



# Submission to Inland Revenue: Taxation and the not-for-profit sector

Submitter: Ka Puta Ka Ora Emerge Aotearoa

## About Ka Puta Ka Ora Emerge Aotearoa

Ka Puta Ka Ora Emerge Aotearoa (Emerge Aotearoa) is the trading name for the charitable Emerge Aotearoa Trust Group (CC54096) which, through a number of entities, delivers a broad range of health, housing, and wellbeing services.

As a trusted provider to a broad range of government agencies, we have a track record of delivering services that produce positive outcomes for tāngata whaiora and whānau. As one of Aotearoa's largest non-governmental organisations, our 1500 kaimahi support thousands of people from diverse communities across Aotearoa.

## Summary of major points and recommendations

- Tax concessions to charities are not a cost or burden to other taxpayers. They are an investment in a better Aotearoa. The conversation around tax concessions should be premised on an intent to empower and enable charities to do more, rather than to limit and restrict them.
- There's an implication in the Issues Paper that retained earnings are in some way inappropriate. Our view is that if retained earnings are used to achieve charitable purposes, they positively compound Aotearoa's return on the investment made into the charitable sector by way of tax concessions.
- It is critical that any changes to tax rules – whether by deliberate intent or as a result of unintended consequences – do not disincentivise or hamper innovation being driven by those charitable organisations that have the resources and capability. Could technology-driven innovation, for example, be held back by a) business model complexity or b) uncertainty and risk aversion driven by tax considerations? An optimal charitable sector needs an environment that encourages money being put to work to have greater impact.
- We believe it is cleaner and easier to use the Charities Act/Charities Law to determine if an organisation should be assessed as charitable or not, rather than adding new and different hurdles by way of tax-driven rules and definitions. If abuse of tax concessions is the primary issue, then ensuring regulators have sufficient resources to investigate and act on alleged abuses would be the more effective approach.

I welcome further discussion with Inland Revenue officials regarding this submission.

John Cook  
Group Chief Executive  
s 9(2)(a)



## Responses to Issues Paper questions

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

Section 1.1 of the Issues Paper states that tax concessions to charities and not-for-profits “*support organisations that provide public benefit*”. We would argue that such concessions are, in fact, an investment in organisations that provide public benefit. Without this investment, the for-purpose/charitable sector would have greatly reduced capacity and New Zealand would be poorer as a result.

Section 1.4 of the Issues Paper says “*Every tax concession has a “cost”, that is, it reduces government revenue and therefore shifts the tax burden to other taxpayers.*” This is wrong thinking. Many charities cost-effectively address community need and provide essential services, without which Aotearoa would be carrying an even heavier social and economic burden.

Tax concessions to charities are not a cost or burden to other taxpayers. They are an investment in a better Aotearoa. The conversation should be premised on an intent to empower and enable charities to do more, rather than to limit and restrict them.

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

There’s an implication in this question that retained earnings are in some way inappropriate. Our view is that if retained earnings are used to achieve charitable purposes, they positively compound Aotearoa’s return on the investment made into the charitable sector by way of tax concessions. Emerge Aotearoa, for example, has used retained earnings to proactively address gaps in mental health and housing provision in Aotearoa.

- Since 2019 the Emerge Aotearoa Trust Board has launched and nurtured a new social enterprise with the express purpose of enabling better access for workers to mental health and wellbeing services. Today that business, Ignite Aotearoa, provides tens of thousands of Kiwis with access to a network of service providers through Employee Assistance Programmes, Association Schemes and Tertiary Institution initiatives.
- EaseUp is a service supporting rangatahi experiencing challenges with mental wellbeing, alcohol and/or other drugs. The service was the result of an investment made by Emerge Aotearoa Trust using retained earnings to fill what the Trust saw as a large and unmet community need. From small beginnings the service now receives Te Whatu Ora funding and operates in a growing range of locations in Auckland and the Waikato.
- Emerge Aotearoa has been a major investor in the development of new social housing in recent years using retained earnings. This has taken the form of grants to the Emerge Aotearoa Housing Trust (an entity within the Emerge Aotearoa Trust Group) which, through steady growth in recent years, is now a substantial social housing provider and a Strategic Partner to the Ministry of Housing and Urban Development as it seeks to grow Aotearoa’s social housing pool.



These examples demonstrate the compounding benefit that results from investment made by way of tax concessions for charities; funds are retained and re-invested to have impact and make a difference. It is critical that any changes to tax rules – whether by deliberate intent or as a result of unintended consequences – do not disincentivise or hamper initiatives and innovation being driven by those charitable organisations that have the resources and capability.

In particular, any change that effectively forces charities to spend accumulated funds would be counterproductive.

- Firstly, like any business, charities need to have a pool of ‘rainy day’ funds to draw on in case of adverse events. The larger the business, the larger those ‘rainy day’ funds need to be. For charities like Emerge Aotearoa, which contracts with Government to provide services in the community, retained earnings are an essential risk management mitigation due to the short term nature and 90 day “termination for convenience” clauses in those contracts.
- Secondly, if a charity has aspirations to do more for the benefit of its communities, it needs funds to fuel that aspiration. An optimal charitable sector needs an environment that encourages money being put to work to have greater impact.

Recent changes to the regulatory environment for charities would appear to be attacking Inland Revenue’s questions from a different perspective. Updated accounting standards requiring Statements of Service Performance and the 2023 amendments to the Charities Act requiring organisations to explain accumulated funds are a potentially more useful starting point for the discussion around tax exemptions. Both initiatives are mechanisms that could be used to identify targeted interventions. If abuse of tax concessions is the primary issue, then ensuring regulators have sufficient resources to investigate and act on alleged abuses would be a more effective approach than creating blanket tax rules that impact the whole NFP sector.

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

All Emerge Aotearoa Group business income is generated from activities that directly relate to our charitable purposes. Nevertheless, we are concerned that systems or processes established by Inland Revenue to police this carve-out could create new compliance hurdles. For example:

- Could opportunities to strengthen a charitable business through vertical or horizontal diversification be inhibited or avoided because of perceived compliance risks or additional legal and accounting costs required to manage those risks?
- Could the development and distribution of technology-driven innovation in the community sector be held back by a) business model complexity or b) uncertainty and risk aversion driven by tax considerations?



Any impacts that inhibit new thinking and approaches to service delivery would erode the value the charitable sector can deliver for Aotearoa.

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

We question the logic of defining related and unrelated businesses.

Sections 2.7 to 2.12 of the Issues Paper indicate a more-or-less level playing field for tax paying and tax exempt entities. Sections 2.13 and 2.14 discuss “second order imperfections” in the tax system which are arguably immaterial. Hence, competitive advantage is not the reason driving this discussion. Why, then, should it be necessary to draw a distinction between business income from related businesses and unrelated businesses?

The important point is whether or not all business income is used to advance the charity’s purposes. This should be assessed using Charities Law and regulation, rather than adding new hurdles in the form of tax-driven rules and definitions.

Inland Revenue’s implied direction raises the prospect of additional complexity and compliance costs as well as unintended consequences that could impact the return on Aotearoa’s charitable tax concession investment. For this reason, we believe maintaining the current exemption for all registered charity business income makes best sense, and the concerns implicit in the Issues Paper should be addressed through Charities Law and the Charities Services regulatory framework.

Thank you for the opportunity to participate in this consultation.



Submission to IRD on Tax Concession Discussion paper.

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

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27<sup>th</sup> March 2025

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**Subject: Submission on Taxation of Charity Business Income**

Tēnā koutou,

I am writing to provide a submission on the proposed changes to the taxation of charity business income as outlined in the IRD consultation paper. I earnestly request that no changes be made to the current tax legislation for the following reasons:

**Preserving Financial Sustainability.** Taxing charity business income would discourage financial independence and make charities more reliant on donations and government support.

**Minimal Revenue Gain vs. High Compliance Costs.** In my opinion, the increased compliance burden would not generate significant tax revenue but would divert valuable charity resources away from charitable purposes.

**Definitional Challenges.** Distinguishing between related and unrelated business activities is complex and could create unintended consequences and legal disputes.

**Risk of Structural Workarounds.** Charities may restructure to distribute profits directly, undermining the intended policy change while increasing administrative complexity.

**Impact on Public Benefit Services.** Many charities deliver essential services more efficiently than the government. Reduced financial capacity could result in higher government expenditure to fill service gaps.

**Unfair Competitive Disadvantage.** Charities already face restrictions not imposed on for-profit entities, and additional taxation would further limit their ability to operate sustainably. If unrelated business income is taxed, charities will be placed at an even greater financial disadvantage compared to private businesses. Instead of fostering fair competition, the proposed changes would weaken charities' ability to generate income, sustain their operations, and deliver services that benefit the public.

Further to this point, the argument that charities have an unfair advantage over businesses is not supported by strong evidence. Studies in Australia have found no clear proof of charities engaging in predatory pricing or gaining undue market power due to tax exemptions. In fact, charities often operate in sectors where profit-driven businesses are absent or unwilling to engage, fulfilling needs that would otherwise go unmet.

Taxing charity business income would not level the playing field—it would tilt it further against charities, limiting their ability to compete for resources, innovate, and deliver essential services to communities. Instead of removing existing exemptions, a more balanced approach would be to ensure proper regulatory oversight to address any misuse without punishing the entire sector.

**Precedent for Further Taxation.** This change could open the door for additional taxation on charities, further eroding their ability to fulfil their missions.

