



Taxation and the not-for-profit sector

C/- Deputy Commissioner, Policy

Inland Revenue Department

PO Box 2198 Wellington 6140

Submission to Inland Revenue on Taxation and the Not-for-Profit Sector

From: The Tasman Broadcasting Trust t/a Fresh FM

Date: 24th March 2025

Subject: Taxation and the not-for-profit sector

Introduction

The Tasman Broadcasting Trust trading as Fresh FM, as part of one of the twelve Community Access Media stations in Aotearoa, plays a crucial role in ensuring that diverse communities have access to media platforms that reflect their voices, languages, and cultures. Fresh FM is a registered charitable trust and operates under the principles of section 36(c) of the Broadcasting Act 1989 and is primarily funded by NZ On Air. Our station serves as a vital communication tool for underrepresented communities, including ethnic minorities, youth, persons with disabilities, and local organisations.

The proposed taxation changes affecting not-for-profit organisations, particularly those related to the taxation of unrelated business income, pose significant risks to our ability to sustain essential services. If revenue streams that support our community broadcasting efforts are classified as taxable business activities, it could severely impact our financial sustainability. We strongly urge Inland Revenue to recognise the distinct public value of community broadcasting and to ensure that any taxation changes do not undermine our sector.

The local and international value of Community Access Media

Local importance

Fresh FM ensures that all people at the Top of the South (Marlborough, Nelson and Tasman) have access to locally relevant news, information, and cultural content regardless of background. Fresh FM combined with the impact of our 11 other community access media partners play a unique role by:

- Broadcasting in over **50 languages**, ensuring linguistic diversity.
- Providing **media training and opportunities** for marginalised groups, including youth, persons with disabilities, and ethnic communities.



- Facilitating **critical emergency broadcasting** in times of crisis.
- Offering **civic value** by connecting communities and promoting public discourse on important local issues.
- Functioning as an **archive of local stories**, ensuring regional histories and cultures are preserved for future generations.

International recognition and United Nations endorsement

The value of community broadcasting is recognised globally, particularly by the United Nations (UN) and its agencies. The **UNESCO Community Media Sustainability Policy Series** highlights the importance of community radio in promoting media pluralism, social inclusion, and participatory democracy. The **UN's Sustainable Development Goals (SDGs)** further align with the mission of Community Access Media:

- **SDG 10: Reduced inequalities** – Community radio provides platforms for minority voices and marginalised groups.
- **SDG 16: Peace, justice, and strong institutions** – Access to free and independent media strengthens democratic participation and social cohesion.
- **SDG 4: Quality education** – Community radio plays an educational role by providing training and skills development, particularly for underserved populations.

The UN has consistently called for public policies that **protect Community Access Media from commercial pressures** and ensure sustainability through supportive regulatory and funding environments.

Resourcing challenges facing Community Access Media

Fresh FM and our wider sector are facing ongoing financial and operational challenges. The [CAMA 2024 Resourcing Snapshot](#) highlights this well:

- **Rising operational costs**, including transmission fees and staffing, have placed increasing pressure on stations.
- **Declining non-NZ On Air revenue sources**, such as grants and sponsorships, make stations more reliant on public funding.
- **Stagnant and precarious public funding**, with no safeguards to ensure NZ On Air revenue sources continue, let alone decrease due to broader political and economic pressures.
- **Increased content and compliance demands** from funding agencies require additional administrative capacity, stretching already limited resources.



- **Varying infrastructure and reporting processes** across stations due to limited funding and capacity, make streamlining sector-wide financial sustainability strategies difficult.

Concerns about proposed taxation changes

If income from activities deemed 'unrelated business income' becomes taxable, Fresh FM could face increased financial and administrative pressures. Specific concerns include:

- **Definition of unrelated income:** Fresh FM is always looking for innovative ways to support our core purpose of bringing community access programmes to air. These include
 - **Airtime fees:** Some programme makers who can afford it contribute airtime fees to help cover the production costs of their shows. This income helps bridge the funding gap left by our New Zealand on Air funding.
 - **Paid Advertising:** From time to time, local businesses purchase advertising on Fresh FM. While advertising is not our primary focus, this provides an important revenue stream that helps sustain our operations.
 - **Local Business Sponsorships:** Our sponsorship model enables local businesses to support a registered charity while making a local impact. In return, sponsors receive brand recognition, on-air mentions, and limited advertising opportunities.
 - **Studio hire:** Occasionally, we generate income by hiring out our studio and technical expertise for external projects.
- **Increased compliance costs:** The administrative burden of distinguishing and reporting taxable versus non-taxable income would further strain our already limited resources.
- **Impact on alternative funding streams:** The proposed changes would discourage charities from developing sustainable revenue streams, pushing them toward greater reliance on grants and donations. This shift stifles innovation, increases financial vulnerability, and creates a dependency model that is unsustainable long-term.

Fresh FM operates on a very tight budget. Revenue from these activities is critical to covering operational shortfalls, as our New Zealand on Air funding alone does not cover base expenses such as salaries and transmission costs. Any additional financial burden could directly impact our ability to deliver on our core charitable mission.

Recommendations

Given the strong public service mandate of Community Access Media, we recommend that Inland Revenue:



1. Ensure income generated to support core Community Access Media content distribution and dissemination **remains tax-exempt**.
2. Recognise sponsorships, and other alternative funding sources as **integral to charitable activities rather than unrelated business income**.
3. **Provide exemptions or allowances** for small-scale revenue-generating activities that directly support operational costs.

Specific policy recommendations to reduce the impact on Not-for-Profits

Given the financial constraints on smaller not-for-profits, including Community Access Media organisations, we propose the following policy changes to mitigate the impact of the Commissioner's updated view:

1. **Increase and/or redesign the current \$1,000 deduction** to remove small-scale NFPs from the tax system entirely. This would ensure that organisations primarily engaged in public-good activities, such as Community Access Media organisations, are not burdened with unnecessary tax obligations.
2. **Modify the income tax return filing requirements for NFPs to reduce administrative burdens** on NFPs, Inland Revenue, and associated organisations. Many small NFPs lack the resources to manage complex tax filing processes. Simplified reporting thresholds or exemptions for organisations with income below a set level would significantly ease compliance costs for all parties.
3. **Modify the resident withholding tax (RWT) exemption rules for NFPs** to ensure that investment income or minor revenue streams from sponsorships, and alternative funding sources that directly support operational costs do not become a tax liability.

Conclusion

Fresh FM plays a vital role in Aotearoa's diverse media landscape, ensuring all communities have access to representation, training, and civic engagement. The taxation changes under consideration should not inadvertently weaken this critical sector. We urge Inland Revenue to carefully consider the unique value and challenges of Community Access Media and to implement policies that safeguard its financial sustainability.

We welcome the opportunity to discuss these matters further and provide case studies to inform the decision-making process.

Ngā mihi nui,



s 9(2)(a)

Ceara McAuliffe Bickerton
Change Manager

The Tasman Broadcasting Trust t/a Fresh FM

s 9(2)(a)

From: Clare McLaughlin s 9(2)(a)
Sent: Monday, 24 March 2025 2:33 pm
To: Policy Webmaster
Subject: Submission re Taxation for Not For Profit Sector

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

Dear IRD

Thank you for the opportunity to have a say in this process.

Hearing Dogs NZ started to run a small one day a week operation post Covid to help us to raise enough funds to support the work we do.

Doggy Daycare – Helping Hearing Dogs to help others.

We use our current facilities and employ two people (one at a time) to cover the day from 8.00am-5.30pm on a Wednesday, we also used between 12-16 volunteers (a fantastic use of voluntary labour) to support the care and maintenance of the day care program. It started off with 7 dogs attending and now we have a regular client base of about 38 dogs attending at \$30.00 a day. We pay GST on this income.

This has become a wonderful community project with some people who love dogs playing and caring for them. It has also become a nice income stream that we can have certainty about, as you are aware we can't guarantee income from bequests, general donations are down and this program only runs on the Wednesday giving us still the 4 days per week to train our hearing dogs.

Our hearing dogs also get wonderful socialisation with other dogs and people on the day which is beneficial for their progress.

It would be a real shame if this income was taxed and meant that it was no longer "worth" running this program.

I hope you can consider this type of Not-For-Profit business when making your decision.

Kind regards
Clare

Clare McLaughlin
General Manager



Hearing Dogs New Zealand

7 Hydro Road, Burgess Park,

New Plymouth 4371, New Zealand

www.hearingdogs.org.nz

From: s 9(2)(a)
To: [Policy Webmaster](#)
Subject: NZSAE Submission – Consultation on Charities and Tax Settings
Date: Monday, 24 March 2025 2:35:35 pm
Attachments: [image001.gif](#)
[Taxation and the Not-for-Profit Sector Consultation - NZSAE submission.pdf](#)

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

Kia ora,

Please find attached the submission from the New Zealand Society of Association Executives (NZSAE) in response to the consultation on tax settings for charities and not-for-profit entities.

As the peak body representing over 200 professional and industry associations in Aotearoa, many of which are incorporated societies serving the public good, NZSAE welcomes the opportunity to provide input on the potential impact of any changes to current tax concessions.

We trust our submission offers a useful perspective on the role these organisations play in delivering social and economic value across New Zealand.

Please don't hesitate to contact me if you require any further information or clarification.

Ngā mihi



Brett Jeffery, CAE

[Executive Director NZSAE](#)

m: s 9(2)(a) e: s 9(2)(a) | v: [Schedule a video meeting](#)

a: 159 Otonga Rd Rotorua 3015, NZ

Submission to: Deputy Commissioner, Policy Inland Revenue Department

On: Taxation and the Not-for-Profit Sector Consultation

Submitted by: New Zealand Society of Association Executives (NZSAE) Te Hapori o nga Kaiwhakahaere Hononga o Aotearoa

Introduction

NZSAE is the peak body for association executives and membership-based organisations in Aotearoa, representing over 200 professional and industry associations across New Zealand. Our members include a diverse range of incorporated societies, industry bodies and professional membership organisations—many of which also hold charitable status. Incorporated societies are a cornerstone of New Zealand’s social and economic fabric, facilitating professional standards, industry development, and vital community services. They provide education, advocacy, and networking that strengthen entire sectors, delivering significant public good without seeking profit.

While much of the consultation paper focuses on charities, it is critical to acknowledge the role of incorporated societies, which operate under the Incorporated Societies Act 2022 and are held to strict governance and accountability standards. Many of these organisations exist to support industries, professions, and communities in ways that directly align with charitable objectives, even if they do not always meet the technical definition of a charity. Their ability to function effectively is fundamental to New Zealand’s economic resilience and social well-being.

NZSAE appreciates the opportunity to provide feedback on this consultation document. We have focused our response on the sections most relevant to our members, particularly questions 1 to 15. While not all questions directly impact membership organisations, we strongly advocate for a tax and regulatory environment that enables both charities and incorporated societies to continue delivering social and public good. Tax settings should support, rather than hinder, their ability to serve their communities effectively, ensuring that these organisations remain sustainable and continue to contribute to the broader public interest.

Response to Questions 1-9

Although questions 1 to 9 primarily focus on charitable entities, NZSAE submits that it is important to acknowledge the broader impact on the not-for-profit sector. Many membership organisations also engage in socially beneficial activities, even if they are not classified as charities.

NZSAE submits:

- The taxation of charity business income should be carefully considered to ensure that it does not unintentionally discourage organisations from reinvesting in public benefit initiatives.
- Donor-controlled charities should be recognised for their contributions and not subjected to excessive regulatory burdens that may limit their ability to support community-driven initiatives.
- Integrity and simplification measures should aim to support, rather than restrict, the activities of legitimate not-for-profit entities, ensuring that compliance obligations remain proportional to their size and function.
- The review of tax exemptions should protect mutual organisations and professional associations that reinvest all revenue into member services and public-benefit activities.
- Compliance costs must be considered, as increasing regulatory and tax obligations can be fiscally challenging for many charities and incorporated societies. Any new measures should not create undue financial or administrative burdens that could limit their effectiveness.

