and society. Charities exist to address societal needs, filing the gaps in government services and provide support for various causes, like poverty alleviation, education and public health. If charities were not there to provide their expertise, time and services, in many cases the government (and the taxpayer) would need to step up to fulfil these needs. Charities can also be described as having a "ripple effect" with the initial act of giving or support having a wider, positive impact that extends beyond the immediate beneficiaries, creating a chain of positive change. These positive changes cannot easily be measured by a monetary "return on investment" but is still important to a healthy, robust, and functioning society. Deloitte submits that if there are concerns about "bad actors" taking advantage of the tax status of charities, a better course of action would be to review the definition of "charitable purpose" as well as beef up the investigative and enforcement capacity of the Charities Service.

Both Officials and the Government should bear in mind that New Zealand is envied for our "relatively" simplified tax system; cherry picking rules and concepts from overseas jurisdictions runs the risk of importing solutions to problems which don't exist in New Zealand, leading to incoherence. A "knee-jerk" response to media hype about a handful of specific New Zealand charities should be avoided. Deloitte submits that until an actual economic "risk" has been identified and quantified for the sector as a whole there is no pressing need to change the charity income tax exemption.

Not-for-profit, friendly societies, member transactions and related matters

Deloitte is concerned by the proposal to tax all transactions of mutual associations and other not-for-profit bodies. This change would run the risk of over-burdening a sector with compliance costs, when ultimately there should be no profit to tax, as the name suggests. Not-for-profits can exist for many reasons, including to allow groups of people to get together to meet a common aim and share costs. Rather than imposing tax obligations, Inland Revenue should release clear guidance as to what is expected in terms of returning tax on transactions under current rules and associated reporting / disclosure requirements. At present there are inconsistent approaches being adopted which has led to confusion about requirements, particularly as the legislation is difficult to comprehend.

Specific issues paper questions

We have set out specific responses to each specific question asked in the issues paper in the Appendix to this submission.

Thank you for considering our submission. We look forward to your response and are happy to be contacted by Officials to discuss this submission further.

Yours sincerely

s 9(2)(a)

Robyn Walker
Partner
s 9(2)(a)

for Deloitte Limited (as trustee for the Deloitte Trading Trust)

Appendix – Response to Questions

All references are to the Income Tax Act 2007, unless stated otherwise.

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?

As discussed in the main body of our submission, Deloitte does not believe it is the tax community's role to determine the Government's policy position on charities. Whether charity business income should be taxed is a policy decision that requires wider and more robust consultation with the affected key stakeholders. It is the tax community's role to provide feedback and suggestions on the workings of proposed legislative changes to help create better, more effective tax policy, as well as alert Officials to potential unintended consequences and conflicts.

If the intention of the Government is to continue to provide tax relief for distributed business income, any change in policy to tax business income is essentially only a timing issue. Any revenue collected by Inland Revenue should have a corresponding liability to refund the tax in the future when a distribution is made.

While some charities may have a significant lag between earning income and then applying the income for charitable purposes (normally with valid reasons), it would be more cost effective to require charities to report on the reasons for their accumulated retained earnings, providing visibility, rather than introducing complex legislation to "fix" a timing issue. The Charities Service has already (in 2024) introduced reporting rules for accumulated retained earnings. Deloitte submits that Officials should allow time for this new reporting rule to be implemented by charities, and data to be collected and analysed, to determine if there is an actual issue.

However, if policy was to change and charity business income was to be taxed, a number of factors, issues and unintended consequences need to be considered by both Officials and the Government. These include:

- While there may be a "cost" with the tax concession for business income, the corresponding benefit to society from charities undertaking activities and providing services (often in a more cost effective and impactful way than the public sector can) that the Government would have to otherwise provide is likely to significantly offset/if not eliminate the fiscal cost from the loss of tax revenue.

- While charities do not have some of the compliance costs associated with a tax obligation, they do have significant regulatory compliance costs that are specific only them. Without empirical evidence being provided by Officials, Deloitte does not agree with the first bullet point in paragraph 2.13, that charities have a lower relative cost of doing business due to "not having" tax compliance costs. The issues paper does not consider:
    - The tax compliance costs charities already face to ensure they are compliant with the exempt income requirements of ss CW 41 and CW 42 and to meet compliance with other taxes such as GST, PAYE etc.
    - The strict Charities Act 2005 and Charites Service compliance and financial reporting requirements that other non-charitable businesses do not incur.

- Deloitte also disagrees with the third bullet point in paragraph 2.13, that charities may have lower costs in raising capital, due to their accumulated retained earnings. In our practical experience charities face additional barriers to borrowing and are not able to raise equity externally from investors (i.e., not able to provide guarantees and not having shareholders). The only option for most charities to fund capital projects is retained earnings. Charities also require retained earnings to cover existing and future charitable commitments during periods when income may drop (i.e. donations and investment income during financial crisis) but the need for their services remains or dramatically increases (i.e. during a pandemic).

- Paragraph 2.14 states that a charity "could" have an advantage if it was able to accumulate tax-free profits back into the capital structure of its trading activities, providing faster accumulation of funds and the ability to expand more rapidly than competitors. No examples of this competitive advantage is provided, rather it appears to be a theory. Deloitte counters this theory by the fact that competitors have access to debt and external equity raising options that charities do not.

- Taxing "active" business income could create a bias towards passive investment income for charities. To support the Government's focus on economic growth policies should encourage investment in active income earning businesses that employ staff, not passive investment. This in turn would raise its own issue of charities having to determine when their management of passive investments is significant enough to constitute an active business in its own right.

- Paragraphs 2.8 – 2.11 state that whilst charities have a tax advantage, they do not have a competitive advantage over taxable businesses. Both charities and taxpaying businesses face the same pre-tax returns on investments. These statements, on face value, would support the position, if competitive advantage is the concern, that charities business income should not be taxed as charities do not have a competitive advantage.

- Taxing charity business income will increase compliance costs significantly for charities, even if it is just to determine that they "are not" required to pay tax on their business income. These cost increases are likely to result in some charities, that are valuable for societal reasons, to no longer be financially sustainable.

- Inland Revenue's *2024 Study on time and cost of doing business taxes incurred by NZ small businesses*[1] reported estimated compliance hours at 32 hours per year, with a cost of internal time of $2,844 and external costs of $2,300. 91% of small businesses incurred external professional service costs. Deloitte submits that charities will have higher costs if there is a need to consider boundary and interpretive issues and complete apportionment calculations. Charities are often run by volunteers, or a very small number of employees. They will often not have specialist skills to be able to interpret and comply with tax laws, resulting in a greater reliance on external advisors and additional compliance costs being incurred.

- If the Government and Officials have concerns about charities accumulating retained earnings, or being a "bad actor", Deloitte submits there are a number of more appropriate options available that should be enforced, before resorting to new and complex legislation that puts charities to additional compliance costs, including:
  - a review of the definition of charitable purpose and who can be a registered charity (s YA 1 and s 5 of the Charities Act 2005);
  - Enforcement of the existing rules and requirements under the Charities Act 2005 and the Income Tax Act 2007 (for example, the general anti avoidance rule s BG 1); and
  - Sections CW 42(5) to (8) (control restrictions).

- Making a charities' business subject to income tax is not as straight forward as requiring a tax return to be filed and tax to be paid. Additional accounting complexities are introduced, including potentially having to account for deferred tax in financial statements. Deferred tax in a charitable context is likely to be challenging, with the level of complexity dependent on the system introduced to provide relief for tax paid when distributions are made.

- What tax rate will be applied? Will it be the relevant entity rate? Many charities are trusts which are taxed at 39%, will they be expected to restructure and move business activities to separate company structures in order to be taxed at 28%?

- Will timing rules be introduced to allow a charitable business to distribute surpluses to a charitable parent after balance date once taxable income has been calculated?

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?

Deloitte disagrees with the statements in paragraphs 2.17 – 2.19 that a policy change would have financial implications for "some" affected charities. It is Deloitte's position that *all* charities with business income will be affected, even if it is eventually determined that a charity does not have "unrelated business income" the charity would still need to incur compliance costs to confirm this position, and regularly reconfirm this position as trading activities of the charity change.

[1] 2024 study on the time and cost of doing business taxes incurred by NZ small businesses

Deloitte considers that the most significant practical implication would be the uncertainty and certain legal disputes over the definition of "unrelated business income". While this term is used in some overseas jurisdictions, there is no universally "accepted" definition. The New Zealand tax regime, while sharing a similar genesis with overseas jurisdictions, has unique legislation and legal interpretations which have evolved over many years, meaning that tax rules and concepts from overseas jurisdictions are not simply transferable to New Zealand. Paragraph 2.21 states that there are "many" international precedents follow but does not provide any specific examples that Officials consider could be appropriate in a New Zealand context. This means that submitters have been required to provide comments on vague and unclear musings from Officials.

Paragraph 2.18 acknowledges that removing the business income tax exemption may create a preference for some charities to invest in passive investments, however, a vague definition could result in the possibility of a charity having an "unrelated business" of passive investing when they are required to actively manage investments. A focus on passive investments also puts pressure on the need to make imputation credits refundable.

"Unrelated business income" is an unfamiliar concept in New Zealand tax legislation and as such would result in significant uncertainty (and significant compliance costs) while charities attempted to understand its implications. While the s CX 25 FBT exemption requires some charities to distinguish between "related" and "unrelated" business activities, Officials should be well aware that FBT is complex (and often not fully complied with). It is probable that many charities have not understood the distinction and the "related" and "unrelated" business activities are likely to be only applied by charities to separate entities, not to the actual trading activities.

The issues paper refers to the Inland Revenue interpretation statement published in 2024 (IS 24/08) that provides guidance on when a charity is carrying on a business. Deloitte notes that this guidance "was to provide guidance on how s CW 42 applies to tax charities that derive income from a business that have charitable purposes in and outside New Zealand". Charities who only have charitable purposes within New Zealand (the majority of charities), will have had no reason to consider this guidance previously. The published guidance does not include the concept of "unrelated business income".

Examples of other issues that Officials need to consider include:

- Boundary issues – definitions result in boundaries (including de minimis rules). These are not matters that can be "set and forget", rather charities will need to regularly test income sources.

- Loss making businesses – some charities may run businesses that do not make a profit once cost allocation is undertaken (for example renting out premises for community events outside of normal business hours). Rental income brings additional cashflow, but may not give rise to taxable income after costs are apportioned.

- Apportionments – if charities do not use separate legal entities for their business activities, cost will need to be apportioned to different income sources. Taxpayers are allowed to determine a reasonable basis for cost apportionment, while this allows flexibility, it will mean charities have less certainty and will incur higher compliance costs than other businesses.

- Deferred tax – The majority of New Zealand businesses are eligible to comply with Inland Revenue's minimum reporting standards. Charities are held to a higher standard. If income tax were to apply to a charity's business income, there may be a requirement to calculate tax balances for financial statements. Charities may have deferred tax assets/liabilities which could materially change their balance sheets. The complexity of these calculation will be dependent on the system put in place for tax credits when distributions are made to charitable purposes.

- Fixed assets – will assets brought into the tax base be at accounting cost, accounting book value or market value? What about donated assets?

- Distributions to parent charities – will this be treated as a donation or a dividend? What about donations after balance date once accurate calculations are undertaken (like trusts)?

- Interest deductions – if a charity obtains debt financing and they are not a company, will there be an automatic ability to claim interest deductions, or will they apply tracing rules?

- R&D tax credits – will charities be eligible?

- Joint ventures/limited partnerships – when a charity is invested into another "look through" entity, will the charity be treated as undertaking the underlying business activity? Will this be a passive investment?

- Provisional tax – will charities be subject to ordinary provisional tax and use of money interest rules?

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?

Deloitte does not agree with the removal of the tax exemption for "unrelated" business income.

Paragraph 2.21 states that "there are many international precedents to follow" for the definition of "unrelated business income". Unfortunately, the issues paper does not go into any detail about what these precedents are nor does it provide any tangible examples of what Officials may consider to be "unrelated" for submitters. It is therefore difficult to provide robust, reasoned and detailed feedback on definitions.

At various points Officials discusses charity taxation in Canada, the US, the UK and Australia. A summary of our understanding of these tax systems is:

- Australia: the term unrelated business income is not used.

- UK: there is no general overriding income tax exemption. There are exemptions for "specific" sources of income, including trading income earned carrying out a charities "primary purpose". Income that is not specifically exempt is taxable, however a subsidiary trading company can donate its profits (which do not have to be linked to a charity's primary purpose) to a parent charity's main purpose, tax free. The term unrelated business income is not used.

- Canada: registered charities are tax exempt for income tax and can carry on any "related" business activity that accomplish promotion of their charitable objectives and are subordinate to that purpose, or substantially (90%) all staff are volunteers. Private foundations cannot carry on any business activities. Charities also have a "disbursement quota" that must be reached each year.

- US: "unrelated business income tax" is a tax on income from trade or business regularly carried on that is not substantially related to the charitable, education or other purposes that is the basis of the organisations exemption. While the term "unrelated business'" is used in the US in relation to charities, it is commonly acknowledged that both the tax and legal systems in the US are significantly different to New Zealand and we are doubtful that the US precedent would be easily transferable to New Zealand.

These summaries demonstrate the vastly different and complex charity tax laws that exist and how there will be no easily transferable definition to be used in a New Zealand context.

While Deloitte agrees that Inland Revenue has published guidance on when charities are carrying on a business (s CW 42) which includes a discussion on what a business activity is, the issue here is what the term "unrelated" means. This term has not defined in the New Zealand tax system context before.

The issues paper references the fringe benefit tax (FBT) rules at paragraph 2.22. Published guidance BR Pub 22/06[2] discusses this issue through explaining the operation of s CX 25, which exempts charitable organisations from FBT, except to the extent "the employment consists of the carrying on by the organisation of a business whose activity is outside its benevolent, charitable, cultural, or philanthropic purposes." BR Pub 22/06 provides some useful insights:

[2] FBT - Charitable and other donee organisations and fringe benefit tax

> *"…the Commissioner considers activities will be carried on within a qualifying organisation's purposes when they:*
> - *are the performance of a qualifying organisation's specified purposes; or*
> - *directly facilitate the carrying out of a qualifying organisation's specified purposes."*
>
> *"Activities the Commissioner considers will usually be characterised as being carried on within a qualifying organisation's specified purposes include:*
> - *the carrying out of the qualifying organisation's specified purposes;*
> - *appeals for funds for the qualifying organisation's specified purpose;*
> - *passive investment and management of the qualifying organisation's funds, so long as the organisation does not carry on a business of fund investment; and*
> - *the administration of the above activities."*
>
> *"It will be a question of fact in each case whether the business activities of a qualifying organisation are activities that are not of themselves achieving the organisation's specified purposes. It is, therefore, possible that two qualifying organisations may carry out similar business activities, with different FBT consequences for each organisation. An example of this is where a qualifying organisation operates retail stores selling goods with a view to making a profit. This type of activity would generally be considered to be outside an organisation's specified purposes, although for some organisations such an activity might fall within their purposes. For example, if the operation of a particular retail store served the purpose of creating job opportunities for a group that the organisation was established to assist, or if the goods were provided at low cost to a group the organisation was established to assist. This business activity may be considered to be achieving the organisation's specified purposes."*

This guidance provides a starting point, but it also points to the potential complexity with the retail store example. A similar example could be an organisation like a zoo which will have a charitable purpose related to animals and education and may earn income from ticket sales, additional animal experiences, school programmes, gift store sales, food and drink sales, sublet of space to a third party to run a café, venue hire for corporate events/parties etc. It is not clear whether all these income sources would be related business income, but in our view they all should be.

As noted by the retail store example, whether income is unrelated will need to have recourse back to what the aims of the charity are. "Other purposes beneficial to the community" is one of the categories of charitable purpose and this can be very broad, accordingly in some instances related income is likely to be much broader than what members of the public think. For example, a charity may have charitable purposes of "production and distribution of healthy foods" and "promotion of a healthy lifestyle"; it stands to reason that manufacturing and selling healthy food should be related income and outside the scope of what Officials are looking at.

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?

Deloitte does not agree with the removal of the tax exemption for "unrelated" business income.

However if the tax exemption is removed then Deloitte agrees there should be a de minimis for small-scale business activities. Deloitte does caution however that a de minimis rules will create boundary issues if charities move over thresholds and become subject to materially more compliance costs. There should also be safeguards or averaging applied across years to stop charities "flip flopping" between different rules.

Deloitte also recommends that Officials consider another consequence of having a de minimis is that smaller charities could be discouraged from merging to form better resourced and more efficient larger charities. The data provided in the OECD report *Taxation and Philanthropy*[3] shows that New Zealand has significantly more charities per head of population than most other OECD countries, including Australia. This would indicate that there may be

[3] OECD (2020), *Taxation and Philanthropy*, OECD Tax Policy Studies, No 27, OECD Publishing, Paris.

too many small and inefficient charities in New Zealand and introducing an incentive to remain small may result in more small charities.

In the reverse, a de minimis may encourage tax avoidance behaviour with larger charities splintering into multiple smaller charities to drop under a threshold.

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?

Deloitte does not agree with the removal of the tax exemption for "unrelated" business income. However, if the tax exemption is removed then all business income distributed for charitable purposes should have tax relief. If this was not the case, it would be necessary to remove the ability for any company to claim a tax deduction for a donation (s DB 41 of the ITA) as well as the donation tax credits system for individuals. For the tax system to function, tax relief needs to apply across all "donor" types. Deloitte would not support removing all forms of relief for charitable giving.

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?

Deloitte submits that Officials should review the charity deregistration rules to ensure they are fit for purpose.

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?

Deloitte submits that there should be no distinction between donor-controlled charities and other charitable organisations for tax purposes. There is a significant risk that adding restrictions will reduce donations if the element of self-determination of the charities supported is restricted or removed. The issues paper does not discuss any compliance concerns that existing enforcement options cannot resolve. Adding new rules and regulations will only add complexity and compliance costs to all charities, not just the 'bad actors'.

Any definition of donor-controlled charity could have significant consequences for existing charities. Taking the Canadian definition for example (paragraph 3.9), if this definition was used in a New Zealand context, it would likely capture a number of Māori organisations that were established a part of Treaty of Waitangi settlements. Looking at the Canadian example in paragraph 3.9 further, the definition infers that a charity could be caught only if there are non-arm's length transactions. Deloitte agrees that any charity that only had arm's length transactions should be excluded as there will be no transfer of value from the charities for private gain concerns. If these rules were introduced there would need to be clear rules to provide certainty to charities on whether they were in or out of the rules and how they would document the arm's length nature of any associated supplies.

In 2024 the Charites Service introduced new annual return filing forms (for reporting periods after 1 April 2024). The new form requires larger charities (annual operating expenses over $140,000) report the reason for their accumulated funds as well as specifically asking "is generating funds for, or making grants or donations to, other charities or organisations, the main way your organisation/charity carries out its charitable purpose". This requirement is referred by Officials at paragraph 3.4. Deloitte submits that this is an example of existing regulation that should be used to monitor and identify compliance concerns.