The current tax settings support a thriving charitable sector that contributes significantly to New Zealand's social fabric. Any changes risk weakening this vital contribution. I urge the Government to maintain the existing legislation to ensure that charities can continue their essential work without unnecessary financial and compliance burdens.

I appreciate the opportunity to provide this submission.

Nāku noa, nā

*Matt Perry*

Executive Director

FEBC Aotearoa New Zealand

He tono nā



**Te Rūnanga o NGĀI TAHU**

ki te  
**INLAND REVENUE DEPARTMENT**

e pā ana ki te  
**TE RŪNANGA O NGĀI TAHU**

31 March 2025

1.	INTRODUCTION.....	3
2.	EXECUTIVE SUMMARY.....	3
3.	TE RŪNANGA O NGĀI TAHU .....	3
4.	TE TIRITI O WAITANGI AND NGĀI TAHU SETTLEMENT .....	4
5.	OVERVIEW OF TE RŪNANGA O NGĀI TAHU CHARITABLE ACTIVITIES .....	4
6.	TE RŪNANGA O NGĀI TAHU SPECIFIC RESPONSES TO INLAND REVENUE QUESTIONS .....	9
	APPENDIX ONE: NGĀI TAHU TAKIWĀ.....	16
	APPENDIX TWO: TEXT OF CROWN APOLOGY .....	17

**contact person**  
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## 1. INTRODUCTION

- 1.1 Inland Revenue issued an officials' issues paper titled "Taxation and the not-for-profit sector" dated 24 February 2025 (the **Issues Paper**) for consultation.
- 1.2 Te Rūnanga o Ngāi Tahu provides this submission in response to the Issues Paper.

## 2. EXECUTIVE SUMMARY

- 2.1 Te Rūnanga o Ngāi Tahu does not support the removal of the tax exemption for charity business income that is unrelated to charitable purposes as suggested in the Issues Paper.
- 2.2 Te Rūnanga o Ngāi Tahu believes removal of this exemption would:
  - (i) be a tax on the most vulnerable in society;
  - (ii) be a tax on economic growth;
  - (iii) be a tax on the regions;
  - (iv) be an attack on treaty settlements and mean they are no longer full and final; and
  - (v) exponentially increase compliance costs in the charities sector.
- 2.3 Te Rūnanga o Ngāi Tahu notes the Issues Paper highlights business charities do not have a competitive advantage over non-charitable competitors so there is no rationale to remove the exemption on this basis.
- 2.4 Te Rūnanga o Ngāi Tahu considers the short notice and rushed nature of this consultation to be flawed and mean many charities who will be substantively impacted by the proposed changes will not have had a chance to provide comment to the Inland Revenue. Such significant changes should be carefully thought through and the full impacts considered which will not be the case in the current circumstances.

## 3. TE RŪNANGA O NGĀI TAHU

- 3.1 This response is made on behalf of Te Rūnanga o Ngāi Tahu which is statutorily recognised as the representative tribal body of Ngāi Tahu Whānui and was established as a body corporate on 24 April 1996 under section 6 of the Te Rūnanga o Ngāi Tahu Act 1996 (**TRONT Act**). Te Rūnanga o Ngāi Tahu encompasses 18 Papatipu Rūnanga, who uphold the mana whenua and mana moana of their rohe. Te Rūnanga o Ngāi Tahu is responsible for managing, advocating, and protecting, the rights and interests inherent to Ngāi Tahu as mana whenua.
- 3.2 Te Rūnanga o Ngāi Tahu expects that Inland Revenue accord this response with the status and weight of the tribal collective of Ngāi Tahu Whānui comprising over 85,000 registered iwi members within the Ngāi Tahu Takiwā,

as defined in the Ngāi Tahu Claims Settlement Act 1998 (**NTCSA**). A map of the Ngāi Tahu Takiwā is included at **Appendix One**. Ngāi Tahu and Ngāi Tahu Whānui means the collective of individuals who descend from the primary hapū of Waitaha, Ngāti Mamoe, and Ngāi Tahu, namely, Kāti Kurī, Kāti Irakehu, Kāti Huirapa, Ngāi Tūāhuriri, and Kai Te Ruahikihiki.

- 3.3 The eighteen Ngāi Tahu Papatipu Rūnanga all have their own charitable entities that operate to support charitable outcomes in their respective regions. Our Papatipu Rūnanga all have charitable businesses that seek to operate on a sustainable basis to provide long term funding to support charitable activities.

#### **4. TE TIRITI O WAITANGI AND NGĀI TAHU SETTLEMENT**

- 4.1 The contemporary relationship between the Crown and Ngāi Tahu is defined by three core documents: Te Tiriti o Waitangi (**Te Tiriti**), the Ngāi Tahu Deed of Settlement 1997 (**Deed of Settlement**) and the NTCSA. These documents form an important legal relationship between Ngāi Tahu and the Crown and further entrench the Treaty partnership.
- 4.2 As recorded in the Crown Apology to Ngāi Tahu (see **Appendix Two**), the Ngāi Tahu Settlement marked a turning point, and the beginning for a “new age of co-operation”. The Crown apologised for its “past failures to acknowledge Ngāi Tahu rangatiratanga and mana over the South Island lands within its boundaries” and confirmed that it “recognises Ngāi Tahu as the tāngata whenua of, and as holding rangatiratanga within, the Takiwā of Ngāi Tahu Whānui”.

#### **5. OVERVIEW OF TE RŪNANGA O NGĀI TAHU CHARITABLE ACTIVITIES**

- 5.1 At the time of the Ngāi Tahu settlement, Te Rūnanga o Ngāi Tahu took the decision to place the majority of Te Rūnanga o Ngāi Tahu assets in the Ngāi Tahu Charitable Trust. This meant:
  - a) Te Rūnanga o Ngāi Tahu committed to using our assets primarily to achieve charitable outcomes;
  - b) Te Rūnanga o Ngāi Tahu removed the opportunity to use the majority of tribal assets for the personal benefit of individual Ngāi Tahu whānui.
- 5.2 As a result, Te Rūnanga o Ngāi Tahu has prioritised the delivery of charitable outcomes to protect whānau members, the environment, knowledge, culture, language and resources important to Ngāi Tahu and the communities and regions that they engage with, for future generations and in accordance with our tribal whakataukī – Mō tātou, a, mō kā uri a muri ake nei (for us and our children after us).
- 5.3 The intergenerational utilisation of our pūtea to improve outcomes for Ngāi Tahu whānui aligns with a social investment approach of investing earlier and with better intervention to uplift whānau experiencing intergenerational disadvantage, largely brought about through the impacts of colonisation.

- 5.4 Examples of these charitable activities and the positive cultural, social and environmental impacts on Ngāi Tahu whānui and the wider communities within our takiwā are illustrated below:

### ***Cultural Outcomes***

- 5.5 At the heart of Ngāi Tahu is our culture – Ngāi Tahutanga – and this is woven into all programmes and initiatives. Ensuring that our whānau have access to, and knowledge of, their Ngāi Tahutanga has significant impact at an individual and population level. Through increased cultural identity there are projected improved outcomes across all aspects of wellbeing, with the potential to subsequently impact on inter-linked economic, social, and environmental outcomes.

### ***Revitalisation of Te Reo Maori***

- 5.6 Through the delivery of the Kotahi Mano Kāika initiative we have made a significant contribution to the revitalisation of te reo Māori across Aotearoa New Zealand. Thousands of whānau have engaged with our Ngāi Tahu language programmes and (re)introduced te reo Māori into their homes, creating a long-lasting, intergenerational impact.
- 5.7 Te reo Māori is a vital part of Māori culture and identity. The language is pivotal in passing down traditional knowledge, oral histories and cultural practices. It supports the cultural survival and well-being of Māori communities. Without Te Rūnanga o Ngāi Tahu programmes that support the language to this extent, there would be a detrimental impact on our communities.

### ***Whānau and Community Engagement***

- 5.8 The Whakapapa Unit within Te Rūnanga o Ngāi Tahu offers an entry point for our whānau to begin their journey of connectedness to history, providing a sense of value, purpose, belonging, and intergenerational existence. Since Settlement, the number of registered iwi members has grown to more than 85,000 (as at March 2025).
- 5.9 This is unique to Ngāi Tahu in terms of a service offered to our people. There are no other bodies where this repository of information is stored. It is the fundamental pillar of identity for our people. Continued support and funding by Ngāi Tahu operations is required for this service to be delivered, year after year.

### ***Cultural Awareness and Intergenerational Transmission of Knowledge***

- 5.10 The Ngāi Tahu Archive is a world-leading indigenous archive that performs a critical role in ensuring the survival of Ngāi Tahu tribal memory. The Ngāi Tahu Archives team make content available to Ngāi Tahu whānau and the wider Aotearoa New Zealand population through numerous activities such as: the creation of physical records (approximately 37,000 to date) and online records (approximately 20,000), the publication of numerous books, and online access to cultural mapping (in excess of 96,000 unique visitors utilised the Kā Huru Manu website in FY24).

- 5.11 A range of culturally focussed grants has been provided to Ngāi Tahu whānui and Papatipu Rūnanga resulting in increased transmission and growth of our cultural knowledge and practices, upholding Ngāi Tahu values, practices, and tikanga through marae development, and providing physical places and spaces to enhance cultural connection.