Question 10: Tax Compliance & Threshold for Small NFPs

Currently, not-for-profit organisations that do not have full tax exemption are entitled to an income deduction of up to \$1,000, meaning they do not pay tax on the first \$1,000 of income earned. Any income beyond this is subject to tax, which places an administrative burden on smaller not-for-profits with minimal surplus revenue.

NZSAE submits on increasing the income deduction threshold to **\$10,000** to better reflect the financial realities of small and medium-sized not-for-profits. Many of these organisations generate income primarily through membership fees, small fundraising initiatives, or sponsorships, with funds being reinvested into services and programmes that benefit their members and the wider community.

Raising the threshold to \$10,000 would:

- **Reduce administrative burdens** on smaller not-for-profits by removing the need to file income tax returns for minor revenue levels.

- **Provide greater financial sustainability** for organisations that operate close to break-even but still generate small amounts of income.
- **Encourage sector growth** by allowing more resources to be allocated towards member services rather than tax compliance costs.

This change would ensure a more practical and equitable tax treatment for not-for-profits, better aligning with their purpose of community benefit rather than profit generation.

Question 11: Implications of Removing Tax Concessions for Friendly Societies and Credit Unions

Friendly societies and credit unions have long provided essential financial and community services that complement the broader not-for-profit sector. Their tax-exempt status recognises their role in fostering financial inclusion, community support, and mutual benefit for members. These organisations operate on a mutual model, reinvesting in their communities rather than distributing profits, which strengthens financial resilience and social cohesion.

The removal of tax concessions for friendly societies could set a concerning precedent for other mutual organisations, including membership-based incorporated societies. If friendly societies are deemed taxable despite their non-profit status, similar arguments could be extended to professional associations, trade bodies, and industry councils. This shift would create uncertainty for organisations that provide critical services to their sectors and members without a profit motive.

Friendly societies operate in a way that is closely aligned with incorporated societies, focusing on delivering benefits to their members rather than generating returns for shareholders. Taxing their operations could undermine their financial sustainability, reduce the benefits available to members, and force them to pass additional costs onto the communities they serve. This could have flow-on effects, reducing their ability to provide essential welfare, education, and professional development initiatives.

Credit unions, in particular, provide accessible financial services to communities that may not otherwise have access to products and services that are essential to financial inclusion including transactional banking products and affordable credit. Their tax-exempt status ensures they can continue to reinvest in financial education, community programs, and lower-cost lending options. Removing these concessions risks limiting their ability to offer these essential services, ultimately disadvantaging the very people they were established to support.

NZSAE supports the continued tax exemption of friendly societies and credit unions, as their purpose and structure align with the broader principles of mutuality and community service that underpin many incorporated societies and professional membership organisations. These groups play a vital role in New Zealand's social and economic landscape, and their ability to operate effectively should not be compromised by tax changes that fail to recognise their unique contributions.

Question 12: Tax Exemptions for Industry, Science & Research Bodies

Certain incorporated societies engaged in industrial, scientific, and regional development provide significant public good through research, innovation, and sector-wide initiatives. Their tax exemptions recognise this contribution, and any removal or reduction could undermine their ability to deliver long-term benefits.

These organisations operate on a not-for-profit basis, reinvesting surpluses into advancing research, industry standards, and professional development. Taxing them would contradict their purpose and limit their capacity to support sector growth and economic progress.

While most associations do not fall under the category of herd improvement bodies or scientific research organisations, some incorporated societies do. Their work strengthens industries, enhances knowledge, and serves the public good. Preserving their tax-exempt status ensures they can continue delivering these benefits.

NZSAE strongly supports maintaining tax exemptions for these organisations to safeguard their ability to operate effectively and contribute to New Zealand's economic and social progress.

Question 13: If the compliance costs are reduced following the current review of FBT settings, what are the likely implications of removing or reducing the exemption for charities?

While this question is focused on charities, we note that some incorporated societies and membership organisations provide fringe benefits to employees. NZSAE urges caution in removing or reducing FBT exemptions, as this could have unintended consequences for professional associations that reinvest all revenue into member services.

NZSAE submits that simplifying the FBT framework is a positive step, as it reduces administrative complexity and tidies up compliance costs. However, we emphasise the need for any adjustments to be carefully evaluated to ensure they do not disadvantage not-for-profit organisations.

Question 14: What are your views on extending the FENZ tax simplification as an option for all NFPs? Do you have any other suggestions on how to reduce tax compliance costs for volunteers?

NZSAE supports any initiative that reduces tax compliance burdens for volunteer-driven organisations. Many of our member organisations rely on volunteers, including board members, committee members, and event organisers. The current compliance requirements can discourage volunteerism and create unnecessary administrative overheads.

NZSAE recommends:

- Simplifying reporting requirements for volunteer reimbursements and ensuring they are not unfairly taxed.
- Introducing a clear, minimal threshold below which volunteer reimbursements are automatically tax-exempt to encourage volunteer participation without excessive paperwork.

Question 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 concession rules?

Donation tax concessions primarily benefit charities, but some membership organisations that operate under incorporated society structures also engage in fundraising activities for sector-wide initiatives. While we acknowledge the importance of regulatory oversight, we urge that any changes do not place undue restrictions on associations that provide significant public and professional benefits.

NZSAE recommends:

- Maintaining existing donation tax concessions for organisations that operate in a way that benefits the public good, even if they are not strictly charities.
- Recognising the role of professional and industry associations in supporting education, advocacy, and workforce development, which provide indirect public benefits.

- Ensuring that changes to donation tax concessions do not inadvertently penalise associations that rely on sponsorship, fundraising, and member contributions to sustain sector-wide initiatives.

Conclusion

NZSAE appreciates the opportunity to provide input into this consultation and strongly encourages Inland Revenue to consider the distinct nature of incorporated societies and membership organisations in any tax reform.

We would welcome further discussion and engagement to ensure that New Zealand's tax settings remain fit for purpose and support the sustainability of the membership sector.

For further inquiries, please contact: Brett Jeffery, CAE Executive Director, NZSAE

Email: s 9(2)(a)

Phone: s 9(2)(a)

Website: www.nzsaе.org.nz



Submitted by the New Zealand Society of Association Executives (NZSAE)

Date: 21 March 2024

Submission on the Taxation of Charities in New Zealand

Harbour Sport submission to the Inland Revenue Department

Date: 24 March 2025

Introduction: The Role of Regional Sports Trusts and the Impact of Proposed Tax Changes

Regional Sports Trusts (RSTs) are charitable, not-for-profit organisations dedicated to increasing sport and physical activity and improving community wellbeing across New Zealand. Harbour Sport is one of 18 RSTs nationwide, each serving a designated geographic region and working alongside government agencies, iwi, community organisations, and sporting bodies to promote sport and recreation for all.

RSTs play a crucial role in communities across New Zealand to ensure equitable access to physical activity, particularly in underserved communities. Our work includes delivering school and community sports programmes, supporting volunteer development, running equity-focused initiatives, and promoting health and wellbeing through movement.

To sustain these services, RSTs rely on a mix of revenue sources, including central and local government funding, philanthropic grants, commercial partnerships and business activities. These business activities are for profit and include operation of sport and recreation facilities and providing governance and operational advice for sport and recreational organisations. In the last financial year RSTs earned \$11.5m (or 16% of their income) from these activities with a further \$1.2m of commercial sponsorship. Importantly, all RST operations—whether funded through grants, sponsorships, or commercial income—are undertaken under a single legal entity and operational structure. This makes it difficult, if not impossible, to separate business activity that is related to charitable purposes and that which is not related to the charitable purpose in a way that is administratively practical.

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

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

These changes also threaten to impose cost and complexity on clubs and other charities within the sport and recreation sector in New Zealand, undermining the key goal of Harbour Sport of assisting the North Harbour community to be physically active for life.

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

Set out below are our specific responses to questions 1 to 6 and question 13 contained within the Inland Revenue Department's Officials' Issues Paper "Taxation and the not-for-profit sector" issued on 24 February 2025.

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

We strongly oppose taxing charity business income because of the negative practical implications of the change.

Reasons Not to Tax Charity Business Income:

- **Taxation will directly reduce the funding of charitable activities** – Harbour Sport reinvests all revenue into community programmes. Any taxation paid by Harbour Sport, either on the profits of business activities or FBT will act as a direct reduction in the funding of the organisation and therefore result in a reduction in the societal wellbeing outcomes Harbour Sport can achieve.
- **Taxation will introduce excessive compliance burden and cost** – All RST activities are delivered within the same legal structure, making taxation distinctions between "related" and "unrelated" business activities artificial and impractical. Overhead costs, such as executive administrative salaries, rentals and other administrative expenses incurred by Harbour Sport will have to be allocated between taxable and non-taxable activity to arrive at the tax liability for the taxable business activity. This will increase compliance costs, audit costs and likely require external taxation consultancy support, further increasing the cost burden on Harbour Sport thereby reducing the funds that they can provide to their charitable activities.
- **Create financial instability** – The consultation paper discusses the possibility of deductions for distributions of business income for charitable purposes. If deductions are only allowed when income is immediately spent on charitable purposes, it would discourage RSTs such as Harbour Sport from building financial reserves, despite this being a best-practice approach for financial sustainability.
- **Impact on the broader sport and recreation sector** – Sport and recreation clubs play a vital role in increasing the physical activity and therefore wellbeing of New Zealanders. We note that Inland Revenue state in their question and answers document accompanying the consultation paper that they do not expect bodies promoting amateur sport and games to be affected by these changes unless they are registered as charities (although we do not have information on the number of clubs that would be affected). The concerns outlined above therefore also have the potential to impact sport and recreation clubs. A recent NZIER study found that sports clubs in total earn approximately 30% of their revenues from activities that could be deemed business activities and usually carry out their activities within a single legal structure. Any impact on sport and recreation clubs would therefore cause them to reduce their activities and undermining the goals of Harbour Sport to improve sport and physical activity.

The concerns outlined in Sections 2.13 and 2.14 of the consultation paper fail to acknowledge the fundamental differences between charities and for-profit businesses. While some charities

may generate income through business-like activities, their core purpose is reinvesting in social good—not wealth accumulation or shareholder returns.

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

We have identified the practical implications of removing the tax exemption in answering question 1 above.

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

This is a critical issue for Harbour Sport and its fellow RSTs. While we oppose the removal of tax exemptions, if the tax exemption was removed any definition of unrelated income must:

- **Recognise the interconnected nature of charitable activities** – Many revenue-generating activities directly support charitable work, even if they appear unrelated at first glance. For example, it may be simple to demonstrate that operating a recreational facility is closely related to the charitable purpose of RSTs in increasing sport and physical activity and therefore any income derived should be exempt. However, if revenue is earned by that facility renting rooms to community groups for meetings or to families for birthday parties, it becomes much more difficult to determine if that revenue is related to the charitable activities of the RST. Similarly, it will be of a question of judgement as to whether operating a shared service for the provision of accounting and other back-office services to organisations in the sport and recreation sector is related to the charitable purpose of Harbour Sport to increasing sport and physical activity.
- **Be administratively practical** –Complex definitions of "unrelated" income would create disproportionate compliance costs through necessitating use of professional advisors and possibly structural change to ensure Harbour Sport complies with the taxation legislation. This is in addition to the complexities identified above in practically allocating

revenue and expenditure in line with any definition that result from Harbour Sport having a single legal structure.

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?