Paragraph 3.6 then sets out four examples of compliance/tax avoidance concerns. It is not clear if these are actual cases of avoidance or examples of what avoidance "could" be. If these are actual cases, further information on how common these concerns are seen would help provide more accurate feedback. What has not been included in the issues paper is consideration of the existing enforcement options available to both regulators, which includes:

- The existing charity specific rules related to prevention of private pecuniary profit (s CW 41(1)(b) and s CW 42(1)(c))
- The existing general anti-avoidance rule (s BG 1)
- The Charities Service 2024 accumulated funds reporting change

- Enforcement of breaches of the "charitable purpose" requirements
- Crimes Act breaches

Paragraph 3.2 states that donors to "donor-controlled charities" can claim donation tax credits (DTCs), as if they had donated to unrelated donee organisations at arm's length. However, no detail is given or examples provided of DTC claims increasing or being abused since the cap was lifted. Deloitte seeks clarification on what the term "gift deductions" relates to in this paragraph.

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?

While Deloitte does not agree with investment restrictions for donor-controlled charities, this is not a tax issue.

The existing general anti avoidance rule (s BG 1) is broad enough for the Inland Revenue to use for enforcement, if it identifies non-arm's length transactions that the Commissioner considers to be tax abuse. Deloitte submits that the Inland Revenue's preference to legislate bespoke anti-avoidance rules (i.e. like the tainted charity donation rules in the UK) adds unnecessary complexity.

If Inland Revenue has concerns with specific non-arm's length transactions a Revenue Alert can be published which would set out the Commissioners expectations, as has been used effectively when there have been other tax avoidance concerns raised (for example diverting personal services income and dividend stripping). If the Commissioner has an actual avoidance case with a charity that is pursued through the disputes process, the Commissioner would be able to either publish a Technical Decision Summary (if settled before Court) or a positive judgment if heard by a Court.

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?

Deloitte does not agree with the introduction of a minimum distribution rule.

The issues paper has not provided any empirical evidence of an actual identified problem. As previously discussed, in 2024 the Charities Service introduced new accumulated funds reporting rules. Officials should allow sufficient time for information to be collected under these new rules to determine if there is a problem, and whether the extent of any potential problem would warrant adding complex rules.

Any minimum distribution rule would require a high degree of involvement of the Inland Revenue and/or the Charities Service to administer. For example, the Canadian Disbursement Quota rule has a number of exemptions, including for endowment fund use, large scale projects, carry forward/offset excess spend against future years and other Revenue Authority exemptions. Any application for an exemption will be difficult and time consuming for regulators to process as the issues will be very fact specific to each charity, its aims and objectives.

However, if there is a minimum distribution rule, Deloitte submits that this should be calculated as a percentage of income, not assets. Deloitte also submits that if an income threshold test is use, it should be averaged across years, as charities will often have multi-year commitments to funding projects will need to be conservative with budgets to ensure there is a sufficient cashflow buffer for future funding commitments as income types like donations or investment earnings can fluctuate significantly.

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.*

Summary

As a starting proposition, Deloitte's view is that Inland Revenue (draft) technical position results in tax outcomes that are problematic for the efficient operation of the tax system. We comment on the policy and technical reasons for this below.

Our recommendation is that a legislative amendment should be made to confirm the position as currently understood by taxpayers, remains correct – that member subscriptions are not taxable. That is, if the only issue preventing a subscription from being a mutual receipt is the fact that the entity's constituent document prevents the entity from making any distribution to its members, then those restrictions should be ignored, and the income treated as having a mutual character.

We note the issues paper implies there is a policy concern with this outcome. No further detail is provided, and it is not clear what this concern is. If there is in fact a concern, this should be clearly articulated and an appropriate policy response proposed.

Simplification

General Comments
Deloitte does not support changes that reduce compliance costs if they do so at the cost of an overall inappropriate outcome that imposes material additional taxation, where, from a policy perspective, that does not provide a logical outcome. We consider this is one of those instances.

If simplification is the aim, we recommend that Inland Revenue focuses on taking taxpayers out of the tax net where the current revenue being raised (if any) is negligible. Changes should not be made to bring more taxpayers into the tax net, when:

1. They are fundamentally non-profit organisations that do not derive 'income' as that term is ordinarily understood in a tax context;
2. While there may be an impact material to NFPs (from their perspective), in aggregate this will not increase the revenue base over time.

Alternative approaches
While not clear, it appears Inland Revenue may consider that imposing full taxation is simpler and cheaper overall for NFPs. We do not believe that is likely the outcome. However, if that is the intent, then we recommend:

1. NFPs be provided the option to take this approach (albeit with some ability to opt out);
2. There also be an appropriately increased automatic deduction to ensure small NFPs are out of the net entirely, and do not have to engage with the complexity of the rules. In our view $10,000 would be an appropriate starting point.

If Inland Revenue sees optionality as creating a risk that NFPs may seek to 'game' the system (for example by moving in and out of the rules), restrictions could be applied.

Treatment of subscriptions - policy concerns
The paper notes at 4.6 that "*Most NFPs would not qualify for mutual treatment anyway because their constitutions would prohibit distribution of surpluses to members including on winding up*".
In our view a significant majority of NFP's applying the principle of mutuality would not qualify under this revised view. This is particularly the case for Incorporated Societies under the Incorporated Societies 2022 Act ("2022 Act"). Therefore, Inland Revenue's technical interpretation is effectively a de-facto repeal of the mutuality principle (to the

extent it remained in force). Question 10 would be better stated as, "*Given Inland Revenue intends to tax all NFP member subscriptions, what policy changes are required?*"

In our view the Inland Revenue technical position results in an inappropriate outcome. Members of a NFP agreeing that any surplus should be (for example) be donated to a charity on windup makes no practical difference to the character of the arrangement. In fact, in most cases it reinforces the mutual character of the undertaking as it prevents funds being distributed to outside profit takers or investors. We are not aware of any policy reason for drawing a bright line distinction of the type suggested by Inland Revenue, and no reason is articulated in the issues paper.

Inland Revenue's suggest interpretation results in anomalous outcomes in a range of contexts.

Consider the following example. A small book club meets monthly at members' homes. Members each contribute a small amount to cover the cost of food and drink (the book clubs only expenses). From time to time a surplus builds up that is carried over, but is usually spent on extra refreshments over the next few months.

Plainly, any funds contributed by book club members are not 'income' to them as members of an unincorporated joint venture for literary discussion. The funds are simply the monies contributed by, and to be spent for the benefit of, members. Taxing the amounts as income would be akin to taxing the members for trading with themselves. This is the crux of the mutuality principle, at least historically accepted by Inland Revenue that the contributions are not taxable.

If the book club members agree that, should the book club ever cease, any remaining funds should be donated to a charity (to be selected at the time) there is no sensible reason for the analysis to change. However, we understand that Inland Revenue's view is (now) that the members plan negates the mutual character of the member contributions. We do not see why this is sensibly the case (and hence our view that, if that is the outcome, then a legislative fix is required).

Timing

In many cases NFP's operate on a broadly break-even basis over time. However, it should not be assumed that full taxation of NFP's through a de-facto repeal of the mutuality principle has a minimal net impact.

Generally, NFPs' ability to access equity and debt funding is restricted compared to "for profit" entities. To account for this, NFPs will instead accumulate surpluses into capital reserves. These reserves act as a mechanism for funding capital projects or simply managing fluctuations in expenditure. Taxing any surplus arising from member subscriptions creates a drag on capital accumulation that does not arise for organisations more easily able to access debt / equity funding. Taxing this is effectively akin to taxing an individual's savings each year (that is, salary less cash expenses) as if it were income. This is not a logical outcome.

This timing issue is exacerbated if reserves are spent on capital assets that are depreciable over an extended period. Or if black hole expenditure arises, where the NFP is effectively taxed on subscriptions and has no deduction available.

The paper notes that member contributions might be capital in nature in some contexts. While we agree this may be the case, it is not a panacea. Practically, many organisations charge a general subscription that cannot be easily separated into income and capital components, particularly where future capital expenditure is not yet fully planned. Further, at a practical level this is an unnecessary burden to place volunteer treasurers of small NFPs who are unlikely to be well acquainted with these matters.

Incorporated societies

Inland Revenue's revised view is particularly problematic for Incorporated Societies registered under the 2022 Act.[4] In broad terms, the 2022 Act requires that on windup, any surplus be distributed to another NFP or charity. The former 1908 Act did not include these rules, leaving the Incorporated Society to distribute surplus funds to members. That said many Incorporated Societies included similar restrictions in their Constitutions as a matter of good governance.

[4] For completeness, all incorporated societies will shortly need to have re-registered under the 2022 Act, and if not, will cease to be incorporated.

In our view, Inland Revenue's policy stance creates a strong incentive for NFPs to use an alternative structure to ensure mutual status is maintained. As a result, tax policy is undermining the improved governance in the NFP section that that Parliament sought to bring about by enacted the 2022 Act. This is not a sensible outcome.

Basis for IRD technical position

While Inland Revenue has not released or sought comments on the draft operational statement itself, we have included some brief observations below for completeness.

We assume the Australian Federal Courts decision in *Coleambally Irrigation Mutual Co-Operative Ltd v FCT* [2004] FCA 2 (*Coleambally*) is being relied on as supporting the draft operational view. We note that, given *Coleambally* is an Australian decision, New Zealand Courts are not compelled to follow it. We accept Australian decisions are generally persuasive, however it is important that each is evaluated on its own merits. In our view Inland Revenue should exercise caution in applying *Coleambally* given that it was effectively immediately overturned by the Australian Parliament. This suggests the Court may have erred in its decision. Further concerns with *Coleambally* include:

1. In our view the case turns on a narrow reading of the requirement that there be '*complete identity as a class*' between contributors to, and beneficiaries of, a mutual undertaking. This arguably results in a misapplication of the majority decision in *New York Life Insurance Co. v. Styles* (1889) (*Styles*), from which the principle ultimately stems. In simple terms, the requirement for "*complete identity as a class*" is not a bright line test. Rather it is better seen as indica of a mutual arrangement, as distinct from a trade or undertaking in which unrelated third parties' profit from their dealings with others.

2. Consistent with the above, a decision to apply a surplus (if any) by donating it to another NFP or charity at some indeterminate future time, is simply part and parcel of the mutual undertaking. It is a manifestation of the collective objects of the members.

3. The mutuality principle is applied in other common law jurisdictions. In this context wind-up clauses equivalent to that in *Coleambally* are expressly viewed as not impacting the mutual status of an undertaking. New Zealand Courts may look to these alternative sources as authority or reach the same conclusions from first principles analysis.

4. The interpretation undermines Parliament's addition of windup restrictions in the recently enacted Incorporated Societies Act 2022. It is surprising this would pass unremarked on by the legislature, given the widespread and negative tax impact. This suggests the interpretation proposed is not consistent with parliamentary purpose.

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

Any potential issues with the friendly societies and credit union tax concessions is not discussed in the issues paper, therefore no problem has been identified to allow a considered submission on this area to be provided.

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?*

Deloitte submits that further consultation should be undertaken with the stakeholders affected by these very specific exemptions. However, we do question what impact removing the tax exemption would have on the Government's economic and technology growth focus, for example:

- Removing the exemption from bodies that promote scientific or industrial research may result in a reduction of this activity

- Removing the non-resident charity tax exemption may discourage large overseas charities from making passive investments in New Zealand, which would be an economic loss for New Zealand

It is common economic theory that if you want less of something, tax it more.

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?

Deloitte submits that it is difficult to provide robust and accurate commentary on the potential implications of changes to or removal of the FBT exemption in light of the current FBT review, which has not yet been made public. If the FBT review significantly simplifies the FBT regime, then increased compliance costs may not be significant for charities, as they tend to provide low levels of fringe benefits (the likely exception being motor vehicles which may be necessary for employees / volunteers to perform their duties for certain charities).

If the FBT exemption is removed, there should be sufficient transition time to allow charities to reorganise their affairs, if appropriate. Most non-charity employers will have motor vehicle use policies in place to minimise FBT, structure car parking arrangements to fall within the on-premises exemption, have policies on private use of business tools, etc. Charities will not have had to consider these issues before.

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?

Deloitte supports reducing tax compliance costs for all volunteers and NFPs, the approach in the issues paper adds compliance costs for NFPs. Deloitte submits that a tax-exempt cash/benefit threshold for honoraria (say $2,000 for example) could be introduced that would provide significant simplification.

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?

Deloitte does not agree that it is the Inland Revenue's role to improve awareness or drive an uptake of DTCs claims by taxpayers.

Libby Young

From: s 9(2)(a)
Sent: Monday, 31 March 2025 8:38 pm
To: Policy Webmaster
Subject: Taxation and the not-for-profit sector

Tēnā koe, please find below our submission on the consultation paper.

Please withhold the name of our organisation, if possible, along with my name and other contact details. No other information contained in this submission is requested to be withheld on the grounds of privacy

Thank you.

Q1. The most compelling reason not to tax charity business income is that the charity is then able to invest the amount that would otherwise be paid in income tax, into its charitable activity. To be a registered charity, there must be a charitable purpose, and the underlying intention of the income tax exemption was to maximise the possible investment into this charitable purpose.

2.13 Certainly agree that the lack of tax compliance costs is an advantage for charitable trading entities, but again, this makes funds available for the charitable purpose that would otherwise be consumed in compliance. Charities generally tend to operate to the extent of their funding and can therefore regularly have losses, which cannot be offset against future profits for tax purposes. Whilst in theory non-refundability of tax losses for taxable businesses may result in higher relative returns for non-tax paying businesses over time, we think this is the exception rather than the rule. In relation to raising capital, we think charities suffer from the difficulty in obtaining bank loans and not being able to raise capital from external investors. Equity is certainly the most cost-effective form of financing, but the marginally higher non-taxed return does not offset the difficulties in obtaining external sources of capital.
2.14 The idea that a charity could accumulate funds rapidly enough through tax free returns to expand faster than a competitor who can access external sources of capital seems unlikely in the free market economy. This suggests a charity has found some high margin product or service where the barriers to entry are large. In such a situation, you would expect competitors to identify the high return available and invest accordingly to expand more rapidly than the charitable trading entity could.

Q2. The key here would be how the policy defines business income that is unrelated to charitable purposes. For our business, all activities are designed to generate revenue to fund our charitable purpose. We are one location with all activities focussed and contributing to the charitable purpose at and around our location. If we continue to follow the "destination of income" approach, we would not be impacted. Our concern is if the policy framework was altered, could one or more of our business operations be deemed to be unrelated to our charitable purpose and therefore the tax exemption is removed. We would then be subjected to the compliance costs of income tax filing, the payment of income tax on any surplus, and as a result have reduced funds available for our charitable purpose.

Q3. The "destination of income" approach still has merit in our view. If there was some sort of nexus between income derived and charitable purpose expenditure, like the nexus between expense and revenue, then that would assist with the policy framework and ensure charities who derive income only for use in their charitable purpose are not impacted. Whilst this won't be practical for all charities, for us having all business/income generating activities on the one site where the charitable purpose is conducted would be a useful tool for determining tax exempt income.

Q4. Perhaps a good starting point would be to make all tier 4 entities exempt and then a maximum limit of $200,000 of unrelated business income for all tier 1 – 3 entities.

Q5. Yes, we believe it should remain tax exempt if it can be demonstrated to be distributed for use in its charitable purpose. The challenge is then setting the correct policy and procedures and the cost of compliance. It does sound like a good idea to administer this system through a quasi-ICA account where any distributions could be offset against business profits generated in the year of distribution. Tax paid previously on these distributions could then be applied as a credit against the tax payable in the year the distribution is made. If the anti-avoidance rules are well written it would help capture those larger entities who makes profits from unrelated income that are not immediately returned to the charitable purpose. Once again though, the key is correctly defining what business activities are defined as being unrelated to the charitable purpose.

Q6. No further points to include.

Q7. It would seem logical that a distinction should be made between donor-controlled charities and other charitable organisations as the resulting rules between the two types of organisations could vary greatly. Criteria could include but not be limited to where more than 50% of capital is contributed by a person or group of people considered to be related persons and/or where a charity is controlled in substance by a person or group of people considered to be related persons.

Q8. The minimum restrictions that should apply are that all transactions should be at arm's length, like the rules around cross border transaction.

Q9. Yes, there should be a minimum distribution each year, though not sure of the quantum as you do not want to have to dispose of illiquid assets to make a distribution in years of low cashflow. Possibly an annual distribution set at a minimum of 5% of net assets and not less than 70% of free cash flow from the previous financial year. There should be clear exceptions where funds can be accumulated for a specific bulk allocation, with somewhere in the 5–10-year bracket as the maximum period for accumulation.

Q10 – Q12. No points to include.

Q13. Removing the exemptions for charities from FBT would remove the ability to offer competitive salary packages at a more affordable cost to the charity. Our experience is that this exemption is not widely used and the perceived distortion in the marketplace is negligible, but would have a big impact on those charities using the exemption.

Q14. This seems like a pragmatic solution, though does blur the boundary between who is truly a volunteer and who is an employee. Presumably, this simplification includes contractual terms that do not bestow any employee rights to items such as leave, KiwiSaver etc… onto the volunteer?

Q15. No points include.

Ngā mihi

s 9(2)(a)

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From: John Mudford s 9(2)(a)
Sent: Monday, 31 March 2025 8:39 pm
To: Policy Webmaster
Subject: Submission - Taxation and the not-for-profit sector

To whom it may concern,

Current rules around donor controlled charities provide a loophole for charities / churches to exploit the tax system. My concern is how the Brethren church has businesses the length of the country and because they contribute to their own non registered charities they are not subject to any scrutiny.

I have been working in Australia for a number of years but after convincing my Australian employer that there was an opportunity for our business in NZ, I came back to set up the business here. It's been a tough road but we are optimistic. We have however been met with a significant obstacle, that is the Brethren Church**. I**t turns out our main competitor is a business run by Brethren Church members and they don't want any competition. We were aware of their presence but they attack us every opportunity they get and we are the little guy. It would be acceptable if they were competing equally on price and service, but they are not. They have an unfair advantage given the business is run by church members and they conveniently exploit a tax loophole. They are blatantly running commercial enterprises and use their tax advantage and their financial might to deter and bully any competition. It is simply unfair.

I would like to see them treated like any other business, given that's what they are, a business. They should get no tax breaks or no concessions on import duties etc. Ensure they pay their tax like anyone else and level up the playing field.

Regards
John Mudford

Libby Young

From: Jesse Boyce s 9(2)(a)
Sent: Monday, 31 March 2025 8:49 pm
To: Policy Webmaster
Subject: Submission re taxation and the not-for-profit sector paper

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

Dear Deputy Commissioner, Policy, Inland Revenue Department,

My name is Jesse Boyce, I am the CEO of Zeal Youth Trust Aotearoa (Zeal).

This submission is presented in opposition to the considerations raised in the taxation and the not-for-profit sector paper regarding measures, improvements, or simplifications to existing taxation rules for the not-for-profit sector.