### ***Social Outcomes***

- 5.12 For our iwi to be successful and contribute to the wider success of Aotearoa New Zealand, there must be adequate investment in our people and their social development. Due to the historical impact of colonisation, Ngāi Tahu as a population, requires greater investment to see our whānau flourish and thrive, and eliminate the disparities that persists. Key outcomes sought for the iwi include improving wellbeing through the targeting of dedicated resources to meet identified whānau needs and aspirations. Examples of our achievements to date include:

#### ***Tamariki-focused Interventions***

- 5.13 We understand the importance of investing early in an individual's life, and do so through the provision of pēpi packs that provide elements to improve health and wellbeing outcomes through promoting safe sleep, whānau education, and connection with whakapapa. There have consistently been more than 800 pēpi packs provided to whānau each year (throughout FY23 and FY24).

#### ***Addressing Health and Wellbeing Disparities***

- 5.14 A range of grants are available to Ngāi Tahu whānui to assist them in situations of financial hardship. We provided approximately 400 grants to individuals in FY24, utilised for immediate needs such as paying utility bills, buying groceries, and housing-related costs. We also provide annual grants to kaumātua to support them with the impacts of being aged. This equates to more than 7,000 kaumātua (consistent across FY23 and FY24). This demographic will continue to grow, requiring an associated increase in the number and total amount of pūtea distributed per annum.

#### ***Social Determinants of Health***

- 5.15 Two key initiatives focus on supporting Ngāi Tahu whānau in aspects of housing: 1) supporting whānau into home ownership through budgeting and financial literacy programmes, and 2) increasing the health of existing homes for Ngāi Tahu whānau with subsequent impacts on the health and wellbeing of whānau. We also place a strong focus on education in relation to home ownership so that our whānau have increased tools and knowledge to support themselves.

#### ***Culturally Appropriate Approaches***

- 5.16 The Whānau as First Navigators initiative has been implemented through FY23 to FY25, with the goal of supporting and strengthening whānau wellbeing so that tamariki and whānau can lead to achieve their own aspirations. As at



December 2024, approximately 844 whānau units (2,857 unique individuals) had been supported by this programme. The underpinning assumption is that through the support provided, these whānau will be invested in so that they are prevented from entering the Oranga Tamariki system.

- 5.17 Through the mahi of the Whānau and Emergency Response team, Papatipu Rūnanga and their communities have been supported to improve their emergency preparedness and disaster recovery. All Papatipu Rūnanga have emergency pods, Starlink satellite technology, and increased coordination roles across the takiwā, improving their ability to respond and support Ngāi Tahu whānui, and their broader communities, in the event of an emergency.

#### *Mātauranga (Education)*

- 5.18 We provide backbone facilitative support to mātauranga programmes alongside Papatipu Rūnanga. These programmes focus on enhancing ākonga achievement through culturally responsive educational environments and access to Ngāi Tahu histories in the curriculum. Feedback from participating kaiako has been positive both in relation to the knowledge gained through professional development opportunities, and the translation of this into their teaching. Feedback data also demonstrates the impact of this for whānau and ākonga through increasing self-reported confidence. Early available data from the Ministry of Education reports positive changes in Māori student achievement for schools engaged in these initiatives compared to the rest of the motu in key data metrics including NCEA level of attainment for school leavers. These programmes have the potential to contribute towards reducing the educational disparities experienced by Ngāi Tahu ākonga, as well as enhancing knowledge and experiences for all Māori and non-Māori ākonga.

#### *Whānau Engagement and Additional Learning Support*

- 5.19 Through the provision of a school starter pack, Ngāi Tahu tamariki are supported with practical items for starting school that help to reduce the financial demand on whānau, alongside celebrating their whakapapa. In FY24, 674 tamariki and their whānau were supported with a school starter pack.
- 5.20 Acknowledging the diverse experiences of our tamariki and rangatahi in the education system, we make a Learner Support Fund available to those who have additional learning requirements. Depending on the intended purpose of the funding, there can be a range of outcomes for the individual, including increasing educational achievement through tutoring in maths, reading, or subject-specific areas, enhancing educational outcomes through specialist support or therapy, or accelerating learning success for gifted ākonga. Across FY23 and FY24 an average of 710 ākonga received funding through the provision of this pūtea.

#### *Mentoring and Leadership*

- 5.21 The iwi is supported through the mahi of the Tokona Te Takata team to provide educational opportunities that encourage lifelong learning and increase the number of leaders across the takiwā and beyond. This includes providing

mentoring opportunities that enhance capability and capacity for whānau and Papatipu Rūnanga, supporting leaders into governance roles, and supporting individuals through internship roles. The outcome of this is that an increasing number of Ngāi Tahu whānau have greater skills and knowledge to lead in their careers, resulting in associated impact for our iwi and wider Aotearoa New Zealand through cultural and economic outcomes.

### ***Environmental Outcomes***

- 5.22 Te Ao Tūroa is a taonga that is central to our Ngāi Tahu identity, culture, and wellbeing. We face ongoing, complex environmental challenges including the degradation of natural resources, loss of biodiversity, and the impacts of climate change. Since Settlement, we have continually had a strong focus on Te Ao Tūroa and progressing towards long-term outcomes in this space. Examples of our achievements to date include:
- 5.23 Kaimahi within the Te Ao Tūroa team continually support Papatipu Rūnanga and Regional Environmental Entities by utilising their subject-matter expertise to build capability and development. This mahi contributes towards achieving the specific environmental outcomes sought in each of the discrete projects.
- 5.24 Mahinga kai (traditional food gathering) was the ninth tall tree of Te Kerēme – the Ngāi Tahu claim to the Waitangi Tribunal. Our ongoing focus of this central element of Ngāi Tahu identity sees a number of activities undertaken across multiple teams, making a collective contribution towards this important kaupapa. A continued focus on establishing and managing customary fishing protection areas has resulted in outcomes such as increasing the number of Ngāi Tahu whānau actively engaged in fishing, increasing the availability and knowledge of information relating to mahinga kai, and enhancing research and educational opportunities in relation to mahinga kai. The impacts of this span across economic, education, social, and environmental domains.

### ***Wider Public Benefit***

- 5.25 While the outcomes described above are directly related to the impact for Ngāi Tahu whānau and as an iwi, the ripple out to the wider Aotearoa New Zealand population and public benefit is undeniable. Furthermore, given the number of registered iwi members, the Ngāi Tahu population is large enough to be considered a sufficient section of the public in itself. The distribution of pūtea made available for charitable purposes makes significant positive contributions to our whānau as a section of society, and to the lives of New Zealanders throughout the motu thus impacting on the economy and wellbeing of Aotearoa New Zealand overall. Many of these localised approaches and outcomes would not be possible to achieve, or to be achieved as efficiently and effectively, through centralised government entities.

## 6. TE RŪNANGA O NGĀI TAHU SPECIFIC RESPONSES TO INLAND REVENUE QUESTIONS

### 6.1 Question One:

*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?*

Te Rūnanga o Ngāi Tahu is of the view that officials and the Crown should not proceed with any changes to the taxation rules applying to charitable business income relating to those business activities carried on by charities.

In our opinion, there are a number of compelling reasons not to tax charities' business income. These include

- **It would be a tax on the most vulnerable.**

The charities sector in Aotearoa is broad. It cares for and supports millions of people across the nation. The charities sector particularly cares for and supports the most vulnerable people in our society. The wealthy in society do not need the support of the charities sector in the same way as those who are more deprived.

The changes proposed will reduce the ability of charities to sustainably support themselves. That means the charities sector will have less funding. The inevitable consequence of this is the most vulnerable people in society will receive less support from the charities sector because the Crown has increased its taxation of this sector.

We have set out above the substantial work that the Ngāi Tahu Charitable Trust carries on within the ambit of its charitable purpose. This is 100% funded from the charitable business income derived by the Ngāi Tahu Holdings Group.

Any tax imposed would substantially reduce the funds available to deliver to the needs of our iwi and, more importantly, those that are most in need of support. For example, our Pūtea Manaaki grant specifically targets individuals facing financial hardship or those needing assistance to avoid financial hardship and meet basic living costs. In FY24, approximately 400 grants were provided and were utilised for immediate needs such as paying utility bills, buying groceries and housing related costs.

Similarly, our Tahua Taunaki Akonga (Learner Support Fund) supports our tamariki with their learning needs through out-of-school tuition and special assessment funding for tamariki with learning difficulties. In FY24 approximately \$571,431 was spent on providing these grants, supporting approximately 710 tamariki.

Without funds available to distribute these grants, many individuals would likely turn to government social services for support, increasing the demand and expense of these services on the Crown. This has the potential to lead to further deprivation and inequality of our most vulnerable and widen the gap of social and economic disparities within the community.

Annual distributions of charitable business income applied to charitable purposes are based on a percentage of funds held within the Ngāi Tahu Holdings Group. To the extent that charitable business profits are taxed, even if only on a retention basis, this will reduce the funds available for charitable purposes either through reducing the cash available for distribution in that year or from less funds being available for re-investment resulting in lower annual distributions over time.

- ***Tax on economic growth***

The Issues Paper highlights that many of the current policy settings in Aotearoa New Zealand are not the norm within the OECD. However, in our view, that difference should be celebrated and supported.

The current policy settings mean the charities sector in Aotearoa New Zealand is incentivised to create businesses and operations that generate sustainable revenue streams. Charities who can operate successful businesses are allowed to use the profits of those operations to support charitable outcomes. Having the charities sector operate successful businesses is a driver of economic growth. These businesses employ staff, pay GST, PAYE, FBT and other taxes, export products and attract overseas visitors to Aotearoa New Zealand.