Income from business activities varies significantly across the 18 RSTs from \$10k to \$2.5m and less than 1% to 38% of total revenues. Any threshold amount therefore potentially results in different RSTs being treated differently depending on how they are funded, regardless of the fact that their charitable activities are the same. This in turn will lead to the charitable activities being funded in some regions of New Zealand being reduced simply because of how the RST earns its revenue, which would be inequitable.

We do however acknowledge there are some advantages to the RSTs to the legislation having a de minimis level of unrelated income if it is set sufficiently high, either in a dollar or percentage amount, to exempt a significant proportion of sport and recreation clubs that would otherwise be taxed on their unrelated 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?

We agree with this approach, but it remains problematic.

- **It penalises responsible financial management** – RSTs that build financial reserves to ensure long-term sustainability would be subject to tax on the amount they retain. This is at odds with a need to ensure the financial sustainability of organisations like RSTs.
- **It does not account for the realities of cash flow management** – RSTs may earn funds in one year to fund activities in future years or have a mismatch between their timings of earning funds and distributing funds. This will require them to pay tax in one year before claiming it back in a future year. It is also not clear from the consultation paper whether taxation credits could be carried forward to future years in years where RSTs distribute more than they earn.
- **It still imposes compliance burdens** – Allowing a deduction for business income distributed for charitable purposes will still require RSTs to incur additional compliance burden and cost as outlined above.

The consultation paper suggests that Inland Revenue believe that charities are incentivised to have larger retained earnings as a result of the non-taxation of their business income currently (paragraph 2.13). A review of the financial statements of the RSTs and sport and recreation clubs would reveal that not to be the case. Often these organisations have reserves of less than six month's operating expenses as they constantly struggle for funding and what funding they get is used up in providing their charitable activities. This leaves them with insufficient reserves to withstand unexpected shocks as was evidenced by the impact of Cyclone Gabrielle and the Auckland floods of 2023, which left many sport and recreation clubs struggling to repair and rebuild facilities or cope with the consequent loss of income. Taxation of undistributed income will exacerbate this situation and the financial fragility of these organisations.

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

We have set out above the policy issues that we believe need to be considered if the tax exemption for unrelated business income is removed from charities. We ask that policy settings recognise these issues and if this tax exemption is removed, legislation incorporates measures that.

- **Reduce the compliance and administrative burden** – The law should address how this burden is reduced for organisations such Harbour Sport that cannot easily separate the revenue from taxable and non-taxable activities and the costs incurred in producing this revenue as they operate under a single legal and operational structure.
- **Flexibility for financial reserves** – Charities should not be forced to spend income immediately to avoid taxation as this will undermine their financial sustainability and does not recognise the nature of how income is received and charitable activities funded.
- **Provide certainty on what is defined as unrelated business income** – The definition of what is unrelated business income is critical to the impact that any law change removing the tax exemption has on Harbour Sport. This must be sufficiently well defined to avoid uncertainty but recognise that activities may generate both related and unrelated business income that is not easily separated.

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

Removing or reducing the FBT exemptions for charities will have a detrimental effect on Harbour Sport and directly reduce the funds we devote to our charitable activities. Harbour Sport runs a large fleet of vehicles as our activities require us to have staff in the community delivering charitable activities. A recent survey of RSTs by the RST National Network showed that across the 18 RSTs, there are currently approximately 300 vehicles in the collective fleet. Salaries within the RSTs tend to be less than those paid for equivalent roles within the private sector. Harbour Sport makes use of the provision of their vehicles to their employees for private use as a means of better matching private sector salaries. Therefore, any removal or reduction of the FBT exemption for charities will have the following impacts on Harbour Sport:

- **Increased costs for RSTs** – Given the size of the collective fleet noted above, the cost of FBT to the RSTs is likely to be around \$900k per annum. In addition, Harbour Sport will incur compliance costs that we do not currently incur as we will need to start providing FBT returns.

- **Diversion of funds from community programmes** – If Harbour Sport chooses to continue to provide vehicles for private use, the cost of the FBT will need to be covered by reducing the funds available for their charitable activities.
- **Increased difficulty to retain staff** – If Harbour Sport chooses to remove the provision of vehicles for private use as part of employment contracts it will be more difficult to retain staff given the salary differential that exists with the private sector. In any event, for existing staff, the provision of vehicles for private use will have to be “bought out” from their contracts or implemented as these employees leave the organisation’s employment, meaning Harbour Sport will continue to incur additional cost.


The rationale for removing/reducing FBT exemption for charities appears to be predicated on the fact that it is leading to a distortion of the labour market that charities can use to gain some sort of competitive advantage over their private sector competitors as they incur lower staff costs. In the case of Harbour Sport this argument does not hold for the simple fact that Harbour Sport does not have private sector competitors in general.

Conclusion

The proposed changes to charity taxation would undermine the financial stability of Harbour Sport, increase administrative burdens, and reduce funding available for community programmes. We strongly urge the IRD to retain current exemptions so Harbour Sport and the other 17 RSTs, and other charities, can continue delivering valuable services to improve the wellbeing of New Zealanders.

Yours faithfully

s 9(2)(a)


Mike Bishop
CHIEF EXECUTIVE



24 March 2025

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

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

Dear sir

Submission on the IRD's Proposal to Tax Industry Good Incorporated Societies

What is New Zealand Ethical Employers Incorporated

New Zealand Ethical Employers Incorporated (NZEE) is a non-profit registered incorporated society.

NZEE represents 50 member businesses and 14 funding partners in the horticulture and wine grape sectors, employing around 36,000 workers. Our members—contractors, growers, wineries, and post-harvest operators—depend heavily on skilled workforces to maintain high standards and industry sustainability.

Our vision and mission are to improve end-to-end employment quality, raise industry standards, and establish a rights-respecting baseline that ensures competitiveness is not at the expense of workers. NZEE is committed to decisive and collaborative action to drive ethical business practices, developing best practices to support resilient, future-focused supply chains that prioritise workers' voices and human rights. NZEE's role is to support and enable our members to achieve this vision and mission.

NZEE is an industry good mutual benefit organisation and has been exempt from paying tax on funds received from members, including membership fees, subscriptions, and levies.

Our Submission

NZEE and its members strongly oppose the IRD's proposal to tax incorporated societies by removing the exception that funds provided by members are not taxable.

This long-standing principle acknowledges that incorporated societies operate for the collective benefit of their members, not for private gain. The proposed changes will have severe financial and operational consequences for NZEE and many others across New Zealand.

NZEE is not a commercial organisation, and we submit that it should not be taxed as one.

Impact of Removing the Member Contribution Exception

The IRD's proposal seeks to tax funds received from members, including membership fees, subscriptions, and levies. Previously, these contributions have not been considered taxable income by the IRD because they are used solely to fund the organisation's activities for its members and the wider benefit of the community.

If this exemption is removed:

- Membership fees, subscriptions and levies would become taxable, reducing the funds available for NZEE's core activities.
- NZEE would need to either increase fees, subscriptions or levies —making membership less accessible—or cut services to offset the tax liability.

Increased Financial and Administrative Burden

The proposed taxation changes would impose new compliance costs and financial burdens on NZEE. NZEE operates on a limited budget with a volunteer-led board. Additional tax obligations would:

- Require NZEE to allocate funds towards tax compliance rather than member services.
- Increase administrative complexity.

Alternative Solutions

Rather than removing this exception, we urge the government to consider:

- Retaining the tax exemption for membership contributions, recognising their essential role in sustaining non-profit societies.
- Exempting Industry Good Organisations such as NZEE.
- Introducing thresholds to exempt small to medium-sized societies with no commercial operations from unnecessary tax burdens.
- Strengthening oversight of large organisations with commercial activities, rather than penalising all incorporated societies.

Conclusion

We urge the government to reconsider this proposal, as it would have devastating effects on the not-for-profit sector. Incorporated societies contribute significantly to New Zealand's social fabric, and taxing member contributions undermines their ability to operate effectively.

We appreciate the opportunity to submit our concerns and would welcome further discussion on this matter.

Yours sincerely,

s 9(2)(a)

Mike Chapman
Chair New Zealand Ethical Employers Incorporated
chair@nzee.nz
s 9(2)(a)

From: Kristina Dykes s 9(2)(a)
Sent: Monday, 24 March 2025 3:28 pm
To: Policy Webmaster
Subject: Taxation and the not-for-profit sector

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

To whom it may concern,

With regards to taxation and the not for profit sector, I write a submission specifically with respect to the now outdated vet club model where tax is not paid on profits.

Specifically to answer question 1:

It just makes sense for all business in New Zealand to pay their fair share of tax to foster economic growth and development. Vet clubs served their purpose in the 1960s, when farmers needed vets in their rural communities and it was hard to attract vets to the area. Each club initially only employed one vet and it stayed this way into the 80s. Nowadays, vet clubs are large employees, some of them employ over 70 vets! They are run as profitable businesses, without having to do what other profitable business do in New Zealand: pay tax. This gives vet clubs a commercial advantage, and then the flip side is, the neighbouring vet clinics, run as privately owned practices are disadvantaged. The vets that invest in their own business, are doing so for the greater good of the profession, it provides stability and fosters strong relationships both with clients and staff, but because tax has to be paid there is often a price point differential. Private practices provide equally efficient veterinary services to their region. Private practices invest their earnings back into their facilities to better them and continue higher standards of service. There is no help from the government to do so, why should clubs have this benefit? The tax-free status enjoyed by vet clubs seemed to have outlived its original purpose and is unfairly disadvantaging privately owned practices. Most New Zealanders these days have no idea that clubs enjoy tax free status.

We also have other means of encouraging vets to rural areas with the rural bonding scheme that the NZ government introduced in 2009 – a payment of \$55, 000 after 5 years in a rural clinic to 35 students . Vet clubs paying tax would help cover some of this cost! They are definitely seeing the benefit of this scheme when attracting vets.

Specifically to answer question 12 - What are the likely implications if the following exemptions are removed or significantly reduced: • veterinary service body income tax exemption.

I believe club practices should be taxed at the same rate as commercial veterinary clinics. Implications I envisage from this would be less money going into the community in terms of sponsorship. However if this was seen as valuable then sponsorship can be budgeted for out of profits.

Farmers sometimes get rebates if they are members of the club and the club has excess funds so these rebates would not exist – however this just puts the farmers on a level playing field with the rest of farmers who don't deal with a club practice.

I'm really hoping that veterinary clubs end up getting taxed.

Regards

Kristina Dykes BVSc
Production Animal Veterinarian

Southern Rangitikei Veterinary Services
233 State Highway 1
Bulls
06 3 222 333



From: Julie Bell s 9(2)(a)
Sent: Monday, 24 March 2025 3:55 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,

My name is Julie Bell, and I have been working with The Salvation Army at the national Office in Wellington for nearly 2 years. I'm writing to share my thoughts on the proposed tax changes affecting charities and not-for-profits.

As the National Property Coordinator for Transitional Housing and the team surrounding me, we walk alongside people in need of housing with a lot of complex needs we provide each whānau help with finances, lifeskills, parenting tools, and the wrap around social support.

As an organisation we meet the needs of whānau who come through our community centres on a daily basis. Mothers and their children in need of getting away from abusive partners, people struggling with crippling finances, whānau with no food in their homes, clothing, school stationery needs the list goes on. That kind of support is only possible because of the resources we have — and that includes the money our family stores earn and generous donations we receive from the public.

The living crisis our country is experiencing right now is really debilitating on a huge sector of our society and we as human beings and organisations like ours see the need and are called to help.

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

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

I'm happy to talk more if needed.