Zeal Youth Trust Aotearoa (Zeal) is a medium-sized not-for-profit organisation that would be negatively affected by such changes. Zeal provides locally led care and support services for young people, many of whom experience distress, exclusion, and disconnection. Zeal and the youth development sector across New Zealand undertake essential early intervention and prevention work, delivering significant benefits to New Zealand society, with long-term positive impacts.

1. Opposition to Taxation of Charity Business Income

In response to Question 1 in the appendix of the paper, Zeal strongly opposes the taxation of charity business income for the following reasons:

- Not-for-profit organisations (NFPs) are currently operating in an extremely challenging financial and funding environment, particularly within the youth sector, where reductions in both government and private funding have created additional pressures. The implementation of proposed tax changes would exacerbate these financial difficulties, potentially rendering many organisations unsustainable.
- Taxing charity business income would directly reduce the funds available for charities to deliver critical community programs. The introduction of such taxation measures would result in closures or service cutbacks, disproportionately affecting grassroots organisations that rely on tax exemptions to sustain their operations.
- The closure of charities due to these proposed tax changes would lead to a decrease in the availability of social services for communities. The burden of addressing this gap may ultimately fall on the government, incurring costs that exceed any potential revenue gains from the taxation of charity business income.

2. Negative Impact on Philanthropic Giving

Proposed changes to Deductible Gift Recipient (DGR) status and donation incentives would significantly impact Zeal's ability to generate income through philanthropic giving. Tax benefits serve as a key motivator for donors to contribute to charities, and alterations in this area would create financial barriers that could discourage donations. The resulting decline in philanthropic income would increase Zeal's dependency on direct government funding, potentially leading to costs that exceed any anticipated tax revenue benefits.

3. Fringe Benefit Tax (FBT) Exemption

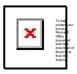
The proposed removal of the exemption from Fringe Benefit Tax (FBT) would have a direct and detrimental effect on Zeal. The current recruitment market is highly competitive, making it increasingly difficult to attract and retain skilled staff. The FBT exemption has enabled Zeal to offer more competitive remuneration packages for key personnel, contributing to organisational stability and capacity. This, in turn, has positively impacted the sustainability and quality of services provided for public benefit. Eliminating this exemption would impose additional financial strain on the sector and undermine its ability to recruit and retain essential staff.

Conclusion

The proposed changes pose a serious threat to the financial viability of the not-for-profit sector and, by extension, its ability to create meaningful social impact. These measures impose unnecessary tax burdens and limit alternative sources of income, particularly philanthropic and private donations. Zeal Youth Trust Aotearoa strongly opposes the proposed changes and urges the government to preserve the tax framework that enables charities to continue their vital work in serving communities across New Zealand.

Sincerely,

Jesse Boyce
CEO
Zeal Youth Trust Aotearoa



Jesse Boyce
CEO
s 9(2)(a)

Ryan Donovan

From: Karen White s 9(2)(a)
Sent: Monday, 31 March 2025 8:49 pm
To: Policy Webmaster
Subject: Taxation of the NFP sector

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

Good Morning,
I would like to contribute some comments with respect to the review of taxing Not For Profits.

I am concerned about the proposal to tax organisations income such as the Salvation Army who contribute a huge amount into our society.
I work for the Salvation Army, particularly providing a community meal each week. Each week we are providing between 70 and 80 meals. This has grown from around 50 meals a week last year. There is a significant increase in demand for our services, not just with this but also people needing food, other household items, mental health care, and companionship.

Most of our funding comes from our Family Store which supports our area and surrounding areas to carry out our work. We are already under tight budgetry constraints with significantly rising costs. Taxing our FS income would severely jeopdise our ability to help our community.

An organisation such as ours is much more efficient at getting help to our community than if extra funding was given to a Government department. For example I am the one paid person to organise and prep our community meal. I then have a team of 15 volunteers that complete the team.

There is good scientific evidence that volunteering is also beneficial to the people volunteering. I see first hand the value that people get out of volunteering. Reducing our ability to do work in the community (by reducing our income through tax) would also have a significant impact on people's wellbeing in the community. Just in my centre we have (and had) many volunteers who have gone on to get work after volunteering. This has included a former refugee, other people that have recently moved into the country, and a recovering alcoholic. The Family Store have similar examples. It is difficult to quantify the value of this, but it is significant in helping people participate in society.

If the Salvation Army and other organisations like us, have reduced capacity to work in the community through losing income through paying extra tax, who do you envisage picking up this work? It is very unlikely this would be done by anyone else, especially in a society that is becoming more and more self centred. This would have a significantly negative impact on our increasingly 'have' and 'have not' society.

The Family Stores which we get much of our centre's funding from also provides a vehicle for recycling, reducing the amount of products going to landfill.

Also there are many other not for profit organisations that help our community, not church affiliated. My Mother started a Pop-In centre to be a place for lonely people in the community, which operated for over 25 years, bringing many people in the community together . One of the most difficult things for them was raising money, to pay rent and other running costs. I know my Mother contributed significantly financially as well, to keep it going. If they had been taxed, it would not have been viable, the hurdle would have just been too high. And lack of money was the reason it ended up closing. And that is just one example, but there are many small organisations trying to help their community.

It can be enticing to look at one or two organisations that you might not agree with, or see as stretching the rules....but please do not throw out what many many great organisations are doing in the community, by taking away this helpful way of supporting the volunteer, and caring parts of our society. The cost to society would be far greater than any extra benefit to the Government funding.

I would be happy to discuss further if required.

Kind regards
Karen White
Salvation Army Johnsonville
s 9(2)(a)

Taxation and the not-for-profit sector
Deputy Commissioner, Policy
Inland Revenue
Wellington

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

31 March 2025

Tēnā koe

Te Rūnanga o Ōtākou response to the Taxation and the not-for-profit sector Officials' Issues Paper

1. We, Te Rūnanga o Ōtākou, are one of the eighteen Papatipu Rūnanga Members of Te Rūnanga o Ngāi Tahu, as defined by the Te Rūnanga o Ngāi Tahu Act 1996 and the Te Rūnanga o Ngāi Tahu (declaration of Membership) Order 2001. We uphold the mana whenua of our rohe within the Ngāi Tahu takiwā.
2. We have read the Te Rūnanga o Ngāi Tahu response to the Taxation and the not-for-profit sector Officials' Issues Paper ("the Issues Paper") and support it in its entirety.
3. Despite being a Member of Te Rūnanga o Ngāi Tahu, we operate completely independently with our own governance and legal structure. Part of our structure includes charitable entities that would potentially become detrimentally affected should there be changes to the current charities law settings.
4. We emphasize 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 utilization of charitable structures.

Te Rūnanga o Ōtākou charitable entities and charitable purposes

6. Through the utilization of charitable entities, we carry out important mahi in our region and are enabled to effectively and efficiently deliver services to some of the most vulnerable members of society. Without these services, there would likely be increased demand on the Crown, and undoubtedly the gap of social and economic disparities in the community would be widened. Examples of these services include:

Cultural outcomes

6.1 Ensuring whanau and hapu members have access to, and knowledge of our tikanga here in Ōtākou. We are able to pivot and interlink with key outcomes based on the economic conditions, social aspects, cultural importance and how we integrate with the environment on a daily basis. Our busiest komiti is our external issues one is we provide a platform (mainly for external organizations & partners) for the wider community to engage with us to provide guidance, support depending on the request and Kaupapa.

Whanau engagement

6.2 Encouraging whanau to reengage with Ōtākou through our whakapapa registration process is building stronger connections with our wider whanau and revitalizing our tikanga for the future. Whilst most of our members live beyond the Otago Peninsula having presence online via our website and various social media channels, it allows us to stay connected and support our whanau across the many varying Kaupapa.

Community Engagement

6.3 The challenges around cost of living for whanau has led to the runaka supporting our members by way of kai packs, assisting with utility bills and school uniforms for rakatahi. The community can make direct contact with the office where requests are channeled to the appropriate working party or komiti – this allows us to build those vital connections in the community and make immediate impact where the need is required.

Education

6.4 Te Rūnanga o Ōtākou have invested in our rakatahi through a number of different opportunities, one being our quarterly Wanaka for rakatahi which is held during the school holidays. These are based around matauraka and encouraging Te Reo amongst this rōpū, some who are not connected to the runaka, so this enables an opportunity for knowledge and growth. Providing a valuable service like this build's confidence in our rakatahi so that they are empowered to be more active members in the future.

Kaumatua support

6.5 One of our kaimahi is working as a navigator connecting with our kaumatua assisting with everyday tasks. Accessibility for services has been a challenge for our kaumatua so ensuring they are able to fulfil medical appointments, providing opportunities for them to grocery shop or run some errands. This support is invaluable and a necessity for our kaumatua to engage with the wider community and feel a part of the runaka.

Environmental

6.6 Mahika kai has been an integral part of Ōtākou tikanga, focusing on this valuable skillset is important to our members. We have been fortunate enough to work alongside the Sinclair wetlands where we have been involved with revitalizing this whenua, learning about this location and its ecosystem. Reverting to important traditions brings back our identity and encourages our rakatahi to understand and learn our tikanga.

Other skills

6.7 Weaving has been a skill that has been passed down from generation to generation. Ōtākou has revitalized this skill by developing and growing this rōpū amongst our members, encouraging hapu members and those interested parties extending to the wider community. This rōpū meets once per month.

Regional Growth

7. At the heart of our investment strategy is our Ngāi Tahu tribal whakautakī *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. Examples of how our charitable businesses stimulate growth in the region include:

Closing Comments

8. Our charitable entities play a crucial role in delivering essential services to vulnerable members of our community, reducing the demand on the Crown, and preventing the widening of social and economic disparities. Our intergenerational investment strategy, guided by our Ngāi Tahu tribal whakautakī, ensures sustainable and beneficial returns for future generations, contributing to regional growth and prosperity.
9. 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.

Ka mihi nui,

s 9(2)(a)

Andrew Rouvi

<u>Te Rūnanga o Ōtākou</u>

Chief Executive Officer

NGĀ IWI O TARANAKI
Te Tōpuni Ngārahu Limited Partnership

31 March 2025

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

Via E-Mail to: policy.webmaster@ird.govt.nz

Taxation and the Not-for-profit Sector

Tēnā koe,

Our Background

Te Tōpuni Ngārahu Trust is the successor organisation to Taranaki Māori Trust Board (TMTB) which was originally established in 1930 to support Māori kaupapa in Taranaki and an education arm Taranaki Māori Education Trust added in 1961 seeking to promote vocational and higher education in the members of the eight iwi of Taranaki.

Te Tōpuni Ngārahu Trust has been established and is about to apply for charitable status and in terms of its establishment meets the criteria for Māori Authority tax status. Te Tōpuni Ngārahu Limited Partnership is the operational arm of Te Tōpuni Ngārahu Trust.

The purposes for which Te Tōpuni Ngārahu Trust was established are:

(a) acting as the collective governance entity for Ngā Iwi o Taranaki for the purposes and arrangements contained in Te Ruruku Pūtakerongo and Te Ture Whakatupua mō Te Kahui Tupua 2025;
(b) exercising any powers, performing any functions, and fulfilling any responsibilities of the Trust under Te Ruruku Pūtakerongo and Te Ture Whakatupua mō Te Kahui Tupua 2025; and
(c) receiving, managing, holding and administering the Trust assets

Promoting the social, cultural, spiritual, educational, environmental and economic advancement of Ngā Iwi o Taranaki, including, without limiting the generality of this purpose:

a. fostering and strengthening of all aspects of the tikanga, kawa and reo of Ngā iwi o Taranaki, including Te Mita o Taranaki
b. providing for the establishment, development and maintenance of community and cultural facilities and places of cultural or spiritual significance to Ngā Iwi o Taranaki
c. promoting the health and wellbeing generally, including of the aged or those suffering from mental or physical sickness or disability, of Ngā Iwi o Taranaki

d. providing assistance and support for Ngā Iwi o Taranaki marae and/or hapu and/or Ngā Iwi o Taranaki Organizations for the cultural and social development of Ngā Iwi o Taranaki
e. undertaking and promoting commercial activities and vocational training to support the purposes of the Trust.

N.B – our feedback focuses on Chapter 2 of the issues paper, which poses the following 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?

The existing settings within the Charities regime provide sufficient safeguards, such as:
- the prohibition of private profit;
- the requirement to only distribute funds for charitable purposes and;
- the requirement for charities to maintain charitable registration

This means that the taxing of profits reduces funds available to Te Tōpuni Ngārahu Trust to carry out its charitable purposes. In effect it will mean that Te Tōpuni Ngārahu Trust will have less money to promote the social, cultural, spiritual, educational, environmental and economic advancement and wellbeing of Ngā Iwi o Taranaki.

Furthermore, and connected to the point above, Te Tōpuni Ngārahu Trust is best placed to carry out the charitable purposes, of promoting the social, cultural, spiritual, educational, environmental and economic advancement and wellbeing of Ngā Iwi o Taranaki as opposed to those funds being transferred to the Crown in the form of income tax.

This is because:

a) We know our communities, we know how best to help our communities – such as providing support, assistance and preparing our communities during COVID-19, housing projects benefiting uri, undertaking various taiao environmental restoration projects.

b) There is no guarantee that the funds transferred to the Crown in the form of income tax will directly benefit Ngā Iwi o Taranaki.

c) Taxing unrelated business income is not only inefficient, it also disincentivizes Māori charities developing their own solutions to address current inequities that affect Māori in health, education etc

d) Māori charities often use their charitable funds to undertake activities that the Crown often have a duty to provide support towards, or practically provide relief for. For example support offered by Māori charities during COVID-19, or our marae supporting communities during the Gisborne and Hawkes Bay floods and other local civil defence emergencies. There's no guarantee the additional revenue generated by government will deliver the same outcomes and have the same targeted impact on Māori communities.

e) Taxing the overall funds received by Te Tōpuni Ngārahu Trust in any given financial year, will impact on what we can deliver each year for Māori in our communities.

To impose income tax on unrelated business income would discourage Te Tōpuni Ngārahu Trust from undertaking activity or delivering on our charitable purposes, therefore ultimately disadvantage uri of Ngā Iwi o Taranaki.

For charities, the generation of business income (related or unrelated) is not directed toward private profit or gain. Rather, business income provides more funds to further their charitable purposes. This is a key and important distinction from for-profit businesses.

The proposal to tax 'unrelated business income' will prevent charities from flourishing by discouraging business and innovation. The negative effect on the charities sector will far 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.

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 government developed a tax-credit regime (for example, so that tax was only paid on accumulated surpluses rather than all business income), and required charities to maintain a special memorandum account, similar to a Māori Authority account as alluded to in the Issues Paper, this would create a significant additional accounting burden.

Taxing unrelated business income is not practical, is likely to be expensive, and increase compliance costs for both the charity and the IRD. The Issues Paper lacks in-depth analysis on revenue generation if unrelated business income is to be taxed.

An assessment of business income, and whether it is unrelated or related would be difficult to apply, and would likely require specialist taxation advice, each year. Presumably an assessment of expenditure would also need to be undertaken. This would result in an increase of costs, resulting in less funds available for Te Tōpuni Ngārahu Trust to carry out its charitable purposes.

The charitable purposes of Te Tōpuni Ngārahu Trust as detailed on page 1 are broad and are not mutually exclusive. It would be difficult, from a practical perspective, to dissect business income, as part of the income may be related, and part may be unrelated. To do so creates significant complexity and a subjective assessment that would be difficult to implement practically.

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?

It will be difficult to assess whether income is related, or unrelated to a charity's purposes.

If the imposition of income tax is to occur, a "broad" approach should be applied, together with necessary exemptions.

We would propose specific criteria such as:

A broad approach should be allowable. Anything that touches on our purposes, should be considered related. For example: if we purchase a tourism venture, the fact that there are employment and training opportunities should mean the income is related.

Additionally, we would strongly advocate that investment income derived fromTreaty settlement assets should be exempt. This is because:

a. The receipt of Treaty settlement assets as recognition of the Crown's breaches of Te Tiriti o Waitangi are a different class of assets because they are primarily for long-term gain and restoration of whānau, hapū and iwi.

b. Māori are intergenerational investors and manage their asset base accordingly. We often put our assets into safe/stable equity investments and reinvest our earnings for future descendants according to our own hapū and iwi priorities (or use that income to fund our charitable activities).

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

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.

Further, we consider that marae and urupā must be exempt, regardless of the tier.

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?

Te Tōpuni Ngārahu Trust has a unique obligation and must take an intergenerational approach when deciding on the distribution of income. We are required to carefully and intentionally balance the needs and aspirations of generations today with the needs and aspirations of the next generation, and every generation thereafter.

Accordingly, income tax should not be imposed on retained income for Te Tōpuni Ngārahu Trust, as the purposes for which Te Tōpuni Ngārahu Trust was established are:

1. Acting as the collective governance entity for Ngā Iwi o Taranaki for the purposes and arrangements contained in Te Ruruku Pūtakerongo and Te Ture Whakatupua mō Te Kahui Tupua 2025;
2. Exercising any powers, performing any functions, and fulfilling any responsibilities of the Trust under Te Ruruku Pūtakerongo and Te Ture Whakatupua mō Te Kahui Tupua 2025; and
3. Receiving, managing, holding and administering the Trust assets
4. Promoting the social, cultural, spiritual, educational, environmental and economic advancement of Ngā Iwi o Taranaki, including, without limiting the generality of this purpose:

    a. fostering and strengthening of all aspects of the tikanga, kawa and reo of Ngā iwi o Taranaki, including Te Mita o Taranaki;
    b. providing for the establishment, development and maintenance of community and cultural facilities and places of cultural or spiritual significance to Ngā Iwi o Taranaki;

c. promoting the health and wellbeing generally, including of the aged or those suffering from mental or physical sickness or disability, of Ngā Iwi o Taranaki
d. providing assistance and support for Ngā Iwi o Taranaki marae and/or hapu and/or Ngā Iwi o Taranaki Organizations for the cultural and social development of Ngā Iwi o Taranaki
e. undertaking and promoting commercial activities and vocational training to support the purposes of the Trust.

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?

Below we have noted some examples of analysis we consider is missing:

a) The unique drivers and features of Māori charities, particularly those that are in receipt of settlement assets, i.e. Treaty settlement assets, or fisheries assets.

b) The social good that charities contribute to Aotearoa, and in particular the work that is undertaken by Māori charities in Aotearoa.

c) analysis of the underlying drivers for the proposals – the Issues Paper assumes that charities have a competitive advantage without testing that driver. In particular, it fails to acknowledge the strict rules around distribution and reporting that do not apply to for-profit entities.

d) thought around if a 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, <u>but at the same time</u> maintain the same strict rules around distribution and reporting.

<u>Additional Points</u>

In closing we wish to comment on the process that IRD has taken for this Issues Paper, noting that:

(a) Recently, 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.