The Ngāi Tahu Charitable Trust, which includes the Ngāi Tahu Holdings Group (the **Holdings Group**), is a good example of this. In FY2024, the Holdings Group contributed a total of \$25.5 million in PAYE and \$585,000 in FBT. It employs approximately 800 kaimahi across various industries, demonstrating its commitment to job creation and economic growth. Additionally, as at June 2024, the Holdings Group invested \$813 million in the primary sector, including farming, forestry, seafood and honey.

If the policy settings in Aotearoa New Zealand were changed then the incentive for charities to operate businesses would be reduced. Consequently, charities would be more likely to invest available funds in international financial markets or other passive investments that do not have a direct impact on the regional economy of Aotearoa New Zealand. That would have a detrimental impact on economic growth in Aotearoa New Zealand.

- ***Tax on the regions***

The focal point of economic activity for Ngāi Tahu is substantially within the regional economies within the Ngāi Tahu Takiwā. The business activities of the Ngāi Tahu group in farming, tourism, property, fishing and forestry and the support of Papatipu Rūnanga operating in those regional economies would be substantially impacted by a tax on charitable business income.

Ngāi Tahu Papatipu Rūnanga are based in Kaikōura, Tuahiwi, Arahura, Bruce Bay, Rāpaki, Koukourārata, Ōnuku, Wairewa, Taumutu, Arowhenua, Waihao, Moeraki, Puketeraki (Karitāne), Ōtākou, Awarua, Waihōpai, Hokonui and Ōraka-Aparima. In each of these locations our Papatipu Rūnanga are leaders and champions of regional activity. Our Papatipu Rūnanga are linked to their respective regions by whakapapa; they are never going to move away to chase better options in Auckland or Australia.

Holdings Group and our Papatipu Rūnanga are engines of regional development and growth within the Ngāi Tahu Takiwā.

If the Crown proceeds with the changes proposed, the ability of Ngāi Tahu to re-invest, create jobs and economic activity in those regional economies would be substantially impacted resulting in an outcome that is opposed to the Crown's regional growth agenda.

- ***Attack on the Treaty Settlements***

In 1997 Te Rūnanga o Ngāi Tahu signed the Deed of Settlement with the Crown to settle historic treaty breaches. In the Settlement, the Crown acknowledged that "it acted unconscionably and in repeated breach of the principles of the Treaty of Waitangi in its dealings with Ngāi Tahu"<sup>1</sup>.

The quantum of the Settlement did not compensate Ngāi Tahu for the losses it had suffered due to the Crown's acknowledged unconscionable and repeated breaches of the principles of the Treaty of Waitangi. The Settlement was just a few cents on the dollar of the losses suffered by Ngāi Tahu. However, what the Settlement did do was:

1. Provide an initial capital amount that Ngāi Tahu could use to create a sustainable economic base to carry out charitable activities to support iwi members;
2. Move Ngāi Tahu from pursuing treaty grievances to focussing on the future. A part of this was that the Settlement was full and final as outlined in the Deed and to "begin the process of healing and to enter a new age of co-operation with Ngāi Tahu".

The Settlement was founded on a clear understanding of both Ngāi Tahu and the Crown as to the charitable structures that were available and the impact this would have on the ability to grow the pūtea and redress the deprivation suffered by Ngāi Tahu whānui over generations.

The structure of Te Rūnanga o Ngāi Tahu and the Settlement has its origins in redressing deprivation brought about through the historical impacts upon Ngāi Tahu as an iwi. The annual application of funds on a charitable basis and the retention and growth of the pūtea are both directed toward redressing this deprivation for Ngāi Tahu whānui on an intergenerational basis. In our view, this is very different from other charitable entities whose asset base is not founded in a partial settlement to address inequity and wrongful acts committed by the Crown.

A tax on the business income derived from the Treaty Settlement assets would be a direct attack on, and would undermine, the Ngāi Tahu Settlement.

The Ngāi Tahu Settlement includes a full and final settlement clause. If the Crown makes the proposed changes and removes a core foundation that supports the Ngāi Tahu Settlement then:

- (i) the Ngāi Tahu Settlement could no longer be considered full and final;
- (ii) the Crown would be re-opening the whole Ngāi Tahu Settlement.

Te Rūnanga o Ngāi Tahu expects all iwi would have a similar view and all treaty settlements would also be re-opened if the proposed changes are implemented.

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<sup>1</sup> See the Clause 3 of the Apology, Appendix 2

- ***Absence of evidence of competitive advantage / benefit from taxing business income***

The Issues Paper notes, consistent with the findings of the Tax Working Group, that there is no evidence that the business income tax exemption for charitable businesses creates a competitive advantage compared to other businesses. Te Rūnanga o Ngāi Tahu agrees and notes that if that is the case, then there is little argument for change.

In addition, we submit that there is little evidence that reducing funds available to be applied directly to addressing the deprivation of Ngāi Tahu through tax would result in better outcomes for Ngāi Tahu whānui. That is, we are firmly of the view that Ngāi Tahu are best placed to determine and address the needs of Ngāi Tahu whānui, rather than the Crown through a tax distributive mechanism.

- ***Flawed Process***

Te Rūnanga o Ngāi Tahu believes that more-extensive consultation is required to fully understand the potential consequences for the charitable business sector and assess the true impact of any proposed changes. The timeframe provided for in the Issues Paper does not allow this to properly occur.

In particular we note many smaller charities in the Ngāi Tahu group do not have the time and resources to assess the impacts of the changes in the Issues Paper in such a short period. This consultation process therefore is, in our view, flawed.

- ***Second Order Imperfections***

In response to questions 2.13 and 2.14, described in the Issues Paper, we respond with the following:

We do not agree that charitable trading entities have an advantage over non-charitable trading entities in terms of compliance costs. Charitable trading business activities have similar tax compliance relating to employer and indirect taxes (GST, FBT etc). Whilst charitable trading entities do not have income tax compliance costs, they do have costs associated with ensuring compliance with the Charities Act 2005 and charitable purposes which, in our view, would be equal to if not greater than income tax compliance costs on an annual basis. The taxation of charitable trading entities would result in compliance costs at least doubling for those entities.

We do not agree that the non-refundability of losses for taxable businesses creates a disadvantage compared to tax-exempt entities on the basis that a business loss affects each business in the same way. That is, each suffers the same economic loss. If anything, in our view, a charitable business is at a greater disadvantage as the requirement to apply funds to the charitable purpose often continues to exist due to the reliance on those funds to address the deprivation. That is, if a non-taxable business makes a loss, it will typically not be required to pay tax and can make a decision after the fact whether to make a distribution to, or seek investment from, its shareholders. A charitable business' profits will often be committed to the ongoing charitable programmes so when a business loss occurs it is not able to simply turn off the application of funds to those purposes. Hence why having additional retained earnings or

reserves is necessary, particularly noting the inability of iwi charities to raise capital or have the certainty to be able to borrow and repay funds.

In our view charitable trading entities looking to borrow funds are at a disadvantage to non-charitable trading as they are only able to rely on their retained earnings as a source of security for borrowing (hence why larger retained earnings balances are preferred) as they are not able to raise capital or have security provided from outside of the charitable entity. In our negotiations, the higher the distribution, the worse our availability to engage on external debt and less favourable borrowing terms that are available.

Whilst a charitable entity can accumulate its business profits, we would argue that the distribution requirements and expectations placed on charitable trading entities are far greater than the income tax and dividend expectations placed on non-charitable businesses. Over the past decade, the Holdings Group has consistently allocated 100% of its accounting operating surplus to the Ngāi Tahu Charitable Trust, with the exception of FY20 due to the impact of COVID-19. No other corporate business, apart from an organisation like a charity, distributes this level of funds year on year.

## 6.2 Question Two

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

There are a number of wide-ranging implications that would arise from the removal of the tax exemption for charity business income. These include:

- The removal of funds from the not-for-profit sector and their ability to be utilised for charitable purposes, resulting in a significant impact on the ability to meet the needs of the most vulnerable and greater pressure on government entities to address these needs.
- Economic growth slowing due to the reduction in regional economic activity. This will result in the opposite effect to the intended economic growth agenda of the Crown.
- Greater difficulty for charitable trading entities to raise funds through borrowing due to the impact of both tax and distribution requirements reducing the amount of annual profit and retained earnings available to support borrowing, resulting in higher borrowing costs.
- Compliance costs increasing exponentially, as charitable organisations already have significant Charities Act compliance obligations and associated costs, which would increase due to the additional tax compliance costs. In addition, substantial restructure costs would be incurred if charitable trading organisations sought to restructure their activities to minimise their ongoing compliance costs.
- Liquidity, solvency and banking ratios being negatively impacted by the requirement to account for tax on profits and the requirement to account for deferred tax liabilities on balance sheet items. This would likely result in banking covenants and ratios either being breached or being required to be re-negotiated, impacting on business operations and growth plans.
- Additional complexity and compliance costs arising from the need to establish a cost base for taxable assets and the need to manage and track distributions and refundable credits. Additional compliance costs arise for what could be a

timing adjustment (albeit with a negative cashflow impact) given the level of funds applied to charitable purposes made by Ngāi Tahu.

- Additional complexity and compliance costs arising in apportioning costs between taxable business activities (which are deductible) and non-taxable activities of charities (which are not deductible) where a combination of activities are carried out within the charitable entity.