Kind regards | Ngā mihi nui

Julie Bell

National Property Coordinator for Transitional Housing

The Salvation Army | Territorial Headquarters

Booth House, 202-204 Cuba St, Wellington 6011, PO Box 6015, Wellington, 6011

M: s 9(2)(a)

E: s 9(2)(a) | W: <http://www.salvationarmy.org.nz/>

The Salvation Army | New Zealand | Fiji | Tonga

caring for people | transforming lives | reforming society



THE ARMY THAT BRINGS LIFE

Kia kaha, Kia maia, Kia manawanui

Be Strong, Be Brave, Be Steadfast

The email message may contain information which is confidential. If you are not the intended recipient, you must not peruse, use, disseminate, distribute or copy this email or attachments. If you have received this message in error, please notify us immediately by return email, facsimile or telephone and delete this email. Thank you.

Submission to:

Deputy Commissioner, Policy
Inland Revenue Department

Submission from:

Brian Perry Charitable Trust
8 Peake Road, Cambridge

On: Taxation & the not-for-profit sector

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

Introduction

The Brian Perry Charitable Trust welcomes the opportunity to submit feedback on the Inland Revenue Te Tari Taake Officials' Issues Paper regarding taxation and the not-for-profit sector.

About Bridge Housing

In 1976 a charitable trust was established with a personal donation of \$100,000 from Hamilton businessman Brian Perry, and his wife Peggy, who wanted to provide support for the community that had, in turn, assisted them with their business growth over the previous 20 years.

Nearly five decades later, through donations, scholarships and community initiatives, the Brian Perry Charitable Trust (BPCT) continues to develop strong partnerships with like-minded organisations to deliver on its purpose of 'Making a meaningful difference towards a vibrant Waikato Region'.

Our Submission

This submission aims to highlight the potential impacts of the proposals outlined in the Issues Paper on our organisation and the wider not-for-profit sector. We recognise the importance of a fair and transparent tax system but believe that any changes must consider the unique contributions and operational realities of charitable entities.

In this submission, we address questions 1, 2 and 7-9 of the Issues Paper, explaining why the tax exemption for charity business income is essential for charities to continue delivering critical services. Our key concerns focus on proposals to alter the tax exemption for charity business income, misconceptions regarding the accumulation of funds, the distinction proposed for donor-controlled charities and associated minimum distribution requirements.

Our submission can be summarised as follows:

- **Charities' tax-exempt status reflects their public benefit role, not a competitive advantage.** The proposals in the Issues Paper fail to acknowledge the strict regulatory constraints charities operate under, including the non-distribution constraint,

transparency requirements, and fiduciary duties that ensure all funds are applied towards charitable purposes.

- **Social enterprises need financial flexibility to remain sustainable.** Taxing charities' business income or restricting the accumulation of funds would undermine their ability to invest in long-term projects, reduce reliance on government funding, and address critical social issues like affordable housing.
- **The proposed changes would create unnecessary complexity without achieving meaningful benefits.** They are unlikely to generate additional tax revenue or impact for-profit business competitiveness but would impose burdensome restrictions on charities, hindering their ability to serve communities effectively.
- **It is unnecessary to introduce a donor-controlled category of charity.** Rather than requiring additional rules, concerns about party-related transactions are best addressed by ensuring compliance with and enforcement of the robust regulations already in place.
- **While a minimum distribution requirement introduces significant risks and administrative burdens.** These could undermine the sector's long-term sustainability and effectiveness.

Context

The charity sector in New Zealand is significant, representing approximately 6.5% of New Zealand's Gross Domestic product¹ and employing 4% of their workforce². Additionally, many charities have no paid staff, but are supported by more than 170,000 volunteers who contribute some 1.4 million hours of volunteering every week³.

Charitable Purpose

Charities exist to serve the public good, not for private financial gain⁴. Their activities are strictly defined by their charitable purposes⁵, and their governance structures ensure all funds are applied accordingly. The independence of charities is critical to democracy and just as the IRD does not tell taxpayers how to run their businesses⁶, we maintain that the legal and policy settings should not be telling charities how to further their charitable purposes.

¹ Calculated as 27.34/420: <https://www.stats.govt.nz/indicators/gross-domestic-product-gdp/>.

² Charities Services | Ngā Ratonga Kaupapa Atawhai [Charities Services Annual Review 2023/2024](#)

³ Charities Services | Ngā Ratonga Kaupapa Atawhai [Charities Services Annual Review 2023/2024](#)

⁴ *Latimer v Commissioner of Inland Revenue* [2002] 3 NZLR 195 (CA) at [32].

⁵ Robert Fitzgerald AM, then Principal Commissioner of the Productivity Commission, *The Productivity Commission's Report on the Not-for-Profit Sector 10 years on*, hosted by Queensland University of Technology and the Australian Centre for Philanthropy and Nonprofit Studies on 15 December 2020: [≤www.youtube.com/watch?v=bi3F-aspQig>](https://www.youtube.com/watch?v=bi3F-aspQig).

⁶ *Grieve v Commissioner of Inland Revenue* [1984] 1 NZLR 101 (CA) at 109-110, referring to *J T Tweddle v Commissioner of Taxation of the Commonwealth of Australia* (1942) 2 AITR 360 at 364.

Tax systems are generally structured to impose taxes on individuals and businesses based on their personal financial gain. However, this framework does not align with the nature of charities, where private benefit is strictly prohibited. While there is no universally agreed-upon tax benchmark, countries around the world consistently provide tax exemptions for charities, recognising their distinct role in serving the public good. As a result, charities exist outside the standard tax base, meaning their tax-exempt status should be viewed as a recognition of their unique, non-commercial purpose.

Limitations of public sector

The government has acknowledged that complex social and environmental challenges cannot be addressed by the public sector alone⁷. From critical infrastructure to community wellbeing, charities play a vital role in bridging the gap. Over the years, BPCT has invested in projects that enhance the quality of life in our region—funding and supporting initiatives including cycle trails, swimming pools, playgrounds, education programmes, affordable housing and community art. However, to continue delivering these benefits, charities need a regulatory and tax framework that supports their ability to operate, attract investment, and reinvest income into initiatives that strengthen communities for generations to come.

Wider charitable benefits

The Officials' Issues Paper does not include a cost-benefit analysis, and even if such an analysis were undertaken, it would struggle to capture the many intangible benefits that charities provide. As previously acknowledged by Inland Revenue, charities generate significant societal value beyond their immediate activities⁸.

BPCT's contributions to the community extend well beyond financial grants, with a strong focus on long-term, transformational impact. Over the past five decades, we have supported major capital projects such as the Grassroots Trust Velodrome, Te Awa River Ride, playgrounds, swimming pools, affordable housing and bike parks—initiatives that enhance community wellbeing and provide lasting social and economic benefits. Our funding also enables local projects, events, and scholarships; supporting education, recreation, and cultural enrichment. The income generated from our investments and business activities is entirely directed toward these charitable purposes. A regulatory and tax framework that fails to recognise the diverse ways in which charities strengthen communities risks undermining their ability to deliver lasting public good.

By measuring only the costs of tax expenditure, the intangible and difficult to measure benefits are ignored, but they arguably represent the very reason that tax privileges are given to charities in the first place. Ignoring such benefits leads to charities being perceived as a tax loophole and undermines their status in society.

⁷ A roadmap for impact, April 2021, p6: <https://www.theimpactinitiative.org.nz/publications/roadmap-for-impact>.

⁸ Inland Revenue Department Tax and charities, a government discussion document on taxation issues relating to charities and non-profit bodies June 2001: taxpolicy.ird.govt.nz/publications/2001/2001-dd-charities at [2.7] – [2.9]

Furthermore, research shows that charities often deliver services more efficiently and cost-effectively than government agencies⁹. If the business income of charities were taxed, any revenue gained would likely be offset by increased government expenditure to fill the gap left by diminished charitable activity.

Business Income

While the Issues Paper suggests that charities have an advantage, in reality, they face far greater oversight, constraints, and compliance costs compared to non-charitable organisations.

Transparency

The Issues Paper does not mention the rigorous process that a charity must undergo in order to register as a charity in the first place, including in relation to the Charities Services' very strict approach to conflicts of interest¹⁰.

A key feature of New Zealand's charities law framework is that all registered charities must comply with financial reporting requirements¹¹, ensuring consistency, comparability, and transparency across the sector. Additionally, charities are required to submit their constituting documents, along with any amendments, to the charities register, reinforcing public accountability.

Beyond these reporting obligations, charities are also subject to the non-distribution constraint and a legal duty to advance their charitable purpose. This means that even if a charity generates income from business activities that may not, in themselves, be considered charitable, all funds must still be applied toward achieving its charitable purpose and must comply with strict regulatory requirements.

Destination of funds

It is essential to consider the restrictions that charities must adhere to. To register as a charity, an entity must have governing rules that explicitly establish it as a not-for-profit organisation¹², meaning it is bound by the 'non-distribution constraint'.

Additionally, a charity's governing rules must define its purposes in a way that meets the legal requirement of being exclusively charitable¹³. These rules must also ensure that the entity operates solely to advance charitable purposes, prohibiting any private pecuniary gain—both during its existence and in the event of winding up. This principle, known as the 'destination of funds' test, means that once funds are designated for charitable purposes, they must remain

⁹ See, for example, R Atkinson "Theories of the Federal Income Tax Exemption for Charities: Thesis, Antithesis and Synthesis" (1997) 27 Stetson Law Review 395 at 403.

¹⁰ See Charities Services *Conflicts of interest and registering as a charity*: <www.charities.govt.nz/news-and-events/blog/conflicts-of-interest-and-registering-as-a-charity/>.

¹¹ See Charities Act sections 41(2)(a) and 42A, inserted on 1 April 2015 by the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

¹² See Charities Act, sections 17(1)(c), 24(1)(e), and 40(1)(e).

¹³ See Charities Act, sections 17(1)(c), 24(1)(e), and 40(1)(e).

committed to those purposes indefinitely. In essence, the "destination of funds" principle acts as a safeguard to verify that charities remain focused on their charitable purposes and do not exploit their tax-exempt status for private benefit.

Related & Unrelated Business Income

Defining what constitutes related versus unrelated business income for charities risks creating arbitrary distinctions. In New Zealand, for example, many charities operate social enterprises—such as op shops run by charities like the Salvation Army or trade-based businesses operated by Māori trusts—to generate funds for their charitable work. While these activities are commercial in nature, their sole purpose is to support the charity's mission.

Attempting to separate "related" from "unrelated" income ignores the reality that all revenue received by a charity is ultimately used to further its charitable purposes. Imposing rigid classifications could create uncertainty, increase compliance costs, and even discourage innovative funding models that help charities remain financially sustainable.

Reporting Burden

The Issues Paper suggests that charitable organisations may have a competitive advantage over non-charitable entities because they 'do not face the compliance costs associated with a tax obligation, thereby lowering their relative cost of doing business'¹⁴. However, this perspective overlooks the significant compliance costs charities incur in meeting rigorous financial reporting requirements as mentioned previously, which ensure transparency and accountability. Additionally, charities must still comply with tax obligations such as PAYE and GST.

When factoring in these financial reporting and tax compliance costs, the overall regulatory burden on charities is likely higher than that of their for-profit counterparts.

Need for diversification of income streams

Charities need a diverse range of income streams to ensure financial sustainability, reduce reliance on any single funding source, and maintain their ability to deliver long-term impact. Relying solely on government grants, donations, or a single investment type can leave charities vulnerable to economic downturns and policy changes. By generating revenue through a mix of donations, investments, and social enterprise activities, charities can build resilience and maintain stability even in uncertain times.

Diversification also enhances independence, allowing charities to set their own priorities rather than being constrained by external funding conditions. This flexibility enables them to respond effectively to emerging community needs and invest in new initiatives without being solely reliant on short-term funding cycles. A stable financial base, supported by multiple income sources, allows charities to take on ambitious projects, such as large-scale community infrastructure, scholarships, and economic development initiatives, without constantly seeking external funding.