(b) 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 amendments.
(c) The Crown has an obligation under Te Tiriti o Waitangi /the Treaty of Waitangi to understand the impact of any proposed policy changes for Māori and to consider how any negative or unintended effects might be mitigated.

It is apparent that this obligation has not been discharged. The Issues Paper mentions the word 'Māori' <u>once</u>.

Specific impacts on Māori charities need to be well understood before any proposal or consultation paper is put forward for public consultation.

(d) Māori comprise a sizeable proportion of the charities sector and have unique drivers and features, that require specialist engagement. The IRD must rectify its omission and undertake targeted engagement with Māori in an appropriate manner before proceeding with further policy development.

We would be happy to discuss any of the points raised here in more detail.

Ngā mihi,

s 9(2)(a)

Paul Cummings
Operations Manager
Email: s 9(2)(a)

From: Yvonne Styles s 9(2)(a)
Sent: Monday, 31 March 2025 8:54 pm
To: Policy Webmaster
Subject: Taxation and the not-for-profit sector

I work with three distinct charities, each addressing unique community needs through innovative approaches. While their missions vary, they share a focus on supporting vulnerable populations, effectively engaging their communities, and creating employment opportunities.

The Majority of Charities Operate Ethically & Under Financial Strain
Most registered charities fulfil their purposes diligently, yet struggle with funding. Many have turned to social enterprise models—not only to sustain their missions but also to raise public awareness. These efforts deserve recognition, not additional financial burdens.

Governance Failures, Not Tax Policy, Are the Real Issue
Public concern often centres on outliers: charities perceived as exploiting the system through excessive profits, questionable executive pay, or mission drift. The critical question is whether Trustees prioritise community service or self-interest. **This is a governance issue—not a tax issue.**

Instead of punitive taxation (which risks depleting reserves and forcing closures), we should:

- **Require independent Trustees** for large charities to improve oversight.
- **Strengthen Charities Services' investigatory capacity**, possibly through a tiered annual filing fee system
- **Enhance transparency requirements** for Tier 1 & 2 charities, ensuring accountability without crippling compliance costs.

Why Taxing Charities is Misguided
Ambiguity in Implementation: Taxing "unrelated business income" is a slippery slope, given the diverse structures of charities. What qualifies as "unrelated" for one (e.g., a hospice's café) may be core to another's mission (e.g., a social enterprise training disadvantaged youth).
Revenue Overstatement: When the Charity sector-wide figures are analysed the income figures will be overstated, as income is often double-counted (e.g., inter-charity donations).
High Compliance Costs: Charities already face stricter transparency rules and compliance costs (such as audit fees and legal reviews) than many NZ companies
Societal Value: Charities reduce government burdens—delivering services, employing taxpayers, and preventing downstream costs (e.g., healthcare, incarceration).
Economic Contribution: Beyond direct services, charities add to New Zealand's GDP and amplify their impact through volunteer labour. Taxing this sector risks undermining a critical economic and social pillar.

Conclusion
Targeted governance reforms—not blanket taxation—are the solution. I'd welcome a discussion on balancing accountability with sustainability.

Yvonne Styles
s 9(2)(a)

Taxation and the Not-For-Profit-Sector Issues Paper

Submission of Te Kotahitanga o Te Atiawa Trust

Summary of Points

1. Te Kotahitanga o Te Atiawa Trust ("Te Kotahitanga") is the mandated Post-Settlement Governance Entity (PSGE) for Te Atiawa iwi in Taranaki. Te Kotahitanga has established a Charitable Trust, Te Atiawa Iwi Charitable Trust (TAICT) to manage the charitable activities of the Group for the benefit of Te Atiawa.

2. Te Kotahitanga and TAICT have long term, intergenerational responsibilities aimed towards improving the lives of Te Atiawa uri today, and in the future, to try and correct the inequalities that have arisen through historical breaches of Te Tiriti o Waitangi. We do not believe that imposing income tax on our charitable trust is within the spirit of the settlement agreement entered into with the crown.

3. We believe that PSGEs are a definable category within the charities sector and require independent evaluation from other entities in the regime. Ideally PSGEs would be governed by a fit for purpose regime.

4. We object to the lack of consultation with the sector and the short timeframe imposed for submissions. If there are to be policy changes, we expect to see specific engagement with Te Atiawa as part of any potential changes to the taxation treatment of the charities regime.

5. The charitable sector is already appropriately regulated. The proposed tax will:
    a. Limit growth of the charitable sector
    b. Disincentivise charities from undertaking business activities
    c. Result in less funds generated for the charities' purposes leading to the Crown being required to pick up the shortfall in some cases.
    d. Create onerous compliance costs on a complex and subjective piece of legislation.

6. We further note that:
    a. Charities and businesses exist for different purposes, and perceived tax advantages to Charities are a fallacy.
    b. The sector is already regulated and taxed appropriately

c. Charities should be able to make prudent business decisions and manage their funding and retained earnings appropriately in order to achieve their aims and ensure longevity.

7. To discuss this submission in more detail, please contact Dana Haraki (s 9(2)(a)

Introduction

8. In 2016 Te Atiawa concluded settlement negotiations with the Crown and entered into a Deed of Settlement to resolve historical breaches of Te Tiriti o Waitangi. Inherent in this settlement agreement is the commitment of both parties to engage constructively with each other.

9. TAICT is a registered charity. The main activity of the charitable trust is the provision of grants to descendants of Te Atiawa and to affiliated Te Atiawa marae and hapū. Currently, TAICT is offering grants that encourage the long-term growth and sustainability of hapū and whānau. The grants available are for support to develop or refresh organisation strategies and support development of business cases for investment in long-term projects. Additionally, there are grants available to support the realisation of these long-term projects, by providing significant funds to invest in capital projects that seek to build the long-term sustainability of the hapū. TAICT also provides grants to support educational achievement and cultural reconnection activities.

10. Te Kotahitanga and associated commercial entities pay tax on their operations and comply with all Revenue Acts, including the Income Tax Act 2007, Goods and Services Tax Act 1985 and the Tax Administration Act 1994. This submission relates to the income generated by the group for charitable purposes.

Te Kotahitanga o Te Atiawa strongly oppose the imposition of income tax on unrelated business income for Māori PGSEs.

11. Iwi settlements are redress for breaches of Te Tiriti o Waitangi and the negative impact of colonisation. The claims are based on events going back to 1840. The very nature of the backwards looking redress and the large number of whanau who were and are affected means that the settlements have a longevity aspect to them. The whole basis of the settlements is to allow Iwi to work for improvement in terms of equity and equality, for the current and future generations, therefore, Māori settlement trusts by their very nature have a purpose to create accumulated revenue to provide for future generations. This flows through to our Charitable Trust which, as outlined in the description above, has taken a long-term view seeking to help grow sustainability of the grant recipients.

12. We are equally concerned about the impacts the reform will have on entities such as marae and hapū, although most are likely to fall within the de-minimus

exemptions, if the de-minimus is based on the reporting tiers. The reform has the potential to limit the desire for growth, which in turn could smother the opportunities that Māori entities may have to achieve the equitable status the redress was designed to help achieve and which Te Atiawa is actively attempting to grow though its grants process.

13. The following extracts are from the Deed of Settlement between Te Atiawa and the Crown for Ratification purposes which support this view.

3.10. The crown acknowledges that the lands and other resources confiscated from Te Atiawa have made a signification contribution to the wealth and development on New Zealand.

3.21. Through this settlement and this apology, the Crown hopes to relieve the burden of grievance that Te Atiawa has carried for many years, and to assist the process of healing. The crown looks forward to building a relationship of mural trust and cooperation with Te Atiawa based on respect for the Treaty of Waitangi and its principals."

8.12. The primary objective of Te Kotahitanga o Te Atiawa Trust is to hold, manage and administer the Trust Fund to benefit members of Te Atiawa, irrespective of where members reside. Other objectives include:

8.12.1. To exercise strategic governance over the trust entities so as to manage prudently the affairs business activities assets and liability of Te Kotahitanga o te Atiawa Trust.

14. The actions of the crown in regard to this official issues paper are not following Te Tiriti o Waitangi and its principals. There has been no consultation with Māori on the impact the proposed changes may have on PSGEs. We believe that PSGEs are a definable category within the charities sector and require consideration independently of other groups within the sector.

15. We object to the lack of consultation with the sector for amendments that have potential for significant impact. We believe the timeframe for response has been unreasonably short.

16. The consultation paper does not set any clear outlines of how reforms would work. This makes it extremely difficult to see the impact reforms could have on the charities sector and potentially limits the factors summitted on, to a broad-based approach rather than specific issues which will arise depending on what the actual proposed reforms are. Given this, we would expect to see specific engagement with Māori before any further development of policy. We would also expect that there will be a select committee process which is open for engagement.

Responses to specific IRD 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?

17. Te Kotahitanga o Te Atiawa strongly oppose the imposition of income tax on unrelated business income for charities.

18. We believe that charities by their very design are driven to serve their chosen purpose and that safeguards put in place through deeds and governance and the charities regime itself are appropriate regulators. We believe that taxing unrelated business income will stymie growth in the sector, disincentivising charities from undertaking business activities, thereby reducing overall national business and economic growth. This disincentive will then lead to a reduction in income earned by the charity resulting in less income available to distribute, disadvantaging the charities beneficiaries, in our case Te Atiawa uri and associated hapū and marae.

19. As discussed above we have concerns about how any tax on the sector would affect the premise upon which the settlements with the crown were agreed, in terms of Te Tiriti itself and the underlying basis of providing the means to grow intergenerational benefits as redress for historic treaty breaches causing disadvantage and a lack of equality for Māori.

20. Additionally, PSGE operated charitable trusts often use their charitable funds to provide practical relief or support in emergency type responses, such as covid and adverse weather events. Or for wider social and economic benefit, like the use of marae for accommodation for events, an example being the recently held Te Matatini event in Taranaki. These situations are often unanticipated responses, being able to draw on retained funds is crucial for the ability to be able to support or supply relief often filling the gaps and adding government support in such scenarios.

21. We are particularly concerned with the reality of apportioning out unrelated business income and expenses and how this would practicably work. We believe the cost involved with this level of compliance is disproportionate to any possible benefit to the crown in terms of revenue.

Do the factors described in 2.13 and 2.14 warrant taxing charity business income?

22. Given the underlying intergenerational purpose of Te Kotahitanga we do not see any of the factors mentioned in 2.13 or 2.14 warranting taxing charity business income.

23. Section 2.13 suggests that charities have a competitive advantage by not being subject to income tax and have less compliance cost. We would object to that as we believe the sector has significant compliance costs under the reporting requirements that apply to registered charities. Additionally, charities are still

subject to other tax compliance costs such as PAYE and GST. Further, PGSEs have a high cost of compliance reporting to the related iwi/hapu in addition to standard reporting requirements.

24. We struggle to see how the non-refundability of losses for taxable businesses results in a disadvantage. The losses are carried forward and offset any future tax liabilities that arise in a profitable year. Charities purposes are not designed with the aim of creating a profit to distribute to shareholders, they exist to generate funds to distribute towards their charitable purpose, ofttimes benefiting a wider community than just the beneficiaries. As discussed earlier, any retained earnings or perceived tax benefit are in time, distributed for charitable purposes.

25. We believe there is no benefit to a charitable structure raising external capital. The costs exist regardless of what type of entity you are seeking external capital through. In our group structure, external capital is raised in our commercial entities in order to run our commercial operations, through which the appropriate tax is paid.

26. The charitable and not-for-profit sector has an entirely different purpose for existing than a profit driven business. Te Atiawa Charitable Trust has a purpose to improve the long-term outcomes for Te Atiawa uri, hapū and mārae. Any growth advantage that may occur through the accumulation of profit in capital structure will be used to advance this 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?

27. We noted earlier that the consultation paper does not set any clear outlines of how reforms would work, making it difficult to understand the implications of the reform.

28. However, we can see that the cost of compliance would be a significant issue. The assessment of business income and whether is related is particularly technical and has the potential to incur onerous costs, reducing the funds charities have available for distribution. We are concerned that there may be instances where it is difficult to split business income as part of the income generated might be related and part might be unrelated, creating complexity and a subjective assessment which we believe would be extremely difficult to implement.

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?

29. We believe this assessment of unrelated business income would be extremely subjective. The Te Kotahitanga Group contains a range of entities where we pay the appropriate tax on activities. As a result of these activities funds in the form of a distribution flow through to our Charitable trust for distribution purposes.

30. We are of the opinion that as we are taxed on our business activities in the entity where the income is derived, income distributed to the charitable trust should be treated as a distribution and not subject to further assessment.

31. Further, we believe that charities exist to improve social, environmental and educational outcomes for their targeted recipients. We struggle to see how there can be any unrelated business element to these organisations who may well be multi-faceted.

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?

32. Given we are opposed to any imposition of income tax for unrelated business income we do not believe there is an appropriate threshold. We would strongly advocate for PGSEs, hapū, marae, and urupā to be exempt regardless of the tier given the proposed treatment is not in accordance with either Te Tiriti o Waitangi or the legal settlements reached to address historical breaches of Te Tiriti by the Crown.

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?

33. We oppose taxing charity income. Charities provide social, educational and environmental solutions with the aim of improving outcomes for their beneficiaries. The proposal the issues paper suggests taxing retained unrelated business income in the year it is earned, but then providing relief when those funds are distributed seems to be a nonsense. It creates huge compliance costs for essentially no change in result i.e. all charitable income becomes untaxed, just a matter of timing. Therefore, we see no effective way of taxing charity business income that is unrelated to charitable purposes and then removing the tax on the eventual distribution, other than leaving the income untaxed in the first place.

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?

34. The paper compares the advantages to Charities verses profit driven entities. The approach seems to be driven by taxing charities to remove a perceived competitive advantage.

35. No consideration has been given to the fact that charities often provide a service, or fill a gap in areas of social, educational and environmental areas that the government may otherwise be expected to serve. If the reforms go ahead, the potential impact is that charities are disincentivised to grow business activities, thereby cease to be self-funded and will look to the government for support. Many may not survive.

36. For those that do survive and are disincentivised to pursue business activities, they will have reduced funds to distribute out to their beneficiaries, the growth they provide to the economy will decline and potentially they would also look to the government for support.

37. No thought appears to have been given to the many different structures and reasons charities and any group of entities they are attached to may have for existing, particularly in the case of PGSEs where the basis of their very existence stems from an attempt to correct historical wrongs in order to create current and future growth of Māori. PSGE's, alongside hapū and marae based entities are a unique set that do not fit into the charities regime, consideration should be given to creating a new regime for these entities.

38. If the reforms tax the unrelated business income of charities that is retained and then provide relief when those retained funds are distributed, there is no benefit to the crown aside from what looks like cheap short term loans to the government at a considerable compliance cost to the charities sector, put in place to even out a non-existent advantage the charities sector has over the business sector.

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?

39. PSGEs by their very nature are donor-controlled charities. As stated, we don't believe the PSGEs are a good fit for the charity's legislation. If we remain required to work within this legislation, then we do not believe there should be a distinction between donor-controlled charities and other charitable organisations. Charities exist to serve the purpose per their deed. As discussed in the replies to section 2, Te Atiawa, is using a long-term sustainability and growth strategy to enable its whānau, hapū and marae to develop and thrive.

40. Our structure is set up to provide relief to many Te Atiawa uri. The board is elected by Te Atiawa uri and is under strict governance controls. The legislation already requires disclosure of related party transactions and reporting on plans for the use of accumulated funds. These measures that are already in place should highlight the tax avoidance issues mentioned in the paper, circular arrangements and non-arm's length transactions for assets good and services.

41. As we have pointed out, some charities, particularly PSGEs will be growing retained funds in line with their long term charitable purposes. Separating out donor-controlled charities merely adds a further layer of compliance with the associated, potentially onerous, costs.

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?

42. We are unopposed to the requirement for there to be arm's length transactions between charities and their related entities. There is a necessity for the entities to transact with each other, as there is within business groups.

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?

43. Charities need to ensure that they can continue to thrive and carry out the purpose for which they exist. They are unable to do this without prudent management. Part of this is requiring balance sheets to be robust with enough reserves to ride out any unexpected costs or economic downturn. This requires some management of earnings, meaning that in some years profit will need to be retained and in other years larger donations will be made. We think that this type of organisational and financial management should be left to the individual charities to manage, rather than be constrained by the crown.

44. As discussed earlier, Te Kotahitanga is interested in supporting the growth and development of our whānau, hapū, and marae though strategic planning and is therefore using retained earnings to ensure funds are available in future years to support the growing aspirations of our Iwi. These types of strategies have long term benefits, not just for Te Atiawa, but for their regions and the wider New Zealand economy. We believe that imposing a minimum distribution would restrict the benefits these types of charitable strategies are able to provide to the economy long term.

s 9(2)(a)

From:	jason0687 s 9(2)(a)
Sent:	Monday, 31 March 2025 8:58 pm
To:	Policy Webmaster
Subject:	Tax on churches

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

Hello,

I do not support any income taxes on churches. I believe churches should maintain their tax exempt status.

Jason Lozano
s 9(2)(a)

Submission on the Inland Revenue Officials' Issues Paper: Taxation and the Not-for-Profit Sector
From: Jett Groshinski, Political Representative, Otago University Students' Association (OUSA)
Date: 28/03/2025

About OUSA

The Otago University Students' Association (OUSA) is a registered charity and student-led organisation representing over 20,000 students at the University of Otago. Established in 1890, OUSA provides a wide range of services and support systems, including:

- Free advocacy and welfare services
- Mental health and wellbeing initiatives
- Student-run clubs and societies
- Cultural and community events, including Orientation Week and the Hyde Street Party

OUSA reinvests all surplus income into student services and advocacy, ensuring students have access to equitable opportunities, wellbeing resources, and a vibrant campus life. We also provide free breakfasts and heavily subsidised meals like our popular $4 lunches, addressing food insecurity on campus and supporting students through the cost-of-living crisis.

OUSA also holds modest cash reserves and owns key student-centred assets. These are carefully managed to ensure financial resilience and continuity of service whilst upholding our charitable purpose. Reserves are not hoarded but used strategically to protect against uncertainty and enable long-term investment in student well-being.

Summary

OUSA supports the objective of improving transparency and integrity in the charitable sector but urges Inland Revenue to retain flexibility for charities that operate self-sustaining enterprises in pursuit of the clear public good. We believe the current proposals risk undermining the ability of organisations like ours to fund essential, equitable and, student-led services.

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

Charities like OUSA deliver significant public benefit through the reinvestment of trading income. Taxing this income could reduce funds available for hardship grants, mental health services, and student support. Any shift in policy should distinguish between profit for private gain and surplus for the public good.

While there are concerns about competition and accumulation, these can be addressed through reporting and distribution safeguards without undermining effective charitable models. OUSA operates transparently, with all surpluses directly benefiting students.

Q2. What would be the most significant practical implications if the exemption is removed for unrelated business income?

For OUSA, this would mean a redirection of resources away from student services, toward tax compliance and liabilities. It would also incentivise a shift to passive investments rather than social enterprises, undermining sustainability and community engagement.