### 6.3 Question Three

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

In our view, the criteria for an unrelated business is particularly complex in an iwi setting. For example, if we look Holdings Group's Franz Josef Glacier Guides business as a case study. At a superficial level the activities of a guided glacier experience may not seem to link to a charitable purpose as defined under the Charities Act. However, a material reason Ngāi Tahu operates this business is to give Ngāi Tahu the chance to educate our manuhiri about the Ngāi Tahu Takiwā and Ngāi Tahu narratives and culture connected to Kā Roimata o Hine Hukatere (Franz Josef Glacier). This experience, set in the heart of Te Tai Poutini (the West Coast), brings the stories of the local hapū, Kati Mahaki to life. It also creates employment opportunities for iwi members, who might otherwise struggle to find work in such a remote area. Additionally, this business strengthens regional growth by attracting tourism and supporting the local community.

- Similarly, the Moeraki Boulders Café and Gift Shop, operated by the local Papatipu Rūnanga in remote Moeraki, provides valuable job opportunities for iwi members in a community with limited employment options. Iwi members are also provided with an opportunity to participate in the business and share their culture through the sale of mahi toi and taonga such as pounamu. While it may not initially appear to serve a charitable purpose, this business plays a role in supporting the local economy, enhancing the wellbeing and hauora of the community and advancing Ngāi Tahu culture. Any profits from this business are used for charitable purposes.

If the Crown introduces the changes proposed, identifying business income that is unrelated to charitable purposes will be difficult and complex.

### 6.4 Question Five.

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

First and foremost, Te Rūnanga o Ngāi Tahu stresses that we do not agree to the removal of the exemption.

Should the exemption be removed, then yes, the charity business income distributed for charitable purposes should remain tax exempt.

In our view, further consultation should occur on the mechanism adopted to exempt income applied for charitable purposes. For example, whether an approach similar to the treatment of trustee income could apply, such that tax is only required to be paid to the extent that income is not distributed during the year or within 12 months of the end of the year.



Given the intergenerational view required to be adopted by iwi-based charities, to address the deprivation arising from historical failures by the Crown, they should be provided with the ability to retain profits within a safe harbour limit without the imposition of tax.

Widely held (as opposed to donor established and controlled) charities should be able to re-invest funds into their charitable trading business where a valid distribution has been made and a decision to re-invest those funds is made and implemented on normal arm's length terms.

#### 6.5 Question Six.

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

This is a significant process and sufficient time and consideration should be spent on repercussions. Due to very short feedback timeframes, we have considered the following two points:

- The ability to restructure out of the Charities Act – a full transition option should be provided to support affected entities in restructuring out of the Charities Act to minimise the compliance costs through an agreed template and legislative mechanism, similar to that used in the Post Settlement Governance Entity Template adopted by the Crown and iwi.
- Grandfather existing charitable reserves – existing reserves and profits of charitable trading entities should retain their tax-free status.

We iterate again that Te Rūnanga o Ngāi Tahu does not agree to the removal of the exemption. This would create serious concerns and the gaps between the Income Tax Act 2007 and the Charities Act would become apparent. Over/under taxing could also be a concern as deferred tax treatments and look back periods are problematic especially if assets were received through donations.

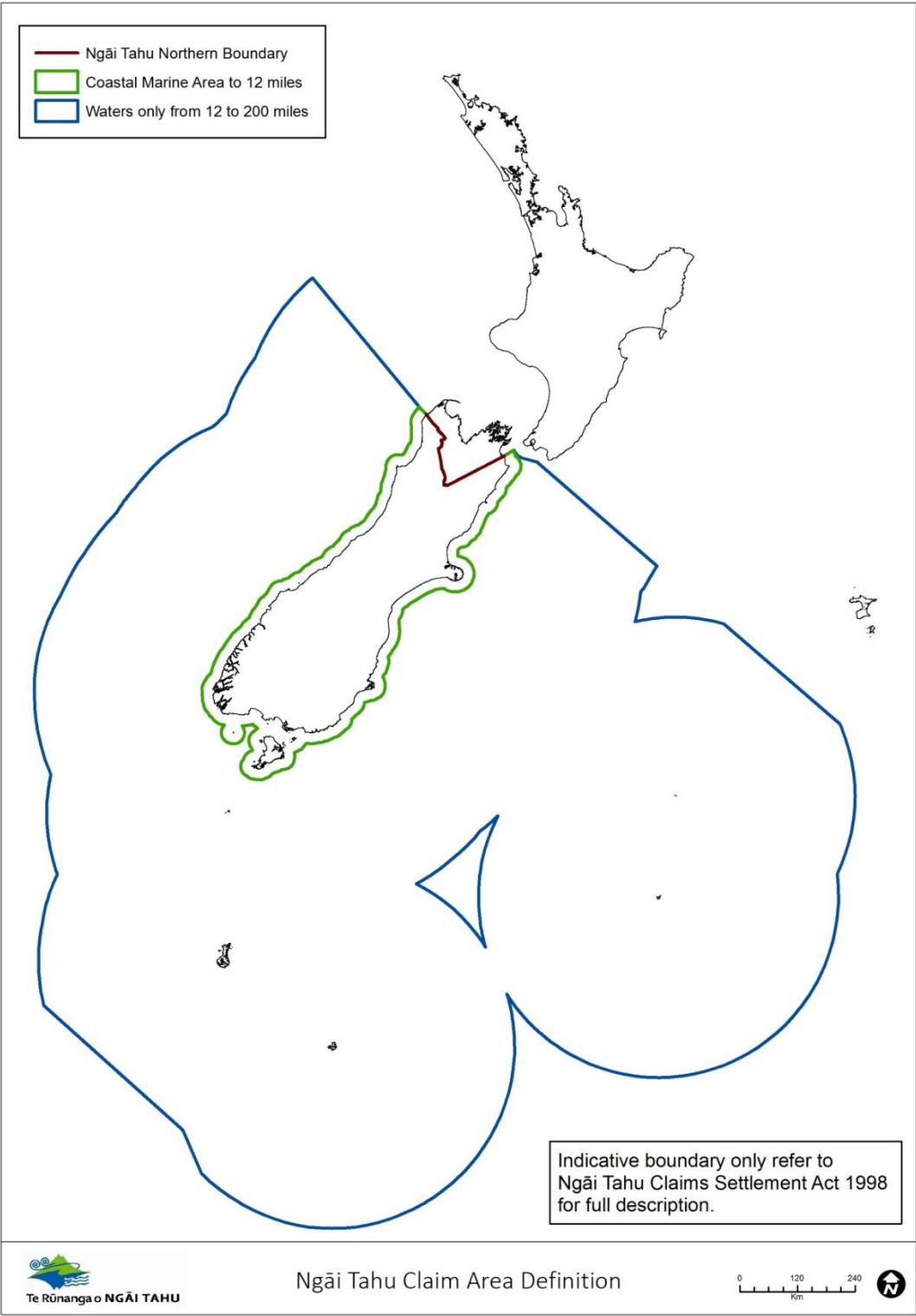
#### 6.6 Question Seven.

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

Te Rūnanga o Ngāi Tahu believes that New Zealand should make a distinction between donor-controlled charities and other charitable organisations, for integrity reasons

Charitable entities established, controlled or that are associated with (for example are a beneficiary of) an entity established to receive and manage assets arising from a settlement under the Treaty of Waitangi and by definition represent a wide class of intergenerational beneficiaries should not be treated as a donor-controlled charity.

APPENDIX ONE: NGĀI TAHU TAKIWĀ



## APPENDIX TWO: TEXT OF CROWN APOLOGY

The following is text of the Crown apology contained in the Ngāi Tahu Claims Settlement Act 1998.

### Part One – Apology by the Crown to Ngāi Tahu

#### Section 5: Text in Māori

The text of the apology in Māori is as follows:

1. Kei te mōhio te Karauna i te tino roa o ngā tūpuna o Ngāi Tahu e totohe ana kia utu mai rātou e te Karauna—tata atu ki 150 ngā tau i puta ai tēnei pēpeha a Ngāi Tahu arā: “He mahi kai tākata, he mahi kai hoaka”. Nā te whai mahara o ngā tūpuna o Ngāi Tahu ki ngā āhuatanga o ngā kawenga a te Karauna i kawea ai e Matiaha Tiramōrehu tana petihana ki a Kuini Wikitoria i te tau 1857. I tuhia e Tiramōrehu tana petihana arā: ‘Koia nei te whakahau a tōu aroha i whiua e koe ki runga i ēnei kāwana... tērā kia whakakotahitia te ture, kia whakakotahitia ngā whakahau, kia ōrite ngā āhuatanga mō te kiri mā kia rite ki tō te kiri waitutu, me te whakatakoto i te aroha o tōu ngākau pai ki runga i te iwi Māori kia noho ngākau pai tonu ai rātou me te mau mahara tonu ki te mana o tōu ingoa.’ Nā konei te Karauna i whakaae ai tērā, te taumaha o ngā mahi a ngā tūpuna o Ngāi Tahu, nā rēira i tū whakaiti atu ai i nāiane i mua i ā rātou mokopuna.
2. E whakaae ana te Karauna ki tōna tino hēanga, tērā i takakino tāruaruatia e ia ngā kaupapa o te Tiriti o Waitangi i roto i āna hokonga mai i ngā whenua o Ngāi Tahu. Tēnā, ka whakaae anō te Karauna tērā i roto i ngā āhuatanga i takoto ki roto i ngā pukapuka ā-herenga whakaatu i aua hokonga mai, kāore te Karauna i whai whakaaro ki tāna hoa nā rāua rā i haina te Tiriti, kāore hoki ia i whai whakaaro ki te wehe ake i ētahi whenua hei whai oranga tinana, whai oranga ngākau rānei mō Ngāi Tahu.
3. E whakaae ana te Karauna tērā, i roto i tāna takakino i te wāhanga tuarua o te Tiriti, kāore ia i whai whakaaro ki te manaaki, ki te tiaki rānei i ngā mauanga whenua a Ngāi Tahu me ngā tino taonga i hiahia a Ngāi Tahu ki te pupuri.
4. E mōhio ana te Karauna tērā, kāore ia i whai whakaaro ki a Ngāi Tahu i runga i te ngākau pono o roto i ngā tikanga i pūtake mai i te mana o te Karauna. Nā tāua whakaaro kore a te Karauna i puaki mai ai tēnei pēpeha a Ngāi Tahu: “Te Hapa o Niu Tīreni”. E mōhio ana te Karauna i tāna hē ki te kaipono i ngā āhuatanga whai oranga mō Ngāi Tahu i noho pōhara noa ai te iwi ia whakatupuranga heke iho. Te whakatauāki i pūtake mai i aua āhuatanga: “Te mate o te iwi”.
5. E whakaae ana te Karauna tērā, mai rāno te piri pono o Ngāi Tahu ki te Karauna me te kawa pono a te iwi i ā rātou kawenga i raro i te Tiriti o Waitangi, pērā anō tō rātou piri atu ki raro i te Hoko Whitu a Tū i ngā wā o ngā pakanga nunui o te ao. E tino mihi ana te Karauna ki a Ngāi Tahu mō tōna ngākau pono mō te koha hoki a te iwi o Ngāi Tahu ki te katoa o Aotearoa.
6. E whakapuaki atu ana te Karauna ki te iwi whānui o Ngāi Tahu i te hōhonu o te āwhitu a te Karauna mō ngā mamaetanga, mō ngā whakawhiringa i pūtake mai nō roto i ngā takakino a te Karauna i takaongetia ai a Ngāi Tahu Whānui. Ewhakaae ana te Karauna tērā, aua mamaetanga me ngā whakawhiringa hoki i hua mai nō roto i ngā takakino a te Karauna, arā, kāore te Karauna i whai i ngā tohutohu a ngā pukapuka ā-herenga i tōna hokonga mai i ngā whenua o Ngāi Tahu, kāore hoki te Karauna i wehe ake kia