¹⁴ Issues paper at [2.13].

For well-established charities and long-standing family trusts, like BPCT, a diversified income strategy—including investment returns, business activities, and donor contributions—ensures they can continue making a meaningful impact for generations.

This underscores the need for a regulatory and tax framework that supports charities in developing diverse, sustainable funding models, including social enterprise initiatives that improve financial resilience.

Competitive Advantage

The argument that charitable organisations have a competitive organisation over non-charitable organisations does not address the non-refundability of imputation credits. New Zealand operates an imputation credit system designed to prevent double taxation by allowing companies to pass tax credits on to shareholders when dividends are paid. Shareholders can then use these credits to offset their own income tax liabilities. However, charities, unlike individuals or businesses, are tax-exempt and therefore do not have an income tax liability against which they can offset imputation credits. As a result, these credits become unusable for charities, leading to a significant loss of value.

Since imputation credits are non-refundable, charities can only access the cash portion of a dividend, effectively reducing their overall investment returns. This creates an inequitable situation in which charities are disadvantaged compared to taxable entities that can fully utilise the credits, further undermining their ability to generate sustainable income to support their charitable activities.

Accumulated Funds

The Officials' Issues Paper states that the current 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 benefit¹⁵.

Charitable Purpose & Fiduciary Duties

The non-distribution constraint, the prohibition on private pecuniary profit, and the destination of funds test collectively ensure that a charitable organisation's funds are solely dedicated to advancing its charitable purpose—both throughout its existence and upon winding up. Additionally, a charitable organisation's fiduciary duties ensure that charities remain focused on their purpose, operate with integrity, and maintain public trust. Failure to uphold these duties can result in regulatory action, loss of charitable status, or legal consequences for trustees.

The claim in the Issues Paper that current regulations allow charities or their business subsidiaries to accumulate income tax-free for extended periods before delivering public benefits is misleading. Every decision a charity makes, including whether to retain or spend funds, must be guided by and serve its charitable purpose.

¹⁵ Issues paper at [2.13].

Financial Viability

Sustainability and financial viability are key challenges for the charitable sector, with competition for limited funds intensifying alongside increasing regulatory burdens and compliance costs. Placing restrictions on charities' ability to accumulate funds would not only make it more difficult for social enterprises structured as charities to operate, but would also cut off a crucial mechanism for long-term financial stability.

Accumulated funds enable charities to plan for future projects, invest in infrastructure, and withstand economic downturns, ultimately ensuring they can continue delivering meaningful social impact. Charities cannot drive meaningful change if they are forced to operate at a subsistence level year after year.

Accumulating funds should not be mistaken as failing to apply them toward charitable purposes. There are many valid reasons why a charity may need to build reserves, especially those with a long-term or intergenerational focus, given that charities can exist in perpetuity. One of the core principles of social enterprise is reinvesting the profits, ensuring long-term impact rather than prioritising investor returns—an approach that should be recognised as a strength rather than discouraged.

Raising Capital

The Issues Paper suggests that charities' ability to accumulate funds tax-free 'may give them lower costs in raising capital'¹⁶. While it acknowledges that charities generally cannot raise equity capital, it fails to recognise the significant challenges charities face in accessing debt capital. Governments rarely provide direct lending to charities, and philanthropic capital in the form of loans remains uncommon. Additionally, conventional loan financing is often out of reach, as charities struggle to meet standard lending criteria.

Rather than offering charities a competitive advantage or enabling rapid business growth, the ability to accumulate pre-tax funds serves as a necessary mechanism to counterbalance these significant financial constraints, ensuring they can continue delivering critical social services.

Donor-Controlled Charities

The Issues Paper states "Donor-controlled charities can enable tax avoidance and raise compliance concerns because of the control the donor or their associates can exercise over the use of charity funds"¹⁷. However, as outlined above, the Issues Paper does not mention the rigorous process a charity must undergo in order to register as a charity and the Charities Services' very strict approach to conflicts of interest¹⁸.

¹⁶ Issues paper at [2.13].

¹⁷ Issues paper at [3.5].

¹⁸ See Charities Services *Conflicts of interest and registering as a charity*: <www.charities.govt.nz/news-and-events/blog/conflicts-of-interest-and-registering-as-a-charity/>.

Definition

The issues paper suggests a concept of “donor-controlled” charity, the definition of which “could depend on the proportion of funds that the founder (or their associates) contributes to the charity or the control they have over the operation of the charity¹⁹”.

The suggestion of using “the proportion of funds” contributed by founders or their associates as a metric to define a “donor-controlled” charity raises several potential pitfalls. Determining this proportion would require clear guidelines on what qualifies as a founder’s contribution; for instance, would these include indirect contributions, non-monetary donations, or the use of assets facilitated by the founder?

Determining the proportion of funds could become administratively burdensome, especially for smaller charitable organisations with limited resources. Charities might need to conduct audits or provide detailed financial breakdowns to demonstrate compliance. Such requirements could detract from their primary missions, complicating operations unnecessarily. Potential donors may also be discouraged from contributing to trusts if they perceive their donations as being subject to complex and potentially arbitrary rules.

Fiduciary Duties

Under the Charities Act 2005 (NZ), strict rules exist to prevent officers of a charity from engaging in transactions that benefit themselves or related parties at the charity’s expense. Officers have fiduciary duties, meaning they must always act in good faith and in the best interests of the charity’s stated charitable purposes²⁰.

A charity cannot purchase assets from a related party at non-market prices without breaching these duties. Likewise, investing charitable funds in a business controlled by an officer would only be lawful if the investment was demonstrably in the best interests of the charity’s purposes. Any decision made by a charity must align with these obligations, ensuring that personal or external interests do not interfere with the charity’s mission.

Breaching fiduciary duty is already considered serious wrongdoing under the Charities Act. This means such actions are unlawful and subject to enforcement under existing legal frameworks. Rather than requiring additional rules, concerns about party-related transactions are best addressed by ensuring compliance with and enforcement of the robust regulations already in place.

Minimum Distributions

If a minimum distribution requirement were introduced, a key challenge would be determining the revenue base to which the percentage applies—whether net income, asset value, or receipted donations (excluding endowments). Each option presents difficulties in definition and compliance. In a low-interest-rate environment, such a rule could force charities to sell essential real property just to meet an arbitrary threshold, undermining their ability to fulfil their charitable purpose.

¹⁹ Issues paper at [3.8].

²⁰ See Charities Act, section 36

While the goal might be to encourage spending, New Zealand should be cautious about shifting focus from charitable outcomes to rigid expense ratios. A requirement based on net income or surplus could create perverse incentives, leading charities to favour high-growth, low-yield investments simply to reduce their distribution obligations. It could also discourage endowments or weaken capital reserves, as seen in Canada before they shifted to an investment-assets model in 1984²¹.

Further complexities arise in determining the revenue base: should it be based on assets from the previous year's financial statements, or another point in time? Should all assets be included, or only those acquired after the rule takes effect? These decisions could significantly impact charities' financial stability.

Defining qualifying expenditures would also be a challenge. Would necessary costs like legal and accounting fees count toward the requirement? Excluding legitimate operational expenses that enable charities to achieve their missions would add unnecessary complications.

Timing is another issue; should the calculation be based on a single year's spending, an average over several years, or another measure? Should excess spending in one year be carried forward or backward to offset shortfalls? Additional complexities would arise in preventing quota shopping or disbursement avoidance, requiring further regulatory oversight.

While a minimum distribution requirement might appear to promote charitable giving, in practice, it introduces significant risks and administrative burdens that could undermine the sector's long-term sustainability and effectiveness.

Conclusion

Far from having a competitive advantage, charities operate under stricter constraints, greater scrutiny, and more limited access to capital than non-charitable businesses. Their tax-exempt status is not an unfair benefit but a recognition of the essential public good they provide. Any perceived advantage is offset by these significant limitations, which ensure that charities remain focused on their charitable purposes rather than competing with commercial enterprises.

With rising costs, growing demands for services, and increasing pressure on volunteers and revenue streams, the charities framework—including tax settings—should support and enable social enterprise activities. Charities must have the flexibility to operate businesses that generate funds for their charitable purposes, allowing them to diversify income streams, reduce reliance on government funding and donations, and foster long-term financial sustainability.

There is no need to create a new, potentially arbitrary category of “donor-controlled” charity with additional rules, nor should minimum distribution requirements be imposed. Existing rules already ensure that Officers have fiduciary duties, requiring them to always act in the best

²¹ *Report on the law of charities*, Ontario Law Reform Commission, December 1996, pages 280 and 284.

interests of the charity's purpose, providing sufficient safeguards without the need for further restrictive measures. Charities should be encouraged to prioritise their charitable purposes, rather than being constrained by ill-conceived classifications or compelled to comply with arbitrary and unnecessary regulations.

We believe the proposals in the Issues Paper regarding charities' business activities and accumulation of funds would hinder, rather than support, social enterprise and should not be pursued. These changes are unlikely to generate additional revenue and would have no impact on the competitiveness of businesses. There is no compelling justification for adding unnecessary complexity and regulatory burdens to the charitable sector. Accordingly, these proposals should not proceed and any changes would be better addressed by a review of Charity Law.

Kind Regards,

s 9(2)(a)

Jennifer Palmer
General Manager

**Submission to:**

Deputy Commissioner, Policy
Inland Revenue Department

Submission from:

Bridge Housing Charitable Trust
8 Peake Road, Cambridge

On: Taxation & the not-for-profit sector

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

Introduction

Bridge Housing Charitable Trust welcomes the opportunity to submit feedback on the Inland Revenue Te Tari Taake Officials' Issues Paper regarding taxation and the not-for-profit sector.

About Bridge Housing

Bridge Housing is a charitable trust that was established in 2021 to address the critical divide in our community regarding home ownership and the growing housing shortage, particularly for those who earn too much to qualify for social housing but not enough to enter the traditional property market. Bridge Housing builds homes and offers them at accessible prices, including shared equity options to support lower income families to achieve home ownership. Taxation policy plays a critical role in ensuring we can continue this vital work effectively.

Our Submission

This submission aims to highlight the potential impacts of the proposals outlined in the Issues Paper on our organisation and the wider not-for-profit sector. We recognise the importance of a fair and transparent tax system but believe that any changes must consider the unique contributions and operational realities of charitable entities.

In this submission, we address questions 1 and 2 of the Issues Paper, explaining why the tax exemption for charity business income is essential for charities to continue delivering critical services. Our key concerns focus on proposals to alter the tax exemption for charity business income and misconceptions regarding the accumulation of funds.

Our submission can be summarised as follows:

- **Charities' tax-exempt status reflects their public benefit role, not a competitive advantage.** The proposals in the Issues Paper fail to acknowledge the strict regulatory constraints charities operate under, including the non-distribution constraint, transparency requirements, and fiduciary duties that ensure all funds are applied towards charitable purposes.

- **Social enterprises need financial flexibility to remain sustainable.** Taxing charities' business income or restricting the accumulation of funds would undermine their ability to invest in long-term projects, reduce reliance on government funding, and address critical social issues like affordable housing.
- **The proposed changes would create unnecessary complexity without achieving meaningful benefits.** They are unlikely to generate additional tax revenue or impact for-profit business competitiveness but would impose burdensome restrictions on charities, hindering their ability to serve communities effectively.

Context

The charity sector in New Zealand is significant, representing approximately 6.5% of New Zealand's Gross Domestic product¹ and employing 4% of their workforce². Additionally, many charities have no paid staff, but are supported by more than 170,000 volunteers who contribute some 1.4 million hours of volunteering every week³.