Additionally, we would face increased administrative burden and would possibly need to scale back initiatives like subsidised meals or mental health support. This would disproportionately affect vulnerable students.

Q3. What criteria should define an unrelated business?

We recommend a definition that assesses:

- Whether the business activity is mission-aligned;
- Whether profits are fully reinvested into charitable activities;
- Whether the business operates with community benefit in mind rather than commercial profit.

The definition must be flexible enough to capture innovative charitable enterprises that may not resemble traditional service models but still fulfil their charitable mandate.

Q4. What would be an appropriate threshold to exempt small-scale business activities?

OUSA supports excluding Tier 2, Tier 3, and Tier 4 charities from changes. This would shield most community-based organisations. For Tier 1 charities, consider thresholds like the UK: e.g., 25% of turnover or up to $150,000 of unrelated business income.

This approach balances integrity with practicality, acknowledging that compliance burdens fall disproportionately on smaller charities with fewer resources.

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

Yes. If income is clearly and promptly directed toward charitable ends, it should remain tax-exempt.

Q6. What additional policy settings should be considered?

Any reform should include:

- Safe harbours for charities that distribute 100% of profits;
- Transitional support for affected organisations;
- A review of the territorial rule to reduce compliance costs and complexity.

Policy should also support hybrid models (e.g., limited partnerships) where the charitable purpose is not diminished, but the structure is used for efficiency and flexibility.

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

Yes. This would help target integrity risks where tax concessions benefit a small circle of individuals. Clear criteria, such as over 50% governance or funding control by related parties, would be effective.

Such a distinction allows Inland Revenue to apply more rigorous oversight to entities that are structurally vulnerable to misuse, while avoiding unnecessary compliance pressure on grassroots charities. Most community-based organisations, including OUSA, are democratically governed and already meet high accountability standards.

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

Yes. Non-arm's-length transactions should be restricted to prevent abuse. Restrictions should include limits on lending, asset transfers, and circular investments back into donor-related entities.

This would enhance public trust and reduce the risk of perceived or actual self-dealing. Restrictions should be clearly defined and should not impact legitimate impact investing or partnerships that demonstrably serve charitable objectives.

Q9. Should donor-controlled charities be required to make a minimum annual distribution?

Yes. A minimum distribution of 4–5% of assets not used directly for operations is appropriate, with exemptions for planned capital projects. This ensures tax concessions lead to a timely public benefit.

Charities should be encouraged to spend rather than hoard resources, especially during crises like pandemics or cost-of-living challenges. Minimum distribution rules would prevent indefinite accumulation and create more equitable outcomes across the sector.

Q10. What changes should be made to reduce the impact on smaller NFPs?

- Raise or index the $1,000 deduction threshold.
- Exempt Tier 3 and Tier 4 charities from income tax filing unless they exceed a material threshold.
- Clarify resident withholding tax exemptions for small charities.

These adjustments recognise the limited capacity of small charities and prioritise their focus on community service delivery rather than disproportionate administrative overhead. Ensuring a low-compliance environment for grassroots organisations strengthens the overall sector.

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

These organisations often provide essential services to underserved communities. Removing concessions may reduce financial inclusion and put them at a disadvantage compared to commercial banks and insurers.

Concessions help level the playing field for mission-driven, member-serving financial organisations. Any reform should consider the socio-economic impact, especially in rural or low-income areas where these entities serve as key financial lifelines.

Q12. What are the implications of removing outdated income tax exemptions?

We support a review to modernise exemptions but stress the need for sector engagement. Removing exemptions for bodies conducting scientific research or rural veterinary services may harm innovation and regional development.

We encourage a principle-based review that considers whether the organisation delivers measurable public benefit, regardless of its legal or historic status. Reforms should avoid creating gaps that undermine services in niche or vital sectors.

Q13. What are the likely implications of removing or reducing the FBT exemption for charities?

If compliance costs are genuinely reduced, we cautiously support phasing out the exemption. However, any move should be gradual and accompanied by guidance and support for affected charities.

The exemption enables charities to offer non-cash benefits that enhance staff retention and wellbeing. If the policy goal is fairness, changes should target excessive use while protecting ordinary incentives like housing, meals, or travel that directly support charitable delivery.

Q14. Should the FENZ simplification be extended? Any other suggestions?

Yes. Treating volunteers as receiving salary/wages simplifies tax and ACC. Extend this model to NFPs broadly. Inland Revenue should also consider exempting honoraria under a modest threshold.

We also encourage the development of a simplified online system for processing low-value payments to volunteers, reducing administrative friction and supporting volunteer-led service delivery.

Q15. Views on DTC review findings and policy initiatives?

We support delinking DTCs from annual tax returns and enabling real-time claims. Pre-filled returns would increase uptake. A grace period for deregistered charities is practical and fair.

Raising awareness and simplifying the process would also encourage more donations from younger people and lower-income groups. DTC reform represents a low-cost way to incentivise giving and expand public engagement with charitable work.

Conclusion

OUSA believes in accountability, not austerity. Tax reform should target abuse, not innovation. Large, progressive, student unions like ours are essential for community wellbeing and educational equity. The proposed changes risk unintended harm if nuance and size are not considered.

We are open to engagement and would welcome the opportunity to present to the Committee.

Ngā mihi nui,
Jett Groshinski
Political Representative
Otago University Students' Association (OUSA)
political@ousa.org.nz, s 9(2)(a)

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

Animal Health Centre Waikato Incorporated submission on Inland Revenue's February 2025 *Taxation and the Not-for-profit Sector* issues paper

1. Animal Health Centre Waikato Incorporated (the **Society**, trading as '**Anexa**') welcomes the opportunity to make this submission on Inland Revenue's issues paper "Taxation and the Not-for-profit Sector" dated 24 February 2025 (**Issues Paper**).

2. This submission focuses on the Society's opposition to the possibility raised in the Issues Paper of a removal or "reduction" of the exemption from income tax for veterinary service bodies (section CW 50 of the Income Tax Act 2007 (the **VSB exemption**)), which applies to the Society. We seek to do so broadly by way of response to question 12 posed in the Issues Paper: *What are the likely implications if the veterinary service body income tax exemption is removed or significantly reduced?*

3. Our key submission points are summarised at paragraphs 6 to 9 below.

4. Following that summary, we provide background and context in relation to the history, structure and operations of the Society.

5. The submission then provides further details regarding the Society's opposition to a removal or "reduction" of the VSB exemption, addressing this matter both from the perspective of the Society in relation to its own operations and, to some extent, from the perspective of not-for-profit veterinary service bodies (**VSBs**) generally.

Summary of Our Key Submission Points

6. The tax-exempt treatment of not-for-profit entities that promote and deliver efficient veterinary services for the benefit of New Zealand's livestock farming industries and New Zealand, such as the Society, continues to be warranted, and any removal or "reduction" of the VSB exemption would be to the net detriment of New Zealand, and in particular New Zealand's rural communities.

7. The implications of a removal or reduction of the VSB exemption would be to:

   (a) diminish and impair the quality and reach of veterinary services in rural New Zealand;

   (b) impair or preclude the Society's (and other VSBs') ability to provide the significant broader public benefits that they currently provide; and

   (c) put VSBs at a significant disadvantage relative to 'for-profit' veterinary providers,

   all to the net detriment of New Zealand, and in particular New Zealand's rural communities.

8. A likely rational response on the part of the Society (and other VSBs) would be to establish a "sister" registered charitable trust with the purpose of providing the broader public benefits (which, as it stands, are substantially if not wholly charitable in nature) currently delivered by the Society. The Society would then make deductible, charitable donations to the registered charity, so that there would be no income tax paid by the Society.

9. In the result, no material additional revenue would be raised by the Government, but the Society (and other VSBs) would have been forced to incur needless transitional costs and increased ongoing compliance costs.

Overview of the Society's History and Operations

10. The Society was formed from the 2016 merger of the Morrinsville District Veterinary Association (established in 1939) with the Ngatea Farmers Vet Club (which traced its foundation back to 1923). Today the Society operates 11 clinics across the Waikato and Hauraki Plains, catering for dairy and dry stock farms, as well as family pets within these rural communities.

11. The Society is currently incorporated under the Incorporated Societies Act 1908 and is in the process of preparing for compliance and re-registration under the Incorporated Societies Act 2022. An inherent aspect of the incorporated society structure is that the Society operates for the purposes prescribed in its constitution and does not operate for the pecuniary or financial gain of its members.

12. Each clinic operated by the Society employs on average 6 to 8 people. The exception is the Morrinsville clinic where the Society's central support services and research functions are based and which currently has 30 employees. There is a total of 47 Vets employed across the 11 clinics. With the exception of 2 to 3 locum or contract veterinarians engaged for increased seasonal workload, all staff including vets are salaried employees of the Society.

13. The Society's membership base measures 1,276 farmers producing meat, milk and wool. Any farmer deriving income from livestock farming is eligible to be a member and to member-based initiatives. The Society is governed by a board of elected farmer members.

14. However, the Society's promotion and delivery of efficient veterinary services extends to not only its membership base but also 307 non-member farmers and an additional 9,400 companion animal and lifestyle block clients. All veterinary service clients, whether members or non-members, are subject to the same pricing for products and services.

15. The focus of the Society's operations is to promote efficient veterinary services in New Zealand, in the rural communities that the Society serves, in accordance with the VSB exemption. The Society aims to:

(a) be a VSB with enough vets to provide a full and comprehensive 24-hours, seven days a week service for production animal; and partnership with dedicated afterhours clinics for provision of companion animal services;

(b) have enough scale to ensure competitive purchasing power; and

(c) provide production animal services to farming members in the most remote areas within its geographical reach, and in particular remote west coast areas north and south of Raglan.

16. In furthering its purpose of promoting efficient veterinary services, the Society also operates a highly regarded research division, Cognosco, that has played a part in delivering significant innovation to the veterinary community and agricultural sector in New Zealand. Cognosco consists of two PhD qualified senior research veterinarians and two fulltime research technicians. Cognosco was established in 1997, and to date, has undertaken over 240 on-farm trials and projects. These studies have been designed to investigate practical solutions to common on-farm problems, as well as to test new procedures and treatments.

17. Further, consistent with its not-for-profit structure and operating framework:

(a) the Society actively supports local rural communities through animal health education, research, and sponsorship of schools, sports clubs, and farming based community initiatives. It focuses this type of support on providing value to the local community, not commercial outcomes;

(b) emphasises animal health outcomes over commercial returns; and

(c) provides extensive undergraduate and postgraduate veterinary training and supervision, both nationally and internationally, including the 'Super Grad' program in which the Society facilitates and hosts mentoring and training for graduate veterinarians from across various practices in the central North Island.

The Issues Paper

18. The Issues Paper does not articulate any justification for a possible removal or reduction of the VSB exemption other than asserting that "*it may be difficult to justify under a broad base, low rate tax policy framework*" (para 4.21). The Issues Paper notes (para 4.20) that:

> *"This exemption was introduced to allow veterinary service bodies to invest in better facilities and higher standards of service. These entities are now more established, undertake commercial trading activities outside their immediate services, and compete directly with tax-paying private veterinary practices."*

19. It appears implicit in these comments that officials may be concerned that the conditions underpinning the original introduction of the VSB exemption are no longer present and/or that the VSB exemption disadvantages tax-paying private veterinary practices. Neither of those concerns would be justified.

The conditions underpinning the original introduction of the exemption remain present

20. VSBs and the VSB exemption are not anachronisms, especially given the continued importance of New Zealand's livestock farming industries to New Zealand's rural communities and to New Zealand as a whole.

21. In the first place, there is a serious, ongoing shortage of livestock veterinarians and veterinary nurses in rural New Zealand. Despite this constraint, the Society (like other VSBs) provides veterinary services to more remote rural communities where access to veterinary

care might otherwise be very limited or prohibitively expensive. The Society considers that it is not at all clear that it would be possible for a for-profit veterinary practice to provide the same service levels to these communities, particularly taking into account talent shortages and the resulting pressure on remuneration.

22. In addition, the Society (like other VSBs) follows a core ethic of promoting quality veterinary services and animal welfare, ahead of commercial gain. As part of this, the Society:
    (a) provides extensive educational programs and workshops on animal health, welfare, sustainability and management, at low or no cost, to help farmers improve animal welfare and productivity;

    (b) plays a vital role in promoting animal welfare through preventative care programs, provision of emergency services, and support of local animal shelters and rescue organisations; and

    (c) focuses on prevention and education to reduce animal disease and suffering.

23. The demand in rural New Zealand for these add-on VSB services, which supplement VSBs' principal focus on core veterinary services, is as strong as it ever has been, and certainly as strong as it was in the 1950s when the VSB exemption was introduced. Again, the Society considers it is not at all clear that these critical, add-on services would continue to be made available in a taxable environment, where VSBs were effectively compelled to operate on a fully commercial basis.

24. The VSB exemption remains an entirely appropriate and justified trade-off for the extensive community and public benefits delivered by VSBs' support for New Zealand's livestock farming industries and New Zealand's rural communities under their not-for-profit structures and operational framework.

The VSB exemption does not disadvantage private tax-paying veterinary practices

25. The Issues Paper does not explain how the VSB exemption may disadvantage private, tax-paying veterinary practices.

26. The Society accepts that under a broad base, low rate tax policy framework (**BBLR**), there should be equitable imposition of taxation across and within sectors, but within the framework there must necessarily be recognition of fundamental structural and operational differences between entities. The BBLR does not require that a not-for-profit society providing veterinary services must be subject to the same tax settings as a for-profit company offering similar services.

27. If there is a concern that VSBs are able to accumulate funds on a tax-free basis, the Society's response is that there is no evidence that any such accumulation provides any net competitive advantage over commercial veterinary practices. In contrast to VSBs, commercial practices have access to equity funding and the ability to offer key veterinary and other staff an ownership stake in the business. The Society's experience is that it has difficulty competing with the 'total remuneration' packages offered by commercial practices to senior veterinary staff in particular. This clearly counterbalances any theoretical competitive advantage that may arise from the accumulation of pre-tax receipts.

28. Legally, all VSBs can do with their financial surpluses is reinvest them in assets and activities to promote better and more efficient veterinary services. As such, the only benefits associated with the accumulation of funds within a VSB are community or public benefits. By nature, a VSB such as the Society cannot provide private benefits; none of a VSB's funds may be used or available to be used for the private pecuniary profit of any of its members or their associates.

29. Opposition to the VSB exemption on competitive advantage grounds[1] has typically been theoretical and doctrinaire, rather than practical, in nature, unsupported by any evidence of the existence of an asserted competitive advantage and lacking any recognition of the significant community and public benefits delivered by VSBs. Such opposition has made much of the extent of trading operations conducted by VSBs and suggests that it was never intended that VSBs would have trading operations. That line of argument conflates having a trading operation with having a purpose of profit-making. No incorporated society can exist for the pecuniary or financial gain of its membership, but may carry on a trading operation in a profitable manner, with any profit then devoted to pursuing the society's purposes. That is what the Society and other VSBs do.

30. It is also noted, for completeness, that the Society and other VSBs are unable to access grant and public funding that is often restricted to registered charities. Access to training funding is a key example of this.

The Society's answer to question 12 posed in the Issues Paper: *What are the likely implications if the veterinary service body income tax exemption is removed or significantly reduced?*

31. A removal or reduction of the VSB exemption would have a number of extremely harmful consequences for the Society and the communities it serves, and for other VSBs and the communities they serve, to the net detriment of New Zealand. In particular:

    (a) it would impair the Society's ability to promote and deliver efficient veterinary services to members and non-members;

    (b) it would mean that there would be no counter-balance to commercial practices' access to equity funding and ability to offer key veterinary and other staff an ownership stake in the business;

    (c) it would put the Society in the perverse position of being a tax-paying "company", but with an inability make distributions to a shareholder base and utilise the imputation system, and as a result leave it at a further, severe disadvantage to commercial practices;

    (d) it would impair or preclude the Society's ability to continue to provide the public benefit of investing in research and development for the purpose of improving veterinary services;

    (e) it would impair or preclude the Society's ability to continue to provide the public benefit of undergraduate and postgraduate veterinary training and supervision, and education on animal health, welfare, sustainability and management; and

[1] For example, Dr M Gousmett's 2018 submission to the Tax Working Group.

(f) it would impair or preclude the Society's ability to continue to provide the public benefit of supporting wider community initiatives.

32. In view of those harmful consequences, a likely rational response on the part of the Society and other VSBs would be to establish a "sister" registered charitable trust. The Society would then make deductible, charitable donations of what would otherwise be (taxable) net income, to the registered charity, so that there would be no income tax paid by the Society. The sister charitable entity would have the purpose of providing the public benefits (which, as it stands, are substantially if not wholly charitable in nature) currently delivered by the Society.

33. In the result, no additional revenue would be raised by the Government, but the Society would have been forced to incur needless, deadweight transitional costs and increased ongoing compliance costs. This would be on top the significant Government-imposed compliance costs already recently incurred by the Society as a result of having to prepare for compliance and reregistration under the Incorporated Societies Act 2022.

34. Ultimately, the reduction or removal of the VSB exemption would be a pointless exercise for the Government and Inland Revenue and result in wasteful application of resources by the Society and other VSBs, based on what are in any event questionable, unsupported and doctrinaire objections to the continuation of the VSB exemption.

Supplementary submissions

35. If, despite the position set out above and despite the truncated and inadequate nature of the Issues Paper consultation process, a decision were to be made to reduce or remove the VSB exemption:

(a) At most, only VSBs' "unrelated" business income should be excluded from exemption – i.e. income from business operations unrelated to the promotion and delivery of efficient veterinary services. Taxing a not-for-profit, incorporated society VSB's veterinary service income, would be equivalent to taxing a charity's related business income.

(b) Generous transitional provisions would in any event need to be introduced. In particular (and without limitation) there would need to be transitional provisions that:

(i) provide an entry cost base for depreciable property equal to the greater of the VSB's historic cost and current market value; and

(ii) address the treatment of financial arrangements and prepayments.

36. Legislative intervention is needed to ensure that membership organisations, including the Society and other VSBs if the VSB exemption were to be removed, have the option of not treating member levies and subscriptions as income, irrespective of their inherent inability (as a matter of statute) to provide member rebates. This supplementary submission is made as a response to question 10 posed in the Issues Paper.

s 9(2)(a)

Wayne Berry
Chairman *(Animal Health Centre Waikato Incorporated)*

s 9(2)(a)

From: Sheena Smith s 9(2)(a)
Sent: Monday, 31 March 2025 9:09 pm
To: Policy Webmaster
Subject: Submission – Taxation and the Not-for-Profit Sector

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

Kia Ora and Good Evening,

My name is Sheena Smith, and I have worked with The Salvation Army at Hamilton City Corps as their in-house Graphic Designer/Media Co-ordinator for 6years and have also worked with the Hamilton branch of the St Vincent de Paul Catholic Society on a voluntary basis preparing and delivering school lunches for a number of years prior to that. I'm writing to share my thoughts on the proposed tax changes affecting charities and not-for-profits.