rawaka he whenua mō te iwi, hei whakahaere mā rātou i ngā āhuatanga e whai oranga ai rātou, kāore hoki te Karauna i hanga i tētahi tikanga e maru motuhake ai te mana o Ngāi Tahu ki runga i ā rātou pounamu me ērā atu tāonga i hiahia te iwi ki te pupuri. Kore rawa te Karauna i aro ake ki ngā aurere a Ngāi Tahu.

7. E whakapāha ana te Karauna ki a Ngāi Tahu mō tōna hēanga, tērā, kāore ia i whai whakaaro mō te rangatiratanga o Ngāi Tahu, ki te mana rānei o Ngāi Tahu ki runga i ōna whenua ā-rohe o Te Wai Pounamu, nā rēira, i runga i ngā whakaritenga me ngā herenga a Te Tiriti o Waitangi, ka whakaae te Karauna ko Ngāi Tahu Whānui anō te tāngata whenua hei pupuri i te rangatiratanga o roto i ōna takiwā.
8. E ai mō ngā iwi katoa o Aotearoa e hiahia ana te Karauna ki te whakamārie i ngā hara kua whākina ake nei—otirā, ērā e taea i nāianei - i te mea kua āta tau ngā kōrero tūturu ki roto i te pukapuka ā-herenga whakaritenga i hainatia i te 21 o ngā rā o Whitu hei tīmatanga whai oranga i roto i te ao hōu o te mahinga tahi a te Karauna rāua ko Ngāi Tahu.

## Section 6: Text in English

The text of the apology in English is as follows:

1. The Crown recognises the protracted labours of the Ngāi Tahu ancestors in pursuit of their claims for redress and compensation against the Crown for nearly 150 years, as alluded to in the Ngāi Tahu proverb ‘He mahi kai takata, he mahi kai hoaka’ (‘It is work that consumes people, as greenstone consumes sandstone’). The Ngāi Tahu understanding of the Crown's responsibilities conveyed to Queen Victoria by Matiaha Tiramorehu in a petition in 1857, guided the Ngāi Tahu ancestors. Tiramorehu wrote:

*“This was the command thy love laid upon these Governors ... that the law be made one, that the commandments be made one, that the nation be made one, that the white skin be made just equal with the dark skin, and to lay down the love of thy graciousness to the Māori that they dwell happily ... and remember the power of thy name.”*

2. The Crown hereby acknowledges the work of the Ngāi Tahu ancestors and makes this apology to them and to their descendants.
3. The Crown acknowledges that it acted unconscionably and in repeated breach of the principles of the Treaty of Waitangi in its dealings with Ngāi Tahu in the purchases of Ngāi Tahu land. The Crown further acknowledges that in relation to the deeds of purchase it has failed in most material respects to honour its obligations to Ngāi Tahu as its Treaty partner, while it also failed to set aside adequate lands for Ngāi Tahu's use, and to provide adequate economic and social resources for Ngāi Tahu.
4. The Crown acknowledges that, in breach of Article Two of the Treaty, it failed to preserve and protect Ngāi Tahu's use and ownership of such of their land and valued possessions as they wished to retain.
5. The Crown recognises that it has failed to act towards Ngāi Tahu reasonably and with the utmost good faith in a manner consistent with the honour of the Crown. That failure is referred to in the Ngāi Tahu saying ‘Te Hapa o Niu Tirenī!’ (‘The unfulfilled promise of New Zealand’). The Crown further recognises that its failure always to act in good faith deprived Ngāi Tahu of the opportunity to develop and kept the tribe for several

generations in a state of poverty, a state referred to in the proverb 'Te mate o te iwi' ('The malaise of the tribe').

6. The Crown recognises that Ngāi Tahu has been consistently loyal to the Crown, and that the tribe has honoured its obligations and responsibilities under the Treaty of Waitangi and duties as citizens of the nation, especially, but not exclusively, in their active service in all of the major conflicts up to the present time to which New Zealand has sent troops. The Crown pays tribute to Ngāi Tahu's loyalty and to the contribution made by the tribe to the nation.
7. The Crown expresses its profound regret and apologises unreservedly to all members of Ngāi Tahu Whānui for the suffering and hardship caused to Ngāi Tahu, and for the harmful effects which resulted to the welfare, economy and development of Ngāi Tahu as a tribe. The Crown acknowledges that such suffering, hardship and harmful effects resulted from its failures to honour its obligations to Ngāi Tahu under the deeds of purchase whereby it acquired Ngāi Tahu lands, to set aside adequate lands for the tribe's use, to allow reasonable access to traditional sources of food, to protect Ngāi Tahu's rights to pounamu and such other valued possessions as the tribe wished to retain, or to remedy effectually Ngāi Tahu's grievances.
8. The Crown apologises to Ngāi Tahu for its past failures to acknowledge Ngāi Tahu rangatiratanga and mana over the South Island lands within its boundaries, and, in fulfilment of its Treaty obligations, the Crown recognises Ngāi Tahu as the tāngata whenua of, and as holding rangatiratanga within, the Takiwā of Ngāi Tahu Whānui.
9. Accordingly, the Crown seeks on behalf of all New Zealanders to atone for these acknowledged injustices, so far as that is now possible, and, with the historical grievances finally settled as to matters set out in the Deed of Settlement signed on 21 November 1997, to begin the process of healing and to enter a new age of co-operation with Ngāi Tahu."



ROYAL NEW ZEALAND BALLET

Submission from the Royal New Zealand Ballet in response to the officials' issues paper, *Taxation and the not-for-profit sector*, issued by the Inland Revenue Te Tari Taake, on 24 February 2025.

### Background

The Royal New Zealand Ballet (RNZB, prior to 1984 the New Zealand Ballet Company) was established in 1953. We are New Zealand's only full-time professional ballet company, based in Wellington and touring nationally. We are a charitable trust, incorporated under the Charitable Trusts Act 1957, in 1960. The RNZB exists to enrich New Zealand communities and express who we are through ballet; the activities presently undertaken by the company are in keeping with the purposes set out in the original Trust Deed.

We currently employ 36 dancers on full-year contracts, ranging in age from late teens to late 30s. All have undertaken full-time vocational training, either in New Zealand or overseas, prior to joining the RNZB. Our longest-serving dancer has been with us for 13 years.

Dancers spend approximately 20 weeks of the year touring and performing, the rest of their time is spent in rehearsal in Wellington. The company is based at the St James Theatre, with three purpose-built rehearsal studios, all with sprung floor, gym and Pilates equipment, and a dedicated physiotherapy treatment space. The organization also employs artistic, health, production (technical, costume), education, ticketing and administrative staff, with a total of 72 full-time equivalents.

We presented 77 performances in 2024: 54 'main stage' and 23 in regional centres, visiting a total of 21 centres from Northland to Invercargill. This figure excludes free and low-cost performances for schools and in the community.

In 2024 we reached a live performance audience of 56,000 and worked with 30,000 people in the community and educational settings.<sup>1</sup>

We receive Crown funding direct from the Ministry for Culture and Heritage, Manatū Taonga, equating to 48% of revenue for 2024. The remainder of income comes from ticket sales, sponsorship, grants and donations. We are a Tier 2 charity.

The RNZB is governed by a Board of Trustees, with a standard term of appointment lasting three years. Trustees receive no remuneration for their services.

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<sup>1</sup> Projected figures from 2024 Annual Plan; final audited figures will be published in the 2024 Annual Report.