Charitable Purpose

Charities exist to serve the public good, not for private financial gain⁴. Their activities are strictly defined by their charitable purposes⁵, and their governance structures ensure all funds are applied accordingly. The independence of charities is critical to democracy and just as the IRD does not tell taxpayers how to run their businesses⁶, we maintain that the legal and policy settings should not be telling charities how to further their charitable purposes.

Tax systems are generally structured to impose taxes on individuals and businesses based on their personal financial gain. However, this framework does not align with the nature of charities, where private benefit is strictly prohibited. While there is no universally agreed-upon tax benchmark, countries around the world consistently provide tax exemptions for charities, recognising their distinct role in serving the public good. As a result, charities exist outside the standard tax base, meaning their tax-exempt status should be viewed as a recognition of their unique, non-commercial purpose.

Limitations of public sector

The government has acknowledged that complex social and environmental challenges—such as New Zealand's severe shortage of affordable housing—cannot be addressed by the public

¹ Calculated as 27.34/420: <https://www.stats.govt.nz/indicators/gross-domestic-product-gdp/>.

² Charities Services | Ngā Ratonga Kaupapa Atawhai [Charities Services Annual Review 2023/2024](#)

³ Charities Services | Ngā Ratonga Kaupapa Atawhai [Charities Services Annual Review 2023/2024](#)

⁴ *Latimer v Commissioner of Inland Revenue* [2002] 3 NZLR 195 (CA) at [32].

⁵ Robert Fitzgerald AM, then Principal Commissioner of the Productivity Commission, *The Productivity Commission's Report on the Not-for-Profit Sector 10 years on*, hosted by Queensland University of Technology and the Australian Centre for Philanthropy and Nonprofit Studies on 15 December 2020: [≤www.youtube.com/watch?v=bi3F-aspQig>](https://www.youtube.com/watch?v=bi3F-aspQig).

⁶ *Grieve v Commissioner of Inland Revenue* [1984] 1 NZLR 101 (CA) at 109-110, referring to *J T Tweddle v Commissioner of Taxation of the Commonwealth of Australia* (1942) 2 AITR 360 at 364.

sector alone⁷. With rising demand for secure and affordable homes, it is now more vital than ever to support social enterprise activity that contributes to housing solutions. Charitable organisations like ours play a critical role in bridging this gap. However, to maximise our impact, charities need a supportive regulatory and tax framework that enables them to operate social enterprises effectively, attract investment, and scale their efforts to meet the urgent housing needs of our communities.

Wider charitable benefits

The Officials' Issues Paper does not include a cost-benefit analysis, and even if such an analysis were undertaken, it would struggle to capture the many intangible benefits that charities provide. As previously acknowledged by Inland Revenue, charities generate significant societal value beyond their immediate activities⁸.

In the case of our Trust's affordable housing initiatives, the impact extends far beyond simply building and selling homes. By enabling lower income families to access secure, stable housing through affordable freehold and shared equity models, we create long term social and economic benefits. Stable housing improves family wellbeing, educational outcomes for children, and overall community cohesion. It also reduces reliance on social welfare, and other public services, ultimately lessening the burden on government resources. Additionally, our developments stimulate local economies by supporting jobs in construction and related industries. These broader benefits underscore the importance of a regulatory and tax framework that recognises and supports the role of charities in driving positive societal change.

By measuring only the costs of tax expenditure, the intangible and difficult to measure benefits are ignored, but they arguably represent the very reason that tax privileges are given to charities in the first place. Ignoring such benefits leads to charities being perceived as a tax loophole and undermines their status in society.

Furthermore, research shows that charities often deliver services more efficiently and cost-effectively than government agencies⁹. If the business income of charities were taxed, any revenue gained would likely be offset by increased government expenditure to fill the gap left by diminished charitable activity.

Business Income

While the Issues Paper suggests that charities have an advantage, in reality, they face far greater oversight, constraints, and compliance costs compared to non-charitable organisations.

⁷ A roadmap for impact, April 2021, p6: <https://www.theimpactinitiative.org.nz/publications/roadmap-for-impact>.

⁸ Inland Revenue Department Tax and charities, a government discussion document on taxation issues relating to charities and non-profit bodies June 2001: taxpolicy.ird.govt.nz/publications/2001/2001-dd-charities at [2.7] – [2.9]

⁹ See, for example, R Atkinson "Theories of the Federal Income Tax Exemption for Charities: Thesis, Antithesis and Synthesis" (1997) 27 Stetson Law Review 395 at 403.

Transparency

The Issues Paper does not mention the rigorous process that a charity must undergo in order to register as a charity in the first place, including in relation to the Charities Services' very strict approach to conflicts of interest¹⁰.

A key feature of New Zealand's charities law framework is that all registered charities must comply with financial reporting requirements¹¹, ensuring consistency, comparability, and transparency across the sector. Additionally, charities are required to submit their constituting documents, along with any amendments, to the charities register, reinforcing public accountability.

Beyond these reporting obligations, charities are also subject to the non-distribution constraint and a legal duty to advance their charitable purpose. This means that even if a charity generates income from business activities that may not, in themselves, be considered charitable, all funds must still be applied toward achieving its charitable purpose and must comply with strict regulatory requirements.

Destination of funds

It is essential to consider the restrictions that charities must adhere to. To register as a charity, an entity must have governing rules that explicitly establish it as a not-for-profit organisation¹², meaning it is bound by the 'non-distribution constraint'.

Additionally, a charity's governing rules must define its purposes in a way that meets the legal requirement of being exclusively charitable¹³. These rules must also ensure that the entity operates solely to advance charitable purposes, prohibiting any private pecuniary gain—both during its existence and in the event of winding up. This principle, known as the 'destination of funds' test, means that once funds are designated for charitable purposes, they must remain committed to those purposes indefinitely. In essence, the "destination of funds" principle acts as a safeguard to verify that charities remain focused on their charitable purposes and do not exploit their tax-exempt status for private benefit.

Related & Unrelated Business Income

Defining what constitutes related versus unrelated business income for charities risks creating arbitrary distinctions. In New Zealand, for example, many charities operate social enterprises—such as op shops run by charities like the Salvation Army or trade-based businesses operated by Māori trusts—to generate funds for their charitable work. While these activities are commercial in nature, their sole purpose is to support the charity's mission.

¹⁰ See Charities Services *Conflicts of interest and registering as a charity*: <www.charities.govt.nz/news-and-events/blog/conflicts-of-interest-and-registering-as-a-charity/>.

¹¹ See Charities Act sections 41(2)(a) and 42A, inserted on 1 April 2015 by the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

¹² See Charities Act, sections 17(1)(c), 24(1)(e), and 40(1)(e).

¹³ See Charities Act, sections 17(1)(c), 24(1)(e), and 40(1)(e).

Attempting to separate "related" from "unrelated" income ignores the reality that all revenue received by a charity is ultimately used to further its charitable purposes. Imposing rigid classifications could create uncertainty, increase compliance costs, and even discourage innovative funding models that help charities remain financially sustainable.

Reporting Burden

The Issues Paper suggests that charitable organisations may have a competitive advantage over non-charitable entities because they 'do not face the compliance costs associated with a tax obligation, thereby lowering their relative cost of doing business'¹⁴. However, this perspective overlooks the significant compliance costs charities incur in meeting rigorous financial reporting requirements as mentioned previously, which ensure transparency and accountability. Additionally, charities must still comply with tax obligations such as PAYE and GST.

When factoring in these financial reporting and tax compliance costs, the overall regulatory burden on charities is likely higher than that of their for-profit counterparts.

Need for diversification of income streams

The need for charities to be able to diversify their income streams and reduce reliance on government funding is evident in our own experience; we were unexpectedly declined funding by the Ministry of Housing and Urban Development last year.

Our own experience reflects the significant challenges charities face in accessing loan financing compared to commercial entities. Unlike businesses that can leverage private investment or shareholder backing, charities must rely on a combination of grants, donations, and limited revenue-generating activities, making them less attractive to traditional financial institutions. This underscores the need for a regulatory and tax framework that supports charities in developing diverse, sustainable funding models, including social enterprise initiatives that improve financial resilience.

Competitive Advantage

The argument that charitable organisations have a competitive organisation over non-charitable organisations does not address the non-refundability of imputation credits. New Zealand operates an imputation credit system designed to prevent double taxation by allowing companies to pass tax credits on to shareholders when dividends are paid. Shareholders can then use these credits to offset their own income tax liabilities. However, charities, unlike individuals or businesses, are tax-exempt and therefore do not have an income tax liability against which they can offset imputation credits. As a result, these credits become unusable for charities, leading to a significant loss of value.

Since imputation credits are non-refundable, charities can only access the cash portion of a dividend, effectively reducing their overall investment returns. This creates an inequitable situation in which charities are disadvantaged compared to taxable entities that can fully utilise

¹⁴ Issues paper at [2.13].

the credits, further undermining their ability to generate sustainable income to support their charitable activities.

Accumulated Funds

The Officials' Issues Paper states that the current 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 benefit¹⁵.

Charitable Purpose & Fiduciary Duties

The non-distribution constraint, the prohibition on private pecuniary profit, and the destination of funds test collectively ensure that a charitable organisation's funds are solely dedicated to advancing its charitable purpose—both throughout its existence and upon winding up. Additionally, a charitable organisation's fiduciary duties ensure that charities remain focused on their purpose, operate with integrity, and maintain public trust. Failure to uphold these duties can result in regulatory action, loss of charitable status, or legal consequences for trustees.

The claim in the Issues Paper that current regulations allow charities or their business subsidiaries to accumulate income tax-free for extended periods before delivering public benefits is misleading. Every decision a charity makes, including whether to retain or spend funds, must be guided by and serve its charitable purpose.

Financial Viability

Sustainability and financial viability are key challenges for the charitable sector, with competition for limited funds intensifying alongside increasing regulatory burdens and compliance costs. Placing restrictions on charities' ability to accumulate funds would not only make it more difficult for social enterprises structured as charities to operate, but would also cut off a crucial mechanism for long-term financial stability.

Accumulated funds enable charities to plan for future projects, invest in infrastructure, and withstand economic downturns, ultimately ensuring they can continue delivering meaningful social impact. Charities cannot drive meaningful change if they are forced to operate at a subsistence level year after year.

Accumulating funds should not be mistaken as failing to apply them toward charitable purposes. There are many valid reasons why a charity may need to build reserves, especially those with a long-term or intergenerational focus, given that charities can exist in perpetuity. One of the core principles of social enterprise is reinvesting the profits; Bridge Housing reinvests profits from house sales directly into future housing developments, ensuring long-term impact rather than prioritising investor returns—an approach that should be recognised as a strength rather than discouraged.

Raising Capital

¹⁵ Issues paper at [2.13].

The Issues Paper suggests that charities' ability to accumulate funds tax-free 'may give them lower costs in raising capital'¹⁶. While it acknowledges that charities generally cannot raise equity capital, it fails to recognise the significant challenges charities face in accessing debt capital. Governments rarely provide direct lending to charities, and philanthropic capital in the form of loans remains uncommon. Additionally, conventional loan financing is often out of reach, as charities struggle to meet standard lending criteria. This is particularly evident in charitable housing developments, where securing capital for land acquisition and construction is a major hurdle.

Rather than offering charities a competitive advantage or enabling rapid business growth, the ability to accumulate pre-tax funds serves as a necessary mechanism to counterbalance these significant financial constraints, ensuring they can continue delivering critical social services.

Conclusion

Far from having a competitive advantage, charities operate under stricter constraints, greater scrutiny, and more limited access to capital than non-charitable businesses. Their tax-exempt status is not an unfair benefit but a recognition of the essential public good they provide. Any perceived advantage is offset by these significant limitations, which ensure that charities remain focused on their charitable purposes rather than competing with commercial enterprises.