Both of the centres named above walk alongside people going through really tough times. These people need anything from food, help with bills, finding housing, affordable electricity, clothing, counselling, financial mentoring, parenting guidance, addiction services, a spiritual haven, or just someone to talk to. A lot of this work is supported by the income received through the Salvation Army Family Stores and St Vincent de Paul charity op shops or through appeals and other fundraising.

I cannot give you specific examples of the impact that these centres have on people's lives as I'm not a front-line worker. I do know, though, having spoken to many who DO work directly with vulnerable people, that the work the Salvation Army and St Vincent de Paul does is of enormous value to the community in which they operate. I have had also heard testimonies from individuals who have been helped by these organisations and have come full circle and are now volunteers and/or employees of the very organisations who helped them. My wages are also far below what I could earn in a private sector job doing the same work but I am happy to take the reduced pay because I know that what I am doing is making a difference.

If the Government starts taxing the income made from our op-shops or making admin more difficult, it will take away time, money, and energy we know would be better spent on those vulnerable lives who need it. We already work with very limited resources. And even more limited after recent funding cuts. Much of the work that these churches do would be reduced and the slack will have to be taken up by governmental programmes paid for through taxes. Centres and programmes function best when organised and run by those who live in the communities they work with. Church run centres alleviate an enormous amount of suffering and especially for those who have exhausted all other social welfare avenues. These charities are by far the most cost-effective way to handle the needs of our most vulnerable communities.

Please keep these kinds of charities tax-free where the money is clearly being used for good. We're not here to make a profit — everything we earn goes directly back into positive change for the communities in which we live and operate. We're here to make a difference.

Ngā mihi nui,

Sheena Smith
Media Co-ordinator - Hamilton City Salvation Army

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Taxation and the not-for-profit sector
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Infrastructure New Zealand's Submission on IRD's Official's Issues Paper:

Taxation and the not-for-profit sector

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1. Introduction

1.1. Infrastructure New Zealand (INZ) welcomes this opportunity to submit on IRD's Issues Paper: Taxation and the not-for-profit sector.

1.2. INZ is New Zealand's membership organisation for the infrastructure sector. INZ's vision is to promote, the provision of world class infrastructure by both the public and private sectors for the benefit of New Zealanders.

1.3. We do this by promoting best practice in national infrastructure development through undertaking robust original research, developing public policy, advocacy, and encouraging public and private sector collaboration. Our 150 member organisations come from diverse sectors across New Zealand and include infrastructure service providers, investors, and operators.

1.4. This submission relates to Question 12 of the Issues Paper and represents the views of Infrastructure New Zealand as a collective whole and may not necessarily represent the views of individual member organisations.

2. General Remarks

2.1. INZ supports the government's undertaking of a review of its taxation policy and concession settings including those for charities and not-for-profits (NFPs). INZ acknowledges that the Issues Paper is designed to stimulate discussion and allow Inland Revenue to gain a better understanding of the issues, including practical concerns affecting taxpayers.

2.2. However, INZ is concerned that some of the potential setting changes discussed in the Issues Paper could lead to regulatory overreach and significant adverse outcomes for most business associations and their members, including INZ.

2.3. If some of the recommended changes are implemented, then INZ expects that there would be significant flow-on effects that do not appear to be based on any evidence of a problem that needs to be solved. While there may be a general view that tax changes are needed in the charity and NFP sector, this potential changing landscape leaves submitters with a high degree of uncertainty also.

2.4. Infrastructure New Zealand Initiative strongly recommends retaining the income tax exemption for bodies promoting scientific or industrial research (Section CW 49) as it applies to independent public policy think tanks. The exemption is not a historical anachronism but remains vital to New Zealand's research and policy development ecosystem.

3. Specific Comment on Chapter 4 – Integrity and simplification

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?

3.1. 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.

3.2. 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 INZ, but also the wider industry 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 associations.

3.3. The issues outlined in Chapter 4 would impact the very nature of INZ. Overall, we are deeply concerned that taxing the profits of INZ and similar industry associations would undermine our purpose, reduce the capacity to serve, and ultimately harm the sectors that we support.

INZ's Research and Policy Contrition

3.4. INZ is an NFP organisation that engages with government officials, community and industry groups, research organisations, MPs, and Ministers on a daily basis to ensure industry interests are represented throughout the policy making process. We believe that there is a benefit from what we do which flows through to all New Zealanders.

3.5. Section CW 49 of the Income Tax Act 2007 serves a crucial structural purpose in New Zealand's knowledge ecosystem by supporting organisations that produce public benefit research. The exemption recognises that independent research constitutes a public good that would not necessarily be provided without appropriate policy frameworks. Independent research bodies like INZ operate on a fundamentally different model from commercial entities. They:

- generate knowledge primarily for public benefit, not private gain.
- publish research findings freely and openly.
- operate without pecuniary gain to members, shareholders or associates.
- reinvest any surpluses into future research activities.

3.6. INZ reinvests any surplus revenue into future options that directly benefit their members and wider industry. These include, but are not limited to, professional training, industry research, policy advocacy, supporting international study tours and delegations and publishing reports and policy papers. Therefore, we believe taxing these funds would be counterproductive, as it would reduce the resources available for the very initiatives that benefit industry and the broader economy.

3.7. For these organisations, income is not profit in the commercial sense but rather the means to fulfil their research mission. Taxing such income would directly reduce the resources available for research and public engagement without serving the usual redistributive or behavioural functions of taxation.

3.8. The reality for the majority of industry associations is that their predominant funding mechanism is member subscriptions, which typically provides just enough revenue to keep their operations running from year to year. Member also volunteer their time and resources to assist with INZ's operations and events. It should be noted that INZ does still pay tax on its non-member operations and other revenue.

3.9. INZ believes the principle of mutuality should continue to apply, based on the current law, noting that this has been the position for decades. If Inland Revenue has formed a view that the principle of mutuality should not apply, then we would expect a law change is warranted to reinstate the position that most membership organisations have been operating under (i.e. that subscriptions are not taxable and expenditure on membership activities are not deductible).

Clarification on Sports Clubs

3.10. Inland Revenue have provided a clarification in respect to amateur sports clubs. However, one could also argue that sports clubs and industry 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.

3.11. From a tax policy perspective, INZ believes that sports clubs and industry 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 INZ's perspective highlights the inadequacy of simply carving out certain groups for preferential tax treatment.

Infrastructure New Zealand

Alignment with offshore practices

3.12. INZ also notes that many countries recognise the importance of tax-exempt status for not-for-profit industry 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.

4. Summary

4.1. Industry Associations, such as INZ, all serve their members without a commercial profit motive. The margins between making a profit or loss can be minimal. Associations strive towards making an annual surplus, but the reality for many associations is that the subscriptions and other member funds received are typically enough to achieve a small surplus if everything goes according to plan, with little room for unexpected costs.

4.2. There are also many instances where a loss is made, either for a single year or over multiple years. In these cases, the association must dip into reserves they have built up to make up the financial shortfall. Any ability for associations to build up reserves during more positive economic times and/or membership increase so that there is a buffer to continue operations would severely restricted by changes to the tax treatment of NFPs.

4.3. Economic conditions impact directly on the financial fortunes of industry associations. The current economic environment has been especially challenging for many industry associations, as membership fees are often among the first expenses cut during cost-saving measures. Consequently industry associations tend to feel the impact of an economic downturn more acutely, and with a delay, reducing revenue levels against projected budgets.

4.4. Overall, INZ 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 industry associations.

4.5. In summary, INZ 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 industry associations, provide both its membership and the wider economy on a daily basis.

5. **Recommendations**

5.1. ***INZ's recommendations are that:***

- ***i.*** ***The Government does not proceed with a draft operational statement regarding the Commissioner's updated view on the tax status for not-for-profit entities; and***

- ***ii.*** ***The Government make any necessary legislative changes so that the principle of mutuality continues to apply and reinstate the position that most membership organisations have been operating under (i.e. that subscriptions are not taxable and expenditure on membership activities are not deductible).***

Thank you for the opportunity to submit, and we look forward to any updates in the near future.

Yours sincerely

s 9(2)(a)

Michelle McCormick

Policy Director

Infrastructure New Zealand

Submission by Joanne Harland, Mt Eden, Auckland.

Taxation and the not-for-profit sector

As someone who has been involved with charities for a few decades, volunteering at all levels including as a board member, and working in the sector as well, I felt compelled to make a personal submission on the recently released IRD Officials' Issues Paper.

I have the following comments and questions – questions I hope will be considered and addressed in any future IRD communications on this topic.

Langauge, tone and context of this paper was disappointing

I was disappointed overall with the general framing and language used by the IRD Officials ("IRD") – which in my opinion showed a lack of understanding and respect for charities and the vital work they do for our communities and New Zealand. In my experience charities are often filling a gap that government is reluctant to fill and that for profit organisations are not interested in as there is no profit to be made.

The charities I have worked and volunteered for do not have "competitors". No one is trying to compete with them to offer free services to vulnerable people in need. And any decent charity is actually hoping to wind up when they are no longer needed – that is when the problem they are addressing no longer exists as the vulnerability being experienced is solved. The poverty is eradicted, planet protected, violence ended etc.

The thing I found most ridiculous and insulting was the suggestion that charities have easier access to capital than for profit businesses due to this income tax exemption. Seriously!!?!! I have never heard of a charity being able to get a loan or access to capital.

- *Did you talk to a single funder about their appetite for making capital available to a charity?*
- *Did any funders tell you they lend to charities? Or was this some pie-in-the-sky completely untested economic theory you were spouting in this paper?*

If the government wishes to target charities that are taking advantage of the income tax exemption then they should do so!

The intention of the IRD in this paper seems to be to target an unknown number of charities who are "taking unfair advantage" of the income tax exemption to get a competitive advantage over for profit competitors. Disappointingly I have had to guess this is the case as the IRD is not upfront about this and does not provides context nor insight of any kind into the scale of this problem.

- *What is the scope of the problem IRD is trying to address where charities are undertaking business in a competitive setting with for-profit organisations?*

- *How many charities out of the total number of charities does it involve?*
- *Why is the IRD not considering policies that target those charities instead of the entire sector?*

Other options the IRD / government could pursue for these ends

I am all for the government ensuring that charities are good actors, and that the tax exemptions provided (such as the income tax exemption and approved donee status) are not wrongly taken advantage of. Ain't nobody in New Zealand, including me, who wants to see Brian Tamaki's newest Merc purchased with tax exempt income. However, I would suggest a more targeted approach be followed here. *Why not give Charities Commission more money and staff to properly investigate complaints? And to bring more rigour to accepting entities as charities in the first place?*

Also, I believe that the time is ripe for "advancement of religion" to be removed from the Charities Act as a head of charity. Religious organisations have shown time and time again that they are not worthy of this blanket status. Instead, religious organisations should only get charitable tax benefits for the charitable work they do, and not for anything else. I am confident that this view would better reflect modern New Zealand society. It is time to move on from 16th century British charities law as Britain did in 2011.

This proposed policy direction contradicts government and philanthropic sector advice to charities over the last 2 decades to diversify income streams and start-up social enterprises and income-earning businesses

Charities have been strongly encouraged by the philanthropic sector and government in recent years to remove away from relying on hand-outs and grants for funding. Indeed, grants have become increasingly hard to access, limited in amount, are often provided as one-offs that cannot be re-applied for and are notoriously unpredictable. So many charities have moved into generating business income to diversify their income streams.

To then have this very business income stream that was encouraged, targeted by the IRD is disappointing.

The proposed policy creates uncertainty and complexity, which most charities cannot afford to deal with

Instead of being able to rely on the clarity of the "destination of the income" approach (ie. if the income goes to a charity it is not taxable), charities will need to guess if income will be related or unrelated in the eyes of the IRD. I was especially disappointed that this paper did not address the definition of "related income" at all – so no attempt was made to clarify this uncertainty.

The majority of charities do not have paid staff or volunteers with the requisite expertise to consider this issue. Other barriers to compliance would include a lack of funding to get outside experts (such as tax experts or auditors) to review these issues. For this reason, if the policy is brought in, it should be trialled on Tier 1 charities only as a first step so the impact can be assessed.

The proposed policy means fewer charitable services can be provided

Charities already run very efficiently on very tight budgets. A significant cut like this to useable income, will mean charities have to slash their services which at the current time with the cost of living crisis are already oversubscribed.

- *Has the IRD or Treasury modelled the impact this policy change would have on charitable service provision in NZ?*
- *How many charities will be negatively impacted and unable to survive?*
- *What will be the impact on NZ communities and vulnerable people of fewer services?*

Charities will have trouble attracting volunteers if some level of accumulated funds is not exempted from this policy – especially board members. It can also impact philanthropic funding

Organisations, especially those such as charities that rely on uncertain income streams such as government contracts and philanthropic funding, need to be able to retain some accumulated funds to remain sustainable. For profit entities are allowed to. I think that 12 months operating reserves as a minimum should be exempt from any policy change or disbursement requirement. There are several reasons for this:

- It is good business practice
- It helps to provide some certainty of continued employment to charity employees
- It allows directors to have confidence that the charity will not be trading whilst insolvent. Given the large legal liability charity directors take on (which is in fact the same level of legal liability for diretors duties as listed company directors who are often paid 6 figures annually for their work as a director) this is essential.
- It is a requirement of many funders that a charity shows it has some operating reserves before it is eligible for a grant or philanthropic funding

Charity honoraria should not be schedular payments.

I agree with this suggested policy change and it is good to hear that it was successfully piloted with FENZ and an extension to all charities is being consider. I always found it insulting that the small amount of honoraria I received for spending up to 20 hours a week as an unpaid volunteer (including managing paid staff) was taxed like I was a listed company director being a large amount to attend a meeting every second month. This change is long overdue.

31 March 2025

Inland Revenue Department

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

Tēnā koutou

JBWere NZ Submission - IRD 2025 Issues Paper: Taxation and the not-for-profit sector

JBWere thanks the IRD for the opportunity to make the attached submission in relation to the IRD 2025 Issues Paper: Taxation and the not-for-profit sector.

The JBWere Philanthropic Services team conducts research and advises charities, other for-purpose organisations and philanthropic clients. We provide sector data, insights and advice to for-purpose clients who have entrusted more than $5bn in New Zealand to JBWere – this money exists explicitly to enable those organisations in their ongoing support of social and environmental outcomes.

In preparing our response we have drawn on the experience within the firm and canvassed the view of our clients, connections, and collaborators across the broader social impact ecosystem.

We would be grateful if you could acknowledge receipt of our submission, and are happy for Inland Revenue officials to contact us to discuss the points we raise.

Yours sincerely | Nā māua noa, nā

s 9(2)(a)

John Morrow

Head of Philanthropic Services

Grant Mason

Head of Wealth Solutions

JBWere

Summary

The Inland Revenue Department's ***Issues Paper: Taxation and the not-for-profit sector February 2025*** raises significant questions about the future of charity income tax exemptions, particularly around business income, and compliance for organisations. We offer here:

- general comments on the Issues Paper and its objectives, and
- a response on the question of taxing the non-related business income of charities, particularly as it pertains to investments.

We strongly encourage the IRD to conduct a thorough policy impact assessment before implementing any significant changes to the taxation rules affecting charities. In the absence of a widespread problem the challenge lies in addressing specific issues without negatively impacting well-functioning charities.

In support of the third objective of "addressing integrity risks", a practical first step is strengthening Charities Services and its registration processes to effectively target entities acting illegally or undermining sector integrity.

We suggest the priority should be ensuring that income generated by charities directly supports their charitable purposes, rather than focusing on types of income. We note Australia and Singapore as examples to follow.

Any changes to the current system must be carefully designed to avoid unintended consequences that could weaken the charitable sector and its ability to serve communities. We note five policy considerations for any tax reform. We are supportive of prioritising simplicity in creating a supportive and enabling policy environment for the charitable sector.

On taxing unrelated business income: We encourage IRD to provide greater clarity on what constitutes "related" or "non-related" taxable business income, supported by case studies to illustrate potential implications for the charitable sector, including any ongoing or additional accountancy and compliance costs that may arise.

In assessing the impact of taxing "non-related" business income we note six items that were not raised in the Issues Paper, four which particularly pertain to charity investment income.

1. General comments

Value of the charitable sector

The charitable sector makes a significant and valuable contribution to Aotearoa New Zealand. Any changes that reduce the ability of organisations to build a stable financial base to sustain their work are likely to have a broader impact on society.

The sector provides critical services that contribute to economic stability and mobility, and has the potential to build social cohesion and civic engagement in our communities.

Its organisations, in addition to providing a very significant paid and volunteer work force, are also its major funders, the purchasers of its products, and clients of its services.

The *JBWere Cause Report 2021* [1] which provides the latest sector wide survey, reported non-profits contributed $12.1 billion to GDP for the year ended March 2018, equating to 4.2% of New Zealand's total GDP, inclusive of $4.0 billion in volunteer labour - 90% of the sector relies solely on a volunteer workforce.

Charities help relieve the Government of its burden to provide welfare services and assist the disadvantaged or vulnerable in our communities. Charities have been supported by successive Governments by taxation concessions because all their resources are required to be directed towards supporting their charitable purpose, and private financial gain by members, trustees, or associates are not allowed.

Financial challenges to operationally sustain charities

The operating margin of our charity sector is not significant, and the sector remains financially fragile. In our 2021 report we observed surpluses of charities, as a percentage of income, had shown a small increase from 9% in 2013 to 10% in 2018 - having to operate on tight margins provides little room for innovation and weathering of adverse conditions that heighten social need temporarily.

Covid disruptions and the cost-of-living crisis have further challenged the sector's traditional operating model of raising philanthropic support, earning income and serving demand.

Annual giving levels have declined or remained static - middle giving is hollowing out as households give less, partly masked by a cohort of committed supporters giving more. With

[1] JBWere NZ Cause Report 2021 » JBWere

increasing frequency, government, private funders, businesses have not rolled over contracts that have been relied on for delivery of community services.

Yet in dealing with the impact of the recession and austerity measures, non-profits serving households spent 7.4% more in 2024 (excl inflation), which was the fastest growing part of the economy last year[2].

JBWere believes that strong, well-resourced charities and other for-purpose organisations are critical to maintaining the fabric of our society, allowing it to function and prosper and, when closely connected to their communities, can catalyse growth and opportunity for those it serves.

Charities are usually highly efficient deliverers of services. They are close to their communities and due to constrained resources are commonly forced by necessity to be incredibly efficient. They are generally much more cost-effective service providers than Government in providing direct services. Undermining the sectors' ability to play this role has the potential to create considerably greater cost to society in the form of increased health and welfare needs.

The Issues Paper signals a possible reduction in Government support for the sector by suggesting a scenario of taxing the business income of charities that use that income to support those in need.

The paper brings attention to potential tax system abuse by charities. We all have a vested interest in ensuring that the tax system is fair, and support reforms that effectively target problematic entities who are either acting illegally or undermining the integrity of the charitable and philanthropic sector.