## Specific responses

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

Charity business income should only be taxed if:

- It is generated through activity completely unrelated to the purposes of the charity and is not then used to enable the charity to fulfil its charitable objectives.
- We do not believe that the factors described in the paper warrant taxing charity business income.

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

- Firstly, a loss of income for the charity concerned, reducing its ability to fulfil its charitable objectives.
- Secondly, the potential for charities which might generate only some of their income through business activities, to then expend resources (human, financial) on additional compliance, resulting in a loss of resources which should be focused on fulfilling those objectives.

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

- The exemptions cited in 2.24 seem both practical and fair.
- Additionally, if the generation of business income also allows the charity to a) invest in its own work and b) maintain its workforce and c) offer professional development and/or training opportunities, all of which should support its charitable purposes, then an exemption should be maintained.

## Areas of particular interest in this issues paper:

### *Accumulation*

As an organization with a significant number of employees and long-term financial commitments (commissioning for artistic work, set and costume construction, scheduled performances and touring), the Royal New Zealand Ballet values the present clarity and common-sense approach regarding the tax-free accumulation of income. This allows us to plan and make financial commitments for future years, which are essential to fulfilling our charitable purposes.

It is the Royal New Zealand Ballet's policy that \$1.5 - \$2.5m be maintained in reserves, which in the unlikely event of the RNZB ceasing operations would be sufficient to fulfil obligations to employees and suppliers. Maintaining this level of reserves also allows the RNZB to continue activity when experiencing issues such as cancelled performances (Covid-19, extreme weather events) or substantial and sudden fluctuations in grant or sponsorship income.

We note that a recent instance of accumulated income above our regular reserves level was due to dedicated fund-raising towards a capital project. Funds totalling close to \$4m were raised in 2021 – 3 with the majority of expenditure taking place in 2022 and 2023.

### *Competitive advantage*

Like many arts organisations, the Royal New Zealand Ballet receives some support from the Crown, and as a charitable trust, is also exempt from income tax. Both could be perceived as creating an

advantage compared with commercial entities operating in a similar field, for example, international ballet companies or theatre groups visiting New Zealand.

Our commitment to uplifting our hapori is central to what we do and we strongly feel that any advantage deriving from these circumstances is offset by the benefit to the community that is provided through our extensive free and low-cost education and accessibility initiatives, which in 2024 involved 30,000 New Zealanders. These included dedicated performances for schools, workshops and residencies in schools and kura, a longstanding collaboration with the Department of Corrections to deliver workshops in women's and men's prisons across the motu, free performances for families, audio description for the visually impaired, relaxed performances for neurodiverse tamariki and their whānau, and performances narrated in Te Reo and New Zealand Sign Language. We note that commercial companies do not undertake any such activities.

#### *Taxing of charity business income*

In addition to its core activities, the Royal New Zealand Ballet has the capacity to undertake some commercial revenue generation. In recent years this has included contracting costume and scenic construction staff to create sets and costumes for other performing companies in New Zealand and overseas, as well as the hiring of productions and associated assets (sets, costumes, dance floors) owned by the RNZB to other companies. Such revenue is used to invest in the regular activities of the company.

External construction contracts, which in recent years have included projects for New Zealand Opera, Auckland Theatre Company and Tulsa Ballet (USA), together with production hires to companies in the USA, Canada and Australia, also enable the RNZB to maintain a year-round skilled workforce in its costume and production departments and to offer career pathways and work experience for students at Toi Whakaari: New Zealand Drama School.

Our commercial revenue generation, which in a typical year will equate to around 5% of annual operating income, is clearly linked to our core purpose and is used to further the charitable aims of the organization.

We note that, like all charities of our size, we are required to undergo annual independent auditing and to make our accounts publicly available. We appreciate the financial transparency and rigor already present in current charity law, and question whether additional requirements around reporting and potentially taxing what may be a small amount of commercial revenue would create a substantial increase in compliance requirements.

#### **In conclusion**

The Royal New Zealand Ballet appreciates the opportunity to comment on the issues raised and hopes that the information given above will provide some useful insights into the experiences and activities of a long-established national charity.

We note that, while this issues paper may characterize tax concessions as a cost to the taxpayer, such concessions may also be seen as benefiting the taxpayer through investment in activities and services that fulfil social needs, educate and entertain. While New Zealanders are generous with their time and donations, more could be done to support the work of charities and make donors' giving go further through the tax system, for example, through the adoption of Gift Aid. Countries which encourage charitable giving via the tax system, notably the USA and the UK, have a well-established culture of philanthropy, and if New Zealand charities, including arts organisations, are to grow the proportion of their income received from personal donors, and so increase their activities and



contribution to the community, we would be glad to contribute to any discussion around similar changes to the New Zealand tax system.

We also note that the tax refunds currently available to donors making gifts to charities from their personal income are an incentive to giving, and allow generous New Zealanders to make the most of their support. Any change to this system, whereby refunds were reduced or removed would likely have a detrimental effect on the level of support for charities and affect the services that they are able to provide.

We are fortunate that, as a Tier 2 charity, we have the staff resources to facilitate the independent auditing of our accounts each year, and we appreciate the transparency that this brings to our finances. We would caution against burdening charities with further compliance measures and complexities when in fact the rigorous enforcement of current requirements such as the timely submission of annual returns and accounts with Charities Services should serve to identify and penalize the small number of charities who may not be operating lawfully.

Susannah Lees-Jeffries

Director of Development and External Affairs, Royal New Zealand Ballet

28 March 2025

**From:** Jocelyn Brice s 9(2)(a)  
**Sent:** Friday, 28 March 2025 4:13 pm  
**To:** Policy Webmaster  
**Subject:** Taxation and the not-for-profit sector

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

Hi,

My name is Jocelyn Brice and for 2 years I have been working for The Salvation Army in the Supporter Engagement and Fundraising Team. I am based at Royal Oak, Auckland. I am writing to share my thoughts on the proposed tax changes affecting charities and not-for-profits.

Our team works hard to develop relationships with donors who want to support the work The Salvation Army does to help people who need a hand-up. I feel lucky that I get to see the difference the money people donate makes to people who are struggling. Having our services wrap around them gives them hope. On the site where I work, we have a Family Store and one day I was walking through the carpark when a well-presented lady who was donating clothes to our Store said "hello, I want to thank you for the work you do". She told me she was helping a family who were struggling and the week before, had brought them to get help from our frontline team. She said she had first-hand experience of having been helped out of a violent relationship by The Salvation Army 10 years before and how it changed her life. I asked her how she is doing now. She gestured to her new vehicle and smart clothes and said "I have a good job, am doing really well and now I want to help others".

One night I was at a function hosted by a corporate. I was wearing a t-shirt with a big Salvation Army Red Shield on it. A young lady came over and said she had been born here but her parents had arrived from a Pacific Island years before with next to nothing. She said her parents often tell the family how it was The Salvation Army who helped them get on their feet and now the family owns 5 businesses!

These are two of many stories of approaches I've had from people who will never forget how The Salvation Army has helped them.

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.

Ngā mihi (Kind regards)

Jocelyn

**Jocelyn Brice | Relationship Manager - Corporate Partnerships**

## Supporter Engagement and Fundraising

The Salvation Army New Zealand, Fiji, Tonga & Samoa Territory

M: s 9(2)(a)

| W: [www.salvationarmy.org.nz](http://www.salvationarmy.org.nz)

***caring for people | transforming lives | reforming society***



**THE ARMY THAT BRINGS LIFE**

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*SocialLink – Tūhono Pāpori is the umbrella peak body for the social and community sector and represents over 1500 organisations and individuals working in the Western Bay of Plenty (WBOP).*

SocialLink walks alongside social service providers, community and Māori organisations to build their capability as they deliver services to their communities, as well as advocates for the sector's interests, social justice and equity of opportunity for all people living in the WBOP.

[www.sociallink.org.nz](http://www.sociallink.org.nz)

## **Response to the Inland Revenue's Officials' Issues Paper "Taxation and the not-for-profit sector"**

**March 2025**

**SocialLink is focusing mostly on Chapter 2 Charity business income tax exemption. (Q1 – Q6) and Chapter 4 – Integrity and Simplification.**

Our position is that the ability of charities to generate income and use it for their charitable purposes should be supported and enhanced rather than made harder. This is particularly pertinent given the current restrained funding environment and subsequent difficulties of securing funding from other sources.

We are worried that efforts to identify taxable income from the business/commercial efforts of a few large charitable entities<sup>1</sup> perceived to have an unfair advantage over commercial entities, will have a potential detrimental roll-on effect for all charities. If there are a very small number of charities exploiting the tax exemption, we recommend that Charities Service utilise its regulatory functions to investigate rather than apply a blanket removal of tax exemptions to all charities.

We are not sure if it is a coincidence or just somewhat ironic that the Government are currently considering reducing the corporate tax rate at the same time that they are consulting on introducing tax on charities that generate unrelated business income. If a decrease in the corporate tax rate comes to pass, businesses will accrue increased profits, and less revenue will be available for public services. If it also comes to pass that charities are taxed on their unrelated business income, it will

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<sup>1</sup> Eg Sanitarium is one charity often mentioned as having an unfair advantage.

reduce services to the community, increase compliance costs for charities that will further reduce services, and the tax take is very unlikely to make up for the loss of the corporate tax revenue. Businesses are critical to the economy but should not be prioritised over much needed services to communities, many of which are already at risk due to the changes in the funding landscape.

In our experience, working alongside a considerable range of social, health and community sector charities over the past thirteen years, the vast majority need all the support possible to retain and grow income, including from tax policy settings and from Inland Revenue regulations.