With rising costs, growing demands for services, and increasing pressure on volunteers and revenue streams, the charities framework—including tax settings—should support and enable social enterprise activities. Charities must have the flexibility to operate businesses that generate funds for their charitable purposes, allowing them to diversify income streams, reduce reliance on government funding and donations, and foster long-term financial sustainability.

We believe the proposals in the Issues Paper regarding charities' business activities and accumulation of funds would hinder, rather than support, social enterprise and should not be pursued. These changes are unlikely to generate additional revenue and would have no impact on the competitiveness of businesses. There is no compelling justification for adding unnecessary complexity and regulatory burdens to the charitable sector. Accordingly, these proposals should not proceed and any changes would be better addressed by a review of Charity Law.

Kind Regards,

s 9(2)(a)

Jennifer Palmer
General Manager

¹⁶ Issues paper at [2.13].

NORTHERN WAIROA MAORI MARITIME & PIONEER MUSEUM SOCIETY INC

TRADING AS DARGAVILLE MUSEUM TE WHARE TAONGA O TUNATAHI



32 Mt. Wesley Coast Rd

P.O. Box 166

Dargaville 0340

Northland

New Zealand

Ph (064) 09 4397555

Email: info@dargavillemuseum.co.nz

The Northern Wairoa Maori Maritime and Pioneer Museum Society Inc wishes to lodge the following submission responding to the Inland Revenue Department: Taxation and the Not-For-Profit Sector consultation paper.

- The Northern Wairoa Maori Maritime and Pioneer Museum Society operates in the provincial town of Dargaville in Northland, providing a home to collections reflecting the cultural heritage of Dargaville and the surrounding Northern Wairoa and Kaipara District. The financial viability is heavy dependant on visitor entrance fees, donor generosity and limited grant opportunities. The volunteer weekly input of 102 hours makes it possible to operate the museum exhibition space and manage the overall site. There is one paid employee engaged for only 25 hours weekly.
- The governance body value their tax exemption status and is compliant with all requirements to conduct themselves within the NZ Charities frame work.
- The need to operate any separate financial reporting data would introduce burdensome and expensive compliance cost to report revenue resulting from non-related activity of the charitable activities.
- Current tax exemption rules should remain appropriate for the reporting of level 3 and 4 entities of the NZ registered Charities
- Communities have been established in NZ by charitable work over many years, so now is not the time punish those who wish to continue with their legacy.

s 9(2)(a)

Ross D Newlove
President
Northern Wairoa Maori Maritime and Pioneer Museum Soc



24 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 Belfast Rugby Football Club (The Belfast Sports and Community centre Inc.) has been a cornerstone of our local community for 109 years, delivering not only rugby but also social and community development. Our mission extends beyond the rugby field. We enrich lives, promote well-being, and drive positive societal change.

While the "Q and As" published by IRD mention that it is not expected that bodies promoting amateur games and sport will be affected by the proposals we would still like to take the opportunity to make a submission that this income tax exemption should remain as is.

The Economic and Social Value of Grassroots Rugby Clubs

Rugby is not just a sport in New Zealand – it is part of our national identity and contributes significantly to the economy and society. As one of the more than 470 grassroots rugby clubs in New Zealand, we play a crucial role in fostering community engagement, social connection, and personal development.

Our club, like many others across the country, provides a space where individuals of all ages and backgrounds can come together, engage in physical activity, contribute to their local community and form lifelong friendships and support networks.

Beyond playing rugby, we also have Belfast Touch Modules (450 junior Players and 550 Senior players playing 3 times each week over summer at our club, Affiliated Club Belfast Netball Club (approx 250 players), Rotary Club of Belfast/Kaiapoi (35 members who meet at our club each week for dinner and meeting), various fundraisers (including recently building a house which has just sold this month), junior fundraising events, our club is available for local community groups to use including Belfast School, Marshlands School, Harewood School who all use or have used our facility for fundraising quiz nights . These activities bring communities together and generate economic activity for local businesses throughout the year, not just on game day.

Rugby clubs are also at the forefront of addressing important societal issues in our communities. We have recently run a course on mental wellbeing for all of our open grade players which they found very beneficial. We pride ourselves on looking after our players and club members, especially those who come from other places in NZ or overseas. We offer them a kind, caring environment - we seek accommodation and jobs for those who require these.

The Importance of Retaining the Income Tax Exemption for Amateur Sport

The current income tax exemption for bodies promoting amateur games and sport ensures that we can remain financially viable. Removing this exemption or imposing income tax on our membership fees would:

- significantly reduce the funding available for clubs to provide community programs, purchase equipment, maintain facilities, and support player development.
- create an administrative burden for us as a volunteer-run organisation, diverting time and resources away from our core activities; and
- lead to increased costs for participants, which could disproportionately impact those from lower-income backgrounds and reduce youth participation in rugby especially in the current cost of living crisis.

Preserving the current income tax exemptions is essential for sustaining the economic and social benefits they provide. The Belfast Sports and Community Centre Inc. (T/A Belfast Rugby) remains committed to enriching our community, and we urge the Government to consider the profound implications that changes to tax exemptions would have on grassroots organisations like ours.

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,

Glenda Spillane, Secretary, Belfast Rugby Club
Facilities Manager, The Belfast Sports and Community Centre Inc.

s 9(2)(a)

Belfast.rfc@extra.co.nz

Submission to Inland Revenue – Taxation and the Not-for-profit Sector

Professor Ian Murray, UWA Law School

s 9(2)(a)

24 March 2025

By way of background, I am a Professor in the Law School at the University of Western Australia (<https://research-repository.uwa.edu.au/en/persons/ian-murray-2>), a board member of the Charity Law Association of Australia and New Zealand and of Australia and New Zealand Third Sector Research. However, the views expressed in this submission are my own and not necessarily those of any of the above organisations.

More detail is contained below, but I emphasise six key points:

- Many of the stated concerns about ‘unrelated’ ‘business/commercial’ activities also apply to ‘related’ ‘business/commercial’ activities (as demonstrated by the OpenAI example) and to investment activities. It may be more effective to enhance rules aimed at the specific concerns rather than imposing a tax on unrelated business income. For instance, enhancing or ensuring enforcement of fiduciary duties to reduce the risk of mission drift or the failure to protect from commercial liabilities.
- One of the benefits of having a unitary system (rather than a federal system) is that New Zealand does not have to rely on using tax rules as a federal proxy for inconsistent state application of fiduciary duties (as in the US, Canada and, still to some extent, Australia). Make the most of this ability to achieve enforcement and keep rules simple.
- Do not underestimate the difficulty of legislatively identifying ‘unrelated’ and ‘business/commercial’ income.
- Donor-controlled charities raise concerns beyond economic and fiscal matters. Those additional concerns relate to the influence that donor control can permit donors in relation to tax-subsidised communal projects, enabling perpetuation of donor world views. It is worth considering tax requirements for involvement by independent persons in charity decision-making and also in considering the flexibility of rules, such as cy-près rules, that permit longer term variation of charitable projects.
- Donor control can also arise for what appear to be public charities, via the mechanism of donor-advised funds or sub funds. This raises similar concerns.
- There needs to be a normative basis for determining timing expectations about distributions of donations. Intergenerational justice principles (which focus on the obligations that the current generation owes to past and future generations) could play a role here. They could inform the considerations that charity controllers are required to take into account when exercising their powers and potentially also support a minimum distribution rate as a safe-harbour backstop which, if met, would show that charity controllers have met their duties.

1. Charity Business Income & Questions 1 and 3

Question 1

Many of the concerns that apply to carrying out ‘unrelated’ commercial/business activities apply equally to ‘related’ commercial/business activities and to investment activities. In particular, the concerns raised in [2.13] of the Consultation Paper appear to apply equally, as partially recognised in [2.14]. Likewise, there is a fiscal cost of not taxing related business income or investment income just as there is for not taxing unrelated business income (a concern highlighted in [2.15]). To these concerns might be added concern about increased risk of loss of charity assets due to commercial liabilities, mission drift for charity managers, and the risk that people may view charities as less altruistic if they engage in business activities to a greater extent.¹ Concerns about mission drift and public perception may potentially be reduced for related as opposed to unrelated business activities, but they still exist.

Thus, many of the same concerns apply to related as to unrelated business activities (and also to investment activities), even if there is the potential for some slight reduction of those concerns. OpenAI provides an example of how this suite of concerns might play out in the context of **related** business activities. OpenAI is possibly the most valuable charity in the world, with an implied market value of well over US\$150bn.² Its original mission was to ‘*Advance digital intelligence in the way that is most likely to benefit humanity as a whole, unconstrained by a need to generate financial return*’.³ In 2019, however, OpenAI partnered with Microsoft to create a social enterprise structure, permitting some return of profit to associated investors. Currently, OpenAI is proposing to shift the AI business out of the charity into a purely for-profit company. Given the limited number of developed AI providers and its early mover status, OpenAI clearly has some capacity to use an income tax exemption (if it were making sufficient income) to retain market share. Once greater revenue is earned, there will clearly be a large fiscal cost to not taxing that income. The litigation with founders such as Elon Musk⁴ and the extensive board and management upheavals⁵ suggest the risks of commercial liabilities and mission drift. The changes and pursuit of business have also caused questions about whether OpenAI is truly nonprofit and altruistic.⁶ Yet the AI activities of OpenAI are related to its charitable purpose, not unrelated.

It may be more effective to enhance rules aimed at the specific concerns rather than imposing a tax on unrelated business income. For instance, enhancing governance duties to reduce the risk of mission drift or the failure to protect from commercial liabilities. One of the benefits of having a unitary system (rather than a federal system) is that New Zealand does not have to rely on using tax rules as a federal proxy for inconsistent state application of fiduciary duties (as in the US, Canada and, still to some extent, Australia). This is a major reason in a number of other jurisdictions for

¹ For discussion of these issues in the context of unrelated commercial activities, see, eg, Ian Murray, ‘Charity Means Business – Commissioner of Taxation v Word Investments Ltd’ (2009) 31 *Sydney Law Review* 309, 326.

² Compare implied market valuation (<https://www.afr.com/technology/openai-raises-9-6b-in-funding-at-228b-valuation-20241003-p5kfhc>) against listing of wealthiest charitable foundations (<https://www.arcolab.org/en/worlds-100-largest-philanthropic-foundations-list/>).

³ Greg Brockman, Ilya Sutskever & OpenAI, Introducing OpenAI, December 2015, available online at: <<https://openai.com/index/introducing-openai/>> accessed March 2025.

⁴ Elon Musk litigation:

<https://storage.courtlistener.com/recap/gov.uscourts.cand.433688/gov.uscourts.cand.433688.46.0.pdf>

⁵ See, eg, <https://www.theguardian.com/technology/2024/sep/26/why-is-openai-planning-to-become-a-for-profit-business-and-does-it-matter>

⁶ See, eg, <https://www.techpolicy.press/questioning-openais-nonprofit-status/>

complex tax rules, because they provide a uniform standard that would not be achieved by inconsistent state application of fiduciary duties.