The IRD paper is framed around preventing the misuse of tax concessions~~,~~ and of "simplifying tax rules and reducing compliance costs" – as such, we believe a robust cost-benefit analysis of the available regulatory options, taking into account tax take costs, compliance cost by charities, and the community net benefit, is essential.

The current consultation process places the burden of demonstrating inefficiencies and unintended consequences on the charity sector and other non-government stakeholders, and within a very limited consultation time-period that coincides for many with financial year end activity.

We strongly encourage the IRD to conduct a thorough policy impact assessment before implementing any significant changes to the taxation rules affecting charities.

We would appreciate the opportunity to review case studies and financial insights that can help the charity sector gain a clearer understanding of the tax changes. In particular, it would be helpful to understand IRD's expectations of the potential revenue generated by these

[2] Shamubeel Eaqub. Gross domestic product: December 2024 quarter | Stats NZ

changes and how those funds are intended to be allocated to otherwise support positive social and environment outcomes.

Addressing integrity risks through Charities Services

In the absence of a widespread problem the challenge lies in addressing specific issues without negatively impacting well-functioning charities.

In support of the paper's third stated objective of "addressing integrity risks" a practical first step is strengthening Charities Services and its registration processes to effectively target entities acting illegally or undermining sector integrity. If concerns exist about registered entities, we support reforms beginning with registration and enforcement, and resourcing the Charities Commission sufficiently to investigate and ensure it can take appropriate action.

Unintended consequences

Our *Cause Reports* highlight the diversity of the charitable sector in size, structure, scope, and resources. Wholesale approaches like the taxing of unrelated income often overlook this, risking unintended consequences If the charity sector has to divert income and/or can't rely on income generated, the unintended consequences could be more charities facing challenges in achieving financial sustainability and closure, more job losses, a continued strain on the sector, and the Government potentially needing to step in to provide additional services that charities previously delivered.

Is the Government confident it can deliver these services more efficiently and effectively than charities that are closer to communities?

International comparisons and supporting financial sustainability

The current charity business income tax exemption settings match those in Australia and Singapore. Whilst the tax concession here is more generous than UK and Canada - who do not offer unrelated business income tax exemption - the financial resources for philanthropy and giving in New Zealand are not as large or as endowed as in these countries.

Charities need to sustain themselves over time and should have the flexibility to reduce reliance on donations. Tax-exempt profits from charity-linked businesses help achieve this, and changing the rules could weaken future cash flow.

While removing the exemption won't eliminate profits entirely, it could lead to a commensurate reduction in services these charities support. Allowing charities to generate tax-exempt business income in New Zealand supports financial sustainability, fosters diversification and strengthens sector resilience.

JBWere

We suggest the priority should be ensuring the income charities generate directly supports their charitable purposes, rather than focusing on types of income.

Absence of competitive advantage

It is commendable that the Issues Paper addresses the criticism that charitably owned businesses have an unfair competitive advantage in the market. The IRD see no such advantage for charitable businesses, which is an argument frequently used to advocate for changes in this area.

Indeed, Charities face significant financial disadvantages when operating a business as they cannot raise finance in the same way as private sector companies due to their inability to share profits. Additionally, they are further disadvantaged because they cannot offset losses against future profits, and they cannot claim imputation tax credits on the tax paid on dividends.

Charities also have to currently meet a higher level of public transparency. The paper rightly notes that charities are not subject to tax return compliance requirements; however, it does not acknowledge their separate compliance burden under the Charities Act — an obligation not imposed on other businesses.

Feedback

Any changes to the current system must be carefully designed to avoid unintended consequences that could weaken the charitable sector and its ability to serve communities.

Specifically, any reforms must not:

1. deter innovation and enterprise within the sector,
2. discourage creative approaches to non-traditional philanthropy and impact investment,
3. force charitable businesses to close, leading to job losses and reduced income for charities,
4. undermine existing financial sustainability strategies or hinder future efforts to build resilience, or
5. increase dependency on Government grants or traditional philanthropic funding sources, limiting sector autonomy and adaptability.

Prioritising simplicity in creating a supportive and enabling policy environment

The consultation proposes numerous new definitions, special rules and distinctions between types of income and assets, and thresholds — each requiring debate and detailed guidance, and introducing risk of misinterpretation and litigation.

New Zealand's simple tax system is a key strength, promoting clarity, efficiency, and compliance. Maintaining this simplicity should remain a priority in this review, as exceptions often lead to complexity and higher costs. A supportive and enabling policy environment is essential to ensuring charities can continue delivering long-term impact.

2. Taxing unrelated business income

The definition of "unrelated business income" will be critical, yet none has been proposed. The lack of clear distinctions between "related" and "non-related" activities will create uncertainty and compliance costs in categorising the business income derived by charities. Allocating expenses and income to taxable vs non-taxable will be costly, in cash or time. Auditing and enforcing "non-related" business activity will be complicated, costly and prone to public, political and legal challenges.

We encourage IRD to provide greater clarity on what constitutes "related" or "non-related" taxable business income, supported by case studies to illustrate potential implications for the charitable sector, including any ongoing or additional accountancy and compliance costs that may arise.

This issue is particularly important given the significant role of self-earned income in sustaining the sector. As highlighted in our *Cause Report 2021*, 66% of non-profit organisations' income is derived from the sale of goods or services. This revenue stream is not only the largest source of funding but also a critical enabler of both mission-driven activities and financial sustainability. With at least 30% of charities involved in some form of trading activity[3], the effort that will be required within the sector to dual test - is it business and is it unrelated to purpose - will be material.

In assessing the impact of taxing "non-related" business income we note the following were not raised in the Issues Paper:

- The policy rationale of allowing income tax exemption for "related" business activity to charitable purpose but not "non-related".
- How investment income is to be treated. Under the proposed dual test, in what circumstances will investment income be treated as "non-related" business income?

[3] Tax Working Group, 2019

- How to differentiate between income from passive versus directly held investment for determining "non-related" related charity business income. How would a direct / limited partnership investment be treated versus an investment in term deposits, bonds and shares in a listed entity?

- What are the unintended consequences for charities that are taking a 'total impact approach' to their balance sheet? How would impact investments be treated if funded by business income – given the investment remains on the balance sheet and is, therefore, 'accumulated'?

- Social enterprise does not have a legal definition in New Zealand, but it involves the use of commercial models to support social or environmental goals. Does the taxation of "non-related" business income close the opportunity for the creation of a for-purpose entity attractive to investors? Refer to the Government's last formal statement on this class of social sector/for purpose entity the Government Position Statement on Social Enterprise (2014).

- The valuation of pro bono or semi pro bono services as input expenses. Charities often rely on volunteers, pro bono services and in-kind contributions to deliver their programmes, yet these inputs are typically uncosted in financial statements. A key question is whether charities can reflect the true cost of their business operations — including fair labour costs and other advantageous terms such as peppercorn leases — in any income tax return. This raises challenges in determining appropriate valuation methodologies, particularly for labour costs.

3. Conclusion

Public consultation on IRD's proposed changes is a positive first step, but it is only the beginning. A more comprehensive approach is needed to clearly define the problem this tax review seeks to address, explore alternative solutions — including those involving Charities Services — and assess the broader impact on communities.

It is crucial to consider what could be lost if charities face reduced income diversification and financial sustainability. New Zealand charities are already subject to significant regulation~~,~~ and additional tax or compliance burdens would further divert funds from their core charitable purposes.

JBWere

About JBWere New Zealand

JBWere provides a wide range of investment advisory, research, and wealth management services to a substantial and diversified client base.

Our clients include charities, tangata whenua, local government, family offices, financial institutions, high-net-worth individuals, families, and other for-purpose clients across New Zealand.

We are proud to be the leading provider of philanthropic, governance, strategy, and investment advice to the for-purpose sector, who have entrusted us with more than $5billion of their financial assets.

We recently launched The JBWere NZ Bequest Report 2025. This follows on from the JBWere NZ Corporate Support Report 2022 and the earlier reports in the JBWere NZ Cause and Support Report series. Together these reports provide for-purpose sector data to inform the decisions made by our clients, and the wider sector.

Our reputation as a market leader in supporting the for-purpose sector is founded on our commitment to excellence, our diverse service offering and the expertise of our people.

We have a long-shared history and strategic partnership with JBWere Australia and its acclaimed Philanthropic Services team.

Acknowledgement

We thank John Godfrey, Lani Evans and Community Governance Aotearoa for the opportunity to read their submissions prior to submitting. We also are grateful to Steven Moe, Craig Fisher and Jenn Chowaniec for their prior briefings on the Issues Paper.

RESPONSE TO CONSULTATION > OFFICIALS' ISSUES PAPER

Taxation and the not-for-profit sector

2. Charity business income tax exemption

Possible Information Gathering and Oversight

The Charities Commission return could be modified by the inclusion of a one-page supplement to the financial statements, or the return itself, to require charitable organisations operating a business to answer questions including:

- Whether the business is related to the organisation's charitable purpose?
- The $ value and % contribution of the profits generated from the business relative to the total financial income of the organisation?
- How the organisation's business operations and related profits relate to the organisation's core strategy and objectives.
- Whether any distributions have been made from the current year surplus or accumulated retained earnings that are outside the organisation's charitable purposes? If so, how much and why?
- Describe how the income from the charity's business operations and other activities is used to meet one or more of Pemsel's four heads of charity.

The Charities Commission is already collecting a lot of information in this sector and gathering an additional page of key information would not put a significant extra burden on reporting charities. The information collected would need to be appropriate to each reporting tier and also have de minimis exclusions to limit the workload for small, one-off events, e.g. markets or galas, which are used as supplementary fund raisers.

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?

Many of New Zealand's charities provide goods and services that benefit people who are disadvantaged. If tax is imposed on these charities, the charitable organisations' funds available to provide goods and services will be reduced, this will shift the burden of support to the government. Charities can provide and deliver support more efficiently and effectively than a government agency. Charities are smaller, work locally and regionally, and are more proactive and responsive to needs than large government entities.

While the taxation of charitable profits may increase the government's revenue, the consequential cost and adverse impact on the outputs of the charitable sector will be significant.

Clause 2.14 suggests that charities will accumulate tax-free profits into their capital structure … to expand more rapidly than their competitors. A charity with a charitable purpose aligned with the Pemsel four heads of charities, will not usually be focused on growth. It will be focused on meeting its objectives, benefitting its community and our society. At times, during the life of a charity, its governing body will focus on accumulating funds to enable expansion. However, once the charity reaches an optimal size, and it is achieving its objectives, it is probable the charity will focus on applying its accumulated funds rather than accumulating more.

Many faith-based charities do not regard themselves as having competitors. They have a collaborative view of the other participants in their sector. These organisations do not run businesses, e.g. op shops, to compete with others, but rather to serve their community.

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

One likely implication is charities may look to devolve their business activities into a separate structure, e.g. a company or limited partnership. This would separate the risk from business activities from the secure passive investments owned by the charity. The company or limited partnership would have the flexibility to donate or retain its surpluses.

General Comment

Charities holding significant assets, for example churches and faith-based communities and social service providers operating from a base, need to maintain their buildings and presence in the community. These charities set aside funds and hold investments to provide for future building maintenance and capital works. Any redesign of the rules requiring distribution of a proportion of surpluses must also allow for retentions to meet planned future projects. The Charities Commission reporting and return could include questions about:

- Level of retained surpluses relative to distributions
- Reason for retentions above a recommended threshold
- Demonstrated future intent for the funds

Q.7 & Q.8

Should New Zealand make a distinction between donor-controlled charities and other charitable organisations for tax purposes?

Should investment restrictions be introduced for donor-controlled charities for tax purposes, to address the risk of tax abuse? If so, what restrictions would be appropriate? If not, why not?

A donor-controlled charity provides an opportunity for tax abuse. The donor can accumulate funds in the charity without paying tax and then influence draws against the charity for personal benefit. This is a significant loophole when compared with conventional taxed business structures where FBT on overdrawn current accounts applies.

Yes, donor-controlled charities should be distinguished from other charitable organisations. These donor-controlled charities should be accountable and required to report to the Charities Commission and Inland Revenue annually. The associated persons and arm's length terms in the Income Tax Legislation could be applied to determine whether the charity is operating for the personal benefit of the donor and/or associated persons of the donor.

I agree with the Tax Working Group's recommendation that the Government consider removing tax concessions for donor-controlled charities abusing the charitable purpose objective.

Q.15 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 rules?

De-linkage of donations tax credits from income tax would encourage people to be generous when a need arises, without thinking about the timing of their donations so that they do not exceed a current year's taxable income. No figures were provided in the discussion document quantifying the extent to which donations are denied because they exceed an individual's income. This information would help to Inland Revenue to determine the likely cost of releasing the rebate donation prior to the year end.

Although collecting data from donee organisations is a good idea, many charities are small and operated by volunteers. Requiring more data capture and more frequent reporting to Inland Revenue, would increase the workload for a sector which is already stressed. Probably this suggestion would only work for big organisations, e.g. World Vision, with a strong resource base.

The current tax rules could be improved if donee organisations invited donors to tick a box indicating their desire to have the tax rebate returned directly to the organisation by Inland Revenue. The donee organisation would then submit a list to Inland Revenue detailing the name, IRD number and $s donated by the donors and Inland Revenue would return the rebate directly to the organisation. Donors who preferred could opt to have a receipt and have the rebate returned to them personally.

The suggestion above would reduce Inland Revenue's compliance load and return the rebate benefit from selected donations back to the charitable sector.

Response from s 9(2)(a)
31 March 2025

s 9(2)(a)

From: Trina Saffioti s 9(2)(a)
Sent: Monday, 31 March 2025 9:47 pm
To: Policy Webmaster
Subject: Taxation and the not-for-profit sector

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

Kia ora

Thank you for the opportunity to make a submission.

I work for The Salvation Army. I'm writing this submission as both an employee of The Salvation Army and also as a member of another Christian denomination.

The Salvation Army is a church as well as a social services provider. Its mandate is to care for people. It is the most visible demonstration of Christian charity in the country and it serves large numbers of people each year because people trust them for non-judgemental support and practical assistance.

The income earned by the Army from activities such as the Family Stores directly funds the Army's social services. All aspects of the Army's work are delivered by people who care deeply for their communities. If the Government decides to tax income earned from activities, such as the Family Stores, or introduce changes that increases the administration, it will take away from the very communities that we serve. It will reduce the services we can provide and our communities, who are already the nation's most vulnerable, will suffer.

As economic uncertainty increases so does the need in the community. The need for what The Salvation Army provides is even greater than ever. There is a multigenerational impact for the families we serve, when we help one person it strengthens an entire family and empowering one generation ensures the next generation will thrive. Taxing our income would have the opposite effect.

These proposed changes will impact other Christian churches who also deliver a variety of activities to support their communities as a direct outworking of their faith in action.

As the need for social services and community support continues to grow, charities like The Salvation Army, who are focused on caring for others, need to be kept tax-free so they can keep supporting New Zealanders.

Nga mihi
Trina Saffioti

Submission to the IRD re taxing Charities **31.3.25**

This submission comes from Dr Susan Bagshaw who as a medical doctor has worked for not for profit, non-Government charitable organisations for 40 years. These have included Family Planning Association now known as Sexual Wellbeing Aotearoa, The Youth Health Trust, The Korowai Youth Wellbeing Trust, Te Tahi Youth, The Collaborative Trust and the Youth hub Trust. I have been a trustee and chairperson of other trusts the Canterbury Charity Hospital Trust, the John Dobson Trust and many Associations and membership-based organisations that provide services.

- The common factor for most Charitable Organisations is the provision of services. Often the services are not provided by Government but they may contract with Community Organisations to provide a service to fill a gap. Society would not thrive as well without them. When people are healthy, have decent housing and education, they are employed and pay more tax. When Charities are not present it has been shown there would be more people on benefits, loss of tax from those who aren't in employment leading to reduced income and increased cost for Government. This would far outweigh the increased income from Charities having to pay more tax. Has this cost benefit analysis been done? If so, where is it published?
- New Zealand has over 28,000 registered charities. There are many different kinds of Charities. Tthe IRD could look at taxing each category in a different way. This would lead to more complexities in the tax system and would lead to more cost for the taxpayer. New Zealand has a relatively simple tax system at present which means it is more efficient. Has anyone analysed the cost of increasing the complexity and if so, where is it published?
- Charities are strictly monitored and have to have a high standard of cost efficiency just to keep going on what is often unpredictable and tenuous income. New Zealanders are employed by charities and kiwis also volunteer a staggering 1.4million hours every week. Private profit is not legal for a Charity and tax concessions have been a way of recognising the benefits that Charities provide to society. If Charities weren't able to function because the tax rules become too hard to follow it may be very unpopular with voters.
- If there are concerns with Charities that are breaking the rules, then they should be addressed. Resources should be provided to investigate and prove that abuse is happening. A blanket approach will lead to consequences that no one wants.
- The Charities Act that guides Charity regulations is the tool to regulate charitable services not tax. The opening introduction to this consultation includes the sentence "Every tax concession has a "cost", that is, it reduces government revenue and therefore shifts the tax burden to other taxpayers". This shows a complete misunderstanding of what Charities contribute to society, and the fact that everyone working for a charity is a taxpayer.
- It would help if a more equitable approach were to be taken and the considerations of tax payers taken into account as well as those that collect the tax. After all we all pay tax. This income is supposed to be used to benefit the people who are paying the tax. Charities are helping the same people, even those who are not working are taxpayers because of course social benefits are taxed. The Government's role in supporting Charities through tax concessions make sense as we are all supposedly working towards the same goal: a society in which every member can thrive. Perhaps I'm wrong?

- When Charities provide services they are reducing the tax payer burden as they are undertaking the work that Government should be doing but at a reduced cost.
- If specific Charities are causing issues such as those that are running for profit businesses, donor controlled charities and others then they should be addressed with proper investigations and correction of the abuse not blanket rules that affect the viability of those that are keeping to the high standards set by the Charities Act. Scientifically proven research needs to be conducted on the size of the problems and then publicly published to justify any changes. This is the best way to hold Charities and Government publicly accountable.
- Charities are expected to rely on donations but if they take an initiative like starting a business to use the income to run the Charity, they then face increased tax bills. This then increases their dependence on income from Government contracts which it would be sensible for Governments to avoid. Giving tax relief to businesses that use the profit to run the Charity would seem simpler than try to define what unrelated means.

In conclusion

Government needs to be aware of the risks they take if they try to stop tax concessions to Charities.

Research needs to show if there are real abuses taking place, then specific remedies should be put in place.

Tax concessions to Charities are there to benefit societies, and Government

Dr Susan Bagshaw BSc MB BS FAChSHM FRNZCGP (hon) DNZM

She/her pronouns

Senior Lecturer Christchurch School of Medicine, University of Otago

Collaborative for Research and Training in Youth Health Development Educator

Chair Youth Hub Trust

Trustee Canterbury Charity Hospital Trust

109 Salisbury Street

Christchurch 8013

Mobile s 9(2)(a)

s 9(2)(a)

From: Josephine Anne Crowe s 9(2)(a)
Sent: Monday, 31 March 2025 9:49 pm
To: Policy Webmaster
Subject: Taxation and the not-for-profit sector

Please do not change the charity act……my church could not operate with out the income from us parishners……..we are generous, considering we are penioners, knowing we will get 30% back. Sincerely, Anne and Tony Crowe
Sent from my iPad

OFFICIALS’ ISSUES PAPER Taxation and the not-for-profit sector Issued: 24 February 2025

Submission from Vibe Youth One Stop Shop (The Hutt Valley Youth Health Trust) dated 31 March 2025

Submitted by Leanne Spice (Board Trustee) and Vailoa Tuita’alili (Board Chair)

In summary, we consider the role of charities in New Zealand to be an essential part of the fabric of how public services reach people in need. New Zealand <u>does not</u> fully fund public services – examples exist in the health system (primary health services, childrens hospitals, community health centres, ambulance, mental health), emergency services (civil defence, fire services, victim support, community patrols), education and social sectors (children, people living with disabilities, schooling and learning supports, young parents, family violence, housing, youth development, community centres, sports/clubs). To name a few.

We are therefore strongly opposed to any changes to the tax exemptions that currently support funding of these critical services to reach New Zealanders. Any impact on the revenue of the organisations will immediately reduce the capacity of the not-for-profit sector to deliver services. The impact will be felt most by those New Zealanders with the highest needs and will result in greater inequity in outcomes for people and families. We also believe there is significant social investment benefit from these services reaching people when they need them which reduces the burden on the state and associated taxes required to fund things like benefits. Reducing funds will likely reduce services and increase the burden on the state at a higher rate than the taxes that would be collected due to the ROI that is achieved through these services.

We also oppose any changes that will increase the obligations, administration and compliance costs of entities in this sector.

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?

We support continuing the “destination of income” approach to tax exemptions. This is essential unless New Zealand philosophically changes its contributory funding policy settings for public services.

We do support incentives that ensure profits and equity is directed to the intended public benefit however we are opposed to limitations that prevent entities taking a longer term view of fiscal sustainability of the entitiy – this is particularly relevant given the uncertainty of contributory funding from government and the inherent lumpiness and uncertainty of donor and benefactor funding. There are genuine reasons for some level of accumulation of funds – providing for future capital/asset purchases, ensuring there is sufficient funding to weather fluctuations in funding, funding to undertake research, funding to develop relevant data and insights to inform programme and service delivery design, funding to support community engagement and development projects etc.

We do not consider there is sufficient evidence that competitive advantage is a problem in New Zealand. We certainly do not believe New Zealand should be considering changes to tax exemptions simply because other countries do it differently – this assumes that other countries have similar design of how public services reach their citizens which we believe is very different in many countries.

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

It is unclear to us from the discussion document how unrelated business income would be defined and therefore it is unclear what the administrative burden would look like for entities. Undoubtedly there would be additional data collection, cost allocation/categorisation and submissions as well as additional audit costs. We are opposed to any changed that increase the already expensive administration and compliance burdens on charities.

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

We do not support this proposal.

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

We do not support this proposal.

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 but noting we do not support this proposal – the most effective way to achieve this is to not change the current exemptions.

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?

Please refer to our discussion points above regarding New Zealand's contributory model for public services that is reflected in many policy settings within central government and has most recently been reinforced in mental health funding that required providers to match the government funding dollar for dollar. This requires incentives for charities to attract private sector funding OR have business income to complement the government contribution to services. Please also note our comments in question 8 that are relevant to policy settings for individual donations.

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?

No comment

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 do not believe wealthy companies or individuals should be able to avoid taxes through use of charities without the contributions then delivering the intended public benefit. We believe however that the tax system should be designed to eliminate this without impacting those charities that are genuinely of benefit to the public, even if those charities do provide tax relief to individuals. This is because, as noted above, the current policy settings in New Zealand relies on a high level of contribution from individuals to charities to fund public services.

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 – to ensure charities are protected from being used for tax abuse we consider a large proportion of net profit should be distributed annually.

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.

Any changes to NFPs should further reduce administrative burden, accounting and audit fees. We support increasing the $1,000 deduction.

Q11. What are the implications of removing the current tax concessions for friendly societies and credit unions? Page 23 of 24 Income tax exemptions

No comment

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

No comment

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?

We do not agree with removing this exemption. Many staff working for NFPs are paid below average remuneration for similar roles in other sectors therefore the argument that this impacts markets is completely false. We have not seen any evidence that supports this being a material issue.

Tax simplification

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

We support anything that removes compliance and administration costs so long as it does not reduce the funds available for NFPs to fund 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?

Please see comments above – it is essential that any policy considerations fundamentally understand the impact changes will have on the ability of NFPs to continue funding services. We do not agree that the DTC does not incentivise donations simply because people do not claim the tax rebates available. Peoples behaviours are not always rational and we believe the DTC should remain to ensure there is no loss of revenue.

s 9(2)(a) [redacted]

From: s 9(2)(a) [redacted]
Sent: Monday, 31 March 2025 10:02 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 for Taxation and the not-for-profit sector

I would like to comment specifically on question 12 in relation to the veterinary service body income tax exemption - what are the likely implications if the following exemptions are removed or significantly reduced.

I support the removal of the income tax exemption for veterinary service bodies. I believe that removing the tax exemption for veterinary services will even the playing field for privately owned clinics with club practices. There will be limited negative effect on club practices and this will be very unlikely to affect their service provision to rural communities as they are all now well established and likely very profitable businesses.

s 9(2)(b)(ii) [redacted]

Historically the vet service tax exemption helped to facilitate veterinary care in remote rural areas where the farmers would own the premises and recruit vets to service their farming businesses and the vet clinic was run as a not for profit. Nowadays these are very profitable businesses which is shown by the fact that they are able to buy out other practices (which most likely were previously paying income tax) and to build new state of the art facilities.
Many of these club groups also offer companion animal services. Having a pet is a luxury and owners should be making provision for their pet's medical care. There is no reason that there should be any tax exemptions for businesses in this area.

As a medium sized private practice it is difficult to maintain competitive pricing and generate a profit especially with constantly rising costs for stock, compliance and workforce as well as competing against vet clubs, corporate veterinary groups, pet stores and online pharmacies. A tax exemption gives the vet clubs a significant competitive advantage and there has been "door knocking" offering cheaper services over the years which has affected our business.

We have a very healthy business model with local ownership and good succession planning to ensure longevity of service provision for our clients. We reinvest a good proportion of our profit back into our business, pay our tax, support a large local charity with significantly discounted veterinary work and give both time and money to a huge number of smaller local charities, we have 24/7 emergency service provision, cover the cost for welfare cases and injured wildlife and employ a great team of people. We provide excellent companion animal and farm services for our local community and we just want an even playing field with all other veterinary businesses.

Kind regards,

s 9(2)(a)

I am happy to be contacted about my submission but please do not publish my personal details.

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

March 31st 2025

From: Patrick Foley B.V.Sc
To: policy.webmaster@ird.govt.nz

Submitter Biography

- Graduated Bachelor of Veterinary Science Massey University, 1997.
- Co-founder and Director Sommerville Veterinary Centre, 1993-2024.
- Co-founder and Director Manukau After Hours Veterinary Clinic, 1997-2020.
- Owner and Director Mt Albert Veterinary Clinic, 2006-2013.
- Shareholder and Director VE Veterinary Services, Te Awamutu. 2012-Present
- Founder and Director VetAlliance New Zealand. 2016-Present

Statement

This submission is supportive of the Governments review of NFPs and ***is in favour of the removal of tax-free status for Veterinary Clubs in New Zealand.***

Officials from Inland Revenue can contact me to discuss the points raised, if required.

Summary

Background

The establishment of veterinary clubs in New Zealand and the legislation that afforded them tax free status dates to the 1950's. By the 1960's an increasing number of vet clubs were struggling to retain vets and provide services. This lead, in 1964, to the "Contract' practice being introduced to veterinary clubs where vets contracted to the farmer executive to provide services to the club, usually renting the premises and equipment. These 'contract practices' were for-profit tax paying entities and most have become LLCs. The hand full of clubs that exist today have most likely survived not because the original model has a place in 2025 but because they have used their tax-exempt status to create significant commercially viable businesses. Both Vetora (Te Awamutu Veterinary Association) and Anexa (Animal Health Centre Waikato) have amassed a war chest of cash reserves (published accounts*) that have afforded them the ability to acquire for-profit businesses, including companion animal practices which are outside of the vet club tax-exempt rules, to become very large multi-clinic commercial enterprises.

For-Profit Practice Profitability

For-profit veterinary practices survive on very low margins, and they are only sustainable if they can charge clients the real costs of the services and products they provide. As a for-profit practice owner for over 30 years, I am well aware of the commercial realities of running a veterinary business in NZ. Benchmarking undertaken by Platinum Partners* in 2023 showed the median earnings of 65 companion animal practices before interest and tax (EBIT) was 9.4% of total sales for companion animal practices. Production animal practices average a similar figure* but this relies on a significant amount of general and restricted animal remedy sales to achieve this modest profit for shareholders. The profession and its associated workers (veterinary nurses, technicians and support staff) are historically underpaid relative to other industry sectors and the pressure on veterinary businesses to better remunerate staff has increased since covid with exacerbated staff shortages. This pressure is compounded by Veterinary Council of NZ led initiatives to improve wellbeing support and outcomes for all staff which are necessary but come at a financial and resource cost for owners.

The Independent Owner-operator Vet Practice
Today's veterinary ownership landscape includes the vet clubs, foreign and New Zealand owned corporate enterprises, large 'group' practices (greater than 8 branch practices) and the traditional owner operated veterinary business. It is estimated (VetAlliance 2021 review*) that approximately half of the 430 vet practices in New Zealand meet the definition of owner operated. VetAlliance NZ, a business and buying group which I founded in 2016, now counts 65 of these practices as members. We work with these independent businesses to get improved commercial terms from suppliers, and we provide resources to help them improve their governance, management and business outcomes.

Twenty-two of our member clinics operate in the Waikato, Bay of Plenty and Taranaki regions and are directly impacted by the commercial practices of the vet clubs they compete with. More specifically, all the owners of these practices cited the impact of the clubs on their ability to compete fairly for clients and staff as a reason for joining VetAlliance.

As an owner of VE Veterinary Services in Te Awamutu for the past 13 years I have had firsthand experience of our near neighbour Vetora (not-for-profit tax-exempt vet club) creating additional downward pressure on pricing in an already competitive vet market*. Not only this but we have struggled to match the remuneration packages and conditions they offer vet staff. I can only assume that their tax-free status creates an uneven playing field.

The Sustainability of the Veterinary Industry
As an advocate for the owner-operator vet business and the significant contribution this sector makes towards servicing the needs of New Zealand's livestock and pet owners, I view the vet clubs as outliers and disruptors that in 2025 harm the sustainability of the vet industry.
All industry sectors benefit from diversity, not favouritism. Diversity of the veterinary ownership landscape provides choice for clients, employee veterinarians, entrepreneurial vets and all our associated support and para-professional staff. Tax-exempt businesses are not necessary for this scenario, removal of this status would not take away their ability to contribute to diversity if they believe they have their own identity, rather it would contribute to an upward trajectory for all stakeholders and a more viable vet business future.

There is an ongoing shortage of vets and vet nurses in New Zealand which creates pressure on vet businesses to provide greater remuneration to retain and attract staff. We also face significant wellbeing challenges manifested in the statistics that show vets overrepresented in suicides. Our governing bodies are attempting to make the provision of afterhours services less demanding on vets and Massey University has just changed their curriculum and intake criteria to attract and train vets who may be more resilient, rather than academically gifted.
The owner-operator vet has to succeed while addressing all these concerns as well as the universal challenges and stress of running a profitable business on their own or with one or two partners.

To meet these challenges our profession needs everyone rowing their boats forward in the same stream. Vets remain at the forefront of New Zealand's biosecurity defences, we have ethical responsibilities of stewardship of animal wellbeing and production, and we are consistently voted the most trusted professionals in the country. Vet clubs do not need to have tax-exempt status to play their part, and the rest of the profession is handicapped in its attempts to meet our challenges by their existence.

IRD - Consultation Considerations for the Veterinary Sector

Exemption for veterinary service bodies

4.19 Veterinary service bodies are associations, clubs, or societies established mainly to promote efficient veterinary services in New Zealand.

Response: All veterinary businesses operate within the same commercial market. All must be efficient, competitive and create excellent work environments to survive. There is no need to provide one particular group with additional financial support to "promote" service and access elements that are now ubiquitous in the sector.

4.20 This exemption was introduced to allow veterinary service bodies to invest in better facilities and higher standards of service. These entities are now more established, undertake commercial trading activities outside their immediate services, and compete directly with tax-paying private veterinary practices.

Response: Yes, and their tax-free status should be removed.

4.21 This and other industry sector specific exemptions may be difficult to justify under a broad-base, low-rate tax policy framework.
Response: Agreed

Question 12. What are the likely implications if the following exemptions are removed or significantly reduced (for veterinary service body income tax exemption)?
Response: Where given the option, the farming community currently choose their veterinary service provider on established principles i.e. service, value, relationship and price. In Te Awamutu, farm clients can choose an owner operator practice (VE Vets), a corporate provider (VeterinaryFirst), or the NFP club (Vetora). Our market data shows that each of these businesses has roughly the same market share. This would suggest that low pricing is not prioritised by the farming community and if vet clubs were to lose their exempt status this would not disadvantage their ability to compete for clients.

Respectfully submitted, Patrick Foley.

References as denoted *

Incorporated Societies Published Accounts
Platinum Partners (Zoetis Animal Health)
VE Veterinary Annual Accounts
VetAlliance NZ
VE Veterinary Services price comparisons in Te Awamutu

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

WJCC submission

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

Charity service provision and net fiscal impacts

The analysis in the officials' issues paper contains a significant flaw by ignoring net fiscal outcomes.

The paper notes in 1.4 that every tax concession has a "cost" by reducing government revenue and therefore shifting the tax burden to other taxpayers. That point is axiomatic. However, the argument in 2.15, that the fiscal cost of not taxing charity business income is significant and is likely to increase, appears to only look at the *revenue* side of the equation.

The long-standing favourable tax treatment afforded to registered charities is, in large part, an acknowledgement of the *services* that these charities provide. These services are likely to valued in the billions of dollars annually. Importantly, these are services that the state therefore does not need to provide and, in many cases, could not provide with anything approaching the efficiency of non-government providers (in part due to the impact of unpaid labour – see point below).

In many cases, if charities such as religious organisations were not to provide their services, there would be a cost to society beyond the direct outputs of those services, eg through loss of psychosocial or educational support. The government would be under pressure to increase expenditure to compensate for those losses, although it would have the choice whether to do so.

In other cases, however, the government would be obliged to spend more to compensate for decreases in charity services because that would result in greater demands such as on the welfare, healthcare, and criminal justice systems.

The issues paper necessarily focuses on the business activities of charities. However, to fully understand societal impacts of a tax policy change, business revenues cannot be considered in isolation. The paper misses the connection between formal economy revenue raising and voluntary services/unpaid labour involved in charities. Charities' revenue raising activities leverage a vast reserve of unpaid labour. In many cases this will be *indirect*, ie volunteers will be motivated to provide free labour because their charities' business activities allow those charities to be financially viable. Those business revenue streams also provide capital, consumables, external services etc that increase the productivity of that voluntary labour. Conversely, if the financial viability of charitable organisations is undermined by tax policy changes, we will see a decrease in the provision of voluntary labour and the efficiency of that labour.

The analysis is further complicated by interactions among charities and other community organisations. For example, a hall or other facility owned by a religious organisation will often be used by a variety of sporting, cultural, educational and other community groups. A tax policy change that led to the closure or divestiture of that facility could have a cascading negative impact on those other users.

Before being able to estimate the *net* fiscal impacts from reducing exemptions for charities, it would be important for Ministers to commission a fuller assessment on the compensatory *increase* in government expenditure that would be required. To be robust, this would need consultation with a wider group of agencies including Treasury, Police, MSD, MoH, MoJ, DIA, DOC, and MCH.

Beyond, the immediate question of fiscal impacts is one of identifying the degree to which we want civil society to be active in voluntary service provision. Arguably, it is a net positive to have more volunteers and community organisations engaged in delivering services, thus reducing dependence on government (outside of responsibilities, such as policing, where the state needs to have primacy). Just as New Zealand uses tax incentives to incentivise business R&D because of the clear value it brings to the country, it remains relevant to maintain broad tax concessions to incentivise voluntary sector service provision.

Do the factors described in 2.13 and 2.14 warrant taxing charity business income?

Not in themselves. As noted in 2.13 bullet 3, charities will face limitations in terms of modes of revenue raising. There may be other issues faced by a charity business but not purely commercial ones, eg governance or strategic ‘conflict’ between profit maximisation and charitable purposes.

The tax exemption framework’s “destination of income” approach is important. There may be a case for placing some restrictions on accumulation or profits before application to a charity’s charitable purposes.

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 issues paper and associated guidance on the IRD website do not provide clarity on what is deemed to be unrelated business income so this question is very difficult to answer.

Charities rely on a range of income sources to remain viable and to be able to provide services. For some, member and external donations will provide the bulk of what they need. However, the situation is dynamic. Our organisation has seen a decrease in these donations, in part to changing demographics and different societal attitudes. Costs are also a factor. We have, for instance, seen massive and sustained increases in insurance and building maintenance costs. This means that a growing share of donations is needed to cover building costs, with less available for member services.

The viability of charities will involve being able to use the resources they have. As in our case, this could involve unlocking the value of part of the organisation's property to be able to generate some revenue on commercial terms. Increasing tax on such activities will lead to unsustainable deficits for our organisation and undoubtedly thousands of others.

Removing the tax exemption would also increase the consequences from the uncertainty about what is and is not an unrelated business. The issues paper notes in 2.25 the risk of undue compliance costs. For small community organisations there could be a serious 'double whammy' of a greater tax burden and increased costs from legal fees (or penalties from non-compliance due to misinterpretation).

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?

Flipping the question around to consider where exemption should continue to be applied, the criteria used overseas and noted in 2.14 look relevant. Additional criteria to consider would be:

- the application of business profits to directly to cover charity costs, particularly where the charity would otherwise be running a deficit
- labour from charity employees beyond the scope of their job descriptions, eg 'free' advisory or oversight services to the business from a clergyman or administrative staff member employed by the charity

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

The paper’s recommended de minmis threshold (charities that report annual expenses above $5 million per annum) and continuing to provide tax exemption for Tier 3 and Tier 4 charities, seems appropriate.

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. The measures outlined in 2.35 would be worth exploring.

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?

It will be important to:

- have a narrow definition of business activity that is in scope to not unduly limited the ability of charities be financially viable
- provide definitional clarity and guidance material that would enable small volunteer-run organisations to make decisions on revenue raising without the need to engage specialist tax lawyers