A local charity summed up the potential impact of losing tax exemptions:

*“The most significant practical implication of removing a tax exemption would be the loss of income to support our overall charitable purpose. This would mean a reduction in the scope of services provided and increasing strain on already tight budgets. Coming on the back of a reduction in and increasing competition for contestable funding sources to support operations, such a policy change has the potential to tip us over the edge. Trying to recoup the loss through other means for example, increasing user charges will only serve to perpetuate growing inequality of access to the services we provide.”*

Lastly, we are very concerned that no consideration has been given to the impacts the proposed changes will have on iwi or Māori organisations in line with the Crown's responsibility as a partner to Te Tiriti o Waitangi to ensure the proposal do not disadvantage Māori communities.

### **Recommendation: SocialLink opposes charging charities tax on unrelatable business income.**

The reasons for our opposition are stated below:

#### **Income for charitable sector is precarious amid rising need and costs.**

- Income for many charities in the social and community sectors is precarious. They often do not have a guarantee of income year to year and have little control over their income sources such as donations, philanthropic grants, fundraising activities, government or similar contracts, investments and business operations.
- Organisations report drops in income but rising costs, need and demand in recent sector surveys in the WBOP and nationally. For example, the national State of the Sector Survey in 2024 reported 45% of organisations using reserves, up from 37% in 2022 and 33% in 2020.<sup>2</sup>
- SocialLink's own survey of the western Bay of Plenty sector found income had dropped or stayed the same for most, including from government contracts but demand for services had increased (the survey was also used by other peak bodies in the Waikato region and nationally with similar findings).<sup>3</sup> A West Auckland survey found that out of over a hundred

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<sup>2</sup> Horan, J (2024) State of the Sector Survey – Community and Voluntary Sector report. Community Networks Aotearoa.

<sup>3</sup> SocialLink Survey Report (2024): Social and community service providers on funding and service demand – western Bay of Plenty region. Community Waikato report (2024) Report of survey for social and community service providers on 'What's happening for your organisation regarding funding and service demand?' Community Network Aotearoa (2024) Report on

community organisations, most were operating with 20% less income in 2024 and there had been an over \$3million loss of funding from 24 organisations in the past year.

- Increasing costs included rent, power, vehicle costs, insurance and meeting social worker pay equity requirements. Organisations were cutting back services, letting staff go, using reserves (if they had them) and considering other ways of delivering services. Some were looking at possible closure or had closed.
- These findings echo other findings in jurisdictions such as Australia, where many charities are operating with a thin or no margin, have limited reserves and feel vulnerable.<sup>4</sup> This is not because of mismanagement but because they have been pushed into 'running lean' by various forces for many years, meaning they risk a reduced ability to adjust to economic shocks.<sup>5</sup>

### **Impact of proposals on delivery of services to communities**

- Running a businesses is an important source of income, especially due to the constrained funding environment and the underfunding of the sector over many years. Charities are entitled to operate businesses which do not have to be connected to their overall purpose, so long as the profits are used to advance that purpose and work, according to Charities Services.<sup>6</sup>
- The consultation paper noted in countries where unrelated business income is taxed, certain unrelated commercial activities remain tax exempt, including certain fundraising activities, volunteer run business and those selling donated goods or services such as charity op shops (pg 9). However, changes to 'unrelated' business settings means the devil will be in the detail of what is considered 'unrelated' and will be administratively complex to interpret and follow, which in turn will drive up compliance costs.
- To tax fund-raising business income will limit the revenue from this source, meaning either a cut in services, more reliance on other precarious income sources or on government funding with many charities reporting decreases in government funding already.
- This leaves the options of government delivering services in the place of for-purpose organisations who know their communities and who can deliver services far more efficiently and cost effectively than government, or not addressing the increased needs in communities. The latter option is likely to result in public pressure for the government to respond to a growing demand for services.

### **Several structural factors contribute to income shortfalls which is why changes to taxation settings is likely to cause further hardship for charities**

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survey for social and community service providers on 'What's happening for your organisation regarding funding and service demand?'

<sup>4</sup> Social Ventures Australia and the Centre for Social Impact (2022) *Paying what it takes: funding indirect cost to create long-term impact*. Social Ventures Australia.

<sup>5</sup> Social Ventures Australia and the Centre for Social Impact (2022) *Paying what it takes: funding indirect cost to create long-term impact*. Social Ventures Australia.pg 9

<sup>6</sup> Charities Services Myth busting: when charities can run businesses. 24 February 2021

<https://www.charities.govt.nz/news-and-events/blog/myth-busting-when-charities-can-run-businesses/>

- Charitable organisations have been underfunded for many years by government agencies contracting them to deliver services, according to inquiries by the Productivity Commission and economic consultants Martin Jenkins <sup>7</sup>. The latter report estimated social services were funded for less than two thirds of the actual costs of delivering services.
- Insufficient funding of 'indirect costs' has been found to be a key driver of not for profits' financial vulnerability.<sup>89</sup>
- Indirect costs make up a much larger percentage of total costs than is widely understood. In one study the average indirect costs of the not-for-profits analysed was 33% of their total costs, with significant variation between 26% and 47%. However, funding agreements often only included indirect capped costs of between 10% and 20% of overall costs. Not for profits said they underreported indirect costs believing funders were unwilling to fund more than 20%. This situation contributes to what has been termed a 'starvation cycle', where funder expectations lead to not for profits feeling pressure to both underinvest in their indirect costs and underreport their true costs to funders, thereby perpetuating the cycle. The sector is starved of the necessary core funding required to create resilient entities delivering long term impact.<sup>1011</sup>
- Furthermore, a lot of not for profits in New Zealand do not receive consumer price indexation on funding which would support them to cover indirect costs. Instead, over time the funding they receive gradually declines in value. For example, a \$75,000 government contract in 2020 would be worth \$60,000 in 2024 due to the high inflationary environment we have been experiencing, yet organisations are expected to deliver the same level of output with the funding that is eroding in value. This was cited as a significant issue for many for-purpose organisations according to the sector surveys mentioned above.
- The lack of indexation contrasts with government policy in the state of Victoria in Australia for example, where from June 2024 services funded by several government departments (eg housing related, family violence) are costed out and indexed year by year. For example, the current indexation is between 2.5 and 3.55%.<sup>12</sup>
- Another factor is that reductions in revenue growth compound over time. s 18(c)(i)

<sup>7</sup> The Productivity Commission (2015) More effective social services. Summary version, September. Wellington. Martin Jenkins (2019) The Social Servicer System: The Funding Gap and How to Bridge It

<sup>8</sup> Eckhart-Queenan, Etzel, M and Prasad, S (2016) 'Pay what it takes' Philanthropy, Stanford Social Innovation Review.

<sup>9</sup> These have been found to fall into four general areas regardless of purpose or mission: administrative expenses(eg costs related to leadership, finance, human resources, technology, legal, bids and proposals); network and field costs (maintaining operations in the field and in branches); physical assets (costs associated with facilities, projects, equipment) and knowledge management (costs for building and maintaining subject and programme expertise and internal knowledge, including data development, staff training and development).

<sup>10</sup> Eckhart-Queenan, Etzel, M and Prasad, S (2016) 'Pay what it takes' Philanthropy, Stanford Social Innovation Review.

<sup>11</sup> Social Ventures Australia and the Centre for Social Impact (2022) *Paying what it takes: funding indirect cost to create long-term impact*. Social Ventures Australia.

<sup>12</sup> See Victoria State Government's Funded Agency Channel's information on indexation for the Department of Families, Fairness and Housing (DFFH) and Department of Health (DH) at

<https://fac.dffh.vic.gov.au/dffh-and-dh-approved-yearly-indexation-rates-and-unit-prices>

<sup>13</sup> Martin Jenkins (2024) Sustainable funding for hospice services. Final Report Accessed [https://www.hospice.org.nz/hospices\\_under\\_significant\\_cost\\_pressure\\_a\\_landmark\\_report\\_shows\\_the\\_real\\_value\\_of\\_hospices\\_to\\_health\\_system](https://www.hospice.org.nz/hospices_under_significant_cost_pressure_a_landmark_report_shows_the_real_value_of_hospices_to_health_system)

### **Accumulated funds needed to further charitable purposes**

The tenuous income and operating situation for many charities may contrast with a public perception that there is ‘\$2 billion unused income in the sector for 2023/24’ as reported by Charities Services and covered in media.<sup>14</sup> The implication is that money is therefore not available to the people the charity is established to serve.

This is misleading as there are often many reasons for accumulated funds. Charities require reserves to continue to operate into the future under obligations as good employers and to meet service and development needs. Some charities are highly asset-driven like community housing. A random review of some charities in the local area for example, identified considerable revenue in the millions being held for new housing developments for people with long term health needs while consent processes were completed, or in another example, for purchase of more homes and maintenance of existing homes to benefit low-income individuals and families.

### **Taxation settings need to be supportive of charities’ capacity to fund services and be simple to administer and comply with**

- If the policy goal is to enable charities to provide publicly available services for the public good in its broadest sense<sup>15</sup> reducing the administrative and financial costs for charities is important.
- We are concerned that introducing a more administratively complex regime of deciding what business activities are exempt and what are not will impose compliance burdens on charities.
- Making the system more complex will inevitably mean more resources and time spent by charities, Department of Internal Affairs and Inland Revenue to administer it, not least because of variable interpretations and appeals on decisions.
- The OECD report on philanthropy and taxation <sup>16</sup>recommended countries should look to reduce the complexity and improve their oversight of concessionary regimes for philanthropic