Question 3

There is then the material difficulty of defining ‘unrelated’ and ‘commercial/business’ activities/income. As to commercial or business activities, many jurisdictions do not treat investment activities, charitable fundraising, possibly gaming and traditional activities like church fetes/bake-sales and opportunity clothing shops as ‘commercial’ or ‘business’ income (or otherwise exempt that income), but the rationale for this is not entirely clear and any legislative dividing line is likely to leave a lot of uncertainty.⁷ For instance, examples 4, 5 and 6 contained in IS 24/08 would include some (but not all) passive investment income as business income. Further, the examples do not explain why the donations are not business income. Many charities would regularly carry out activities to encourage people to give, have very sophisticated customer/donor relations management systems and processes and would regularly receive and rely on donation funding. It is also becoming increasingly common for donors to try and impose conditions on donations. Such circumstances seem quite removed from those in *Inland Revenue Commissioners v City of London Corporation (as the Conservators of Epping Forest)* (1953) 1 All ER 1075. Further, how would investments in alternative assets (such as private equity, venture capital and hedge funds) be treated under this framework?⁸

Separating ‘related’ from ‘unrelated’ activities will also be difficult, though Stewart and Chia have established a useful framework which divides related activities into: ‘core business’ (activities where the charitable purpose, such as the advancement of education through a school, directly entails the delivery of goods or services); ‘business as a mechanism for charity (where the activities are a means to directly advance the purpose, albeit that the provision of goods or services does not itself effect the purpose. For instance, a business that provides employment and training to people suffering a disability); and ‘ancillary business’ (where the activities facilitate or flow from the core activities of the charity. For instance, an art gallery gift shop).⁹

2. Donor-Controlled Charities and Questions 7 and 9

Question 7

I agree that donor-controlled charities raise several unique concerns. In addition to the concerns identified in [3.5]-[3.6], donor-controlled charities raise concerns beyond economic and fiscal matters. Those additional concerns relate to the influence that donor-control can permit donors in relation to tax-subsidised communal projects, enabling perpetuation of donor world views.¹⁰ This may not reflect a conscious intention to perpetuate views and, indeed, may often reflect philanthropists’ focus on articulating and measuring outcomes and adoption of technological innovations and market incentives, which could support more effective and efficient philanthropy.

⁷ See, eg, Ian Murray, ‘Charitable Fundraising Through Commercial activities: The Final Word or a Pyrrhic Victory?’ (2008) 11(2) *Journal of Australian Taxation* 138, 170-180.

⁸ As to ‘investment’ by US universities in such assets, see: <https://www.barrons.com/articles/harvard-university-endowments-stock-market-2fda709d>

⁹ Joyce Chia and Miranda Stewart, ‘Doing Business to do Good: Should we Tax the Business Profits of Not-for-Profits?’ (2012) 33(3) *Adelaide Law Review* 335.

¹⁰ HK Anheier, M Lang and S Toepler (2020). ‘Comparative Nonprofit Sector Research: A Critical Assessment.’ In P Bromley and W W Powell (eds) *The Nonprofit Sector: A Research Handbook* (Stanford: Stanford University Press, 3rd edn, 2020) 648, 674; John Picton, ‘Donor Intention and Dialectic Legal Policy Frames’ In M Harding (ed) *Research Handbook on Not-For-Profit Law* (Cheltenham: Edward Elgar) 189, 192, 196–201.

Nevertheless, a top-down imposition of outcomes and modes of acting (market-based and technology-infused) contains worldviews within it, and the mere selection of supported projects and policies (eg greater support for elite cultural interests, communal projects that emphasise individual responsibility and a reduced role for a redistributive welfare state) does too.¹¹

While tax rules in many jurisdictions typically attempt to limit the economic benefits that a philanthropist can receive to permitted tax deductions or credits (rather than continued access to the gifted funds), they generally don't explicitly regulate non-economic benefits obtained, such as the ability to perpetuate the donor's worldview.¹² Therefore, in addition to thinking about tax protections for self-dealing or mandatory distribution rules that reduce accumulation, it may also be worth thinking about mandating a certain degree of decision-making involvement by individuals who are independent of the controlling donors. In Australia, for instance, philanthropic organisations in the form of private ancillary funds are required to have a minimum of one independent person (with a degree of responsibility to the general public) on the board, whereas philanthropic organisations that are public ancillary funds must have a majority of such persons.¹³

Another (albeit non-tax) mechanism for dealing with excessive donor influence in the longer term is to increase the ability to vary the terms of philanthropic gifts over time – such as an expanded cy-près scheme process as in England and Wales, where the grounds that must be satisfied before trustees or directors can apply for a scheme are very broad, essentially where the trustees or directors consider it expedient in the best interests of the philanthropic organisation.¹⁴ The decision whether to approve a scheme then lies with an administrative body, the Charity Commission for England and Wales, not a court, with a corresponding reduction in costs and increase in decision-maker familiarity with the sector.¹⁵ Similarity of the proposed scheme to the original purpose is a relevant, but not overriding consideration to be taken into account for the decision to approve or decline the scheme.¹⁶

It is important to note that donor control (and many of the concerns that it causes) can arise even in the context of a charity that appears public rather than privately-controlled. The phenomenal rise of donor-advised funds in the United States is an example of this. Donor-advised funds, or sub-funds, are separately identified management accounts within public charities (the sponsoring organisation), in respect of which the donor is permitted to issue non-binding advice to the sponsoring organisation. The non-binding advice typically relates to the timing and identity of recipients of distributions. While the sponsoring organisation is the legal owner of the donated funds, in practice, sponsoring organisations typically act in accordance with donors' non-binding advice. DAFs can be described as substitutes for private foundations, involving less legal control for a donor, but enabling

¹¹ See, eg, T Odendahl, *Charity Begins at Home: Generosity and Self Interest Among the Philanthropic Elite* (New York: Basic Books, 1990) 3-5, 232; R Reich, *Just Giving* (Princeton: Princeton University Press, 2018) 92-105.

¹² A O'Connell, 'Taxation and the Not-for-Profit Sector Globally' In M Harding (Ed) *Research Handbook on Not-For-Profit Law* (Cheltenham: Edward Elgar, 2018) 388, 409-10, 413-14; Ian Murray, '[The Donor Control/Public Benefit Balance Underlying Philanthropic Tax Concessions](#)' in H Peter and G Lideikyte Huber (eds), *The Routledge Handbook of Taxation and Philanthropy* (London: Routledge, 2021) 138.

¹³ *Taxation Administration (Private Ancillary Fund) Guidelines 2019*, r 12(2); *Taxation Administration (Public Ancillary Fund) Guidelines 2022* (Cth), r 12(2).

¹⁴ John Picton, 'The Charities Act 2022 and its Dissuasive Effects on Donors' (2023) 86(4) *Modern Law Review* 1011, 1013-1021.

¹⁵ J Garton, 'Justifying the Cy-près Doctrine' (2007) 21 *Trust Law International* 134, 148-149.

¹⁶ John Picton, 'The Charities Act 2022 and its Dissuasive Effects on Donors' (2023) 86(4) *Modern Law Review* 1011, 1013-1021.

cost savings and administrative efficiencies.¹⁷ Giving to DAFs has increased dramatically in recent years. Most notably in the US, where 15% of individual giving was to DAFs as of 2022.¹⁸ Australasia has also seen an increase in such giving – though not yet to quite the same level.¹⁹ Part of the reason for this increase in popularity appears to be the role of financial service providers or trustee service providers in creating affiliated sponsoring organisations.²⁰ DAFs are currently being offered in New Zealand.²¹ They can raise some of the same concerns as donor-controlled charities, particularly in relation to delay between the donation and its ultimate application.²² If different rules are to be introduced for donor-controlled charities, then their application to DAFs should also be considered.

Question 9

To answer the question requires the identification of some normative basis to help articulate when delay is too long and how quickly we might expect donations to have to be distributed rather than accumulated. One possible basis is provided by principles of intergenerational justice (which focus on the obligations that the current generation owes to past and future generations) to set bounds for what we expect from charities. Cordelli and Reich apply one interpretation of intergenerational justice, John Rawls' "just savings" principle, to private foundations.²³ Pursuant to the principle, society should preserve capital to enable the establishment and then maintenance of 'just institutions', being the main political and social institutions of a political society. Cordelli and Reich use their interpretation of intergenerational justice to evaluate private foundations, focusing on their role in maintaining social capital and permitting long term approaches to problems.²⁴

Murray has built on this analysis in relation to charities generally and, to DAFs specifically.²⁵ He highlights broader "sufficientarian" interpretations of intergenerational justice (of which the just savings principle is but one example), which emphasise the role that institutions, such as DAFs, play in preserving a sufficient level of resources (including social capital) for future generations to meet their basic needs. This could mean sufficient resources to support civil society and its role in maintaining social capital, as well as to undertake long-term approaches to societal problems. If the threshold is low and relates to fundamental needs, then this approach does not demand that current generations materially sacrifice their own wellbeing to benefit future generations, nor require future generations to level themselves down to the position of earlier generations, since the sufficientarian threshold simply sets a minimum. Sufficientarianism might, for instance, oblige charity intermediaries to distribute heavily to fund charities within their purposes, in order to help currently

¹⁷ Roger Colinvaux, 'Donor Advised Funds: Charitable Spending Vehicles for 21st Century Philanthropy' (2017) 92(1) *Washington Law Review* 39.

¹⁸ Roger Colinvaux, 'Speeding Up Benefits to Charity by Reforming Gifts to Intermediaries' (2022) 63(8) *Boston College Law Review* 2621.

¹⁹ S Phillips, K Dalziel & K Sjogren, 'Donor Advised Funds in Canada, Australia and the US: Differing Regulatory Regimes, Differing Streams of Policy Drift' (2021) 12(3) *Nonprofit Policy Forum*, 409; L Wang, E Graddy & D Morgan 'The Development of Community-Based Foundations in East Asia' (2011) 13(8) *Public Management Review* 1155.

²⁰ D Brakman Reiser and S Dean, *For-profit Philanthropy* (New York: Oxford University Press, 2023).

²¹ See, eg, <https://www.nbr.co.nz/business/the-gift-of-giving-effectively/>

²² See, eg, R D Madoff, 'When Charitable Giving Doesn't Go to Charities' (2023) *Alliance*, June, 40.

²³ C Cordelli and R Reich 'Philanthropy and Intergenerational Justice', in I Gonzalez-Ricoy and A Gosseries (eds) *Institutions for Future Generations* (Oxford University Press, 2016).

²⁴ C Cordelli and R Reich 'Philanthropy and Intergenerational Justice', in I Gonzalez-Ricoy and A Gosseries (eds) *Institutions for Future Generations* (Oxford University Press, 2016).

²⁵ Ian Murray, 'Donor Advised Funds & Delay: An Intergenerational Justice Solution?' (2023) 14(1) *Nonprofit Policy Forum*, 51; Ian Murray, *Charity Law and Accumulation: Maintaining an Intergenerational Balance* (Cambridge University Press, 2021).

disadvantaged people. However, any distribution requirement would need to be tempered by ensuring that charities, could remain able to fund charitable purposes for future generations and to fund civil society bodies that will enable the reproduction of social capital and to fund long-term and risky approaches to societal issues. The benefit of explicitly framing the question using an intergenerational justice lens is that this will help to ensure that decision-makers are conscious of matters that are routinely raised in applications of these principles, such as the potential for future contributions and the potentially improved welfare level of future generations.

In terms of implementing these principles, there seems to be great promise in adopting a minimum distribution rate as a backstop or safe-harbour and requiring active consideration of distribution levels by charity controllers.²⁶ That said, minimum distribution rates at around 5% of net assets, seem to be set at levels that would roughly permit an ancillary fund to maintain its real value over time. **But**, they completely disregard the potential for further donations to the ancillary fund (so that assets increase rather than just maintaining their real value) and the fact that distributions today are likely to be spent on a mix of current and longer term activities (for instance a distribution that is used to build a university lecture theatre that will be used for another 100 years). Accordingly, there seems a reasonable argument that minimum distribution rates should be increased a little, as proposed for government consideration by the Australian Productivity Commission in its philanthropy inquiry report.²⁷

²⁶ Ian Murray, 'New Zealand Charities and Accumulation: An Intergenerational Perspective' [2019] *New Zealand Law Review* 419.

²⁷ Productivity Commission (Cth), *Future Foundations for Giving* (Final Report, 2024) 287-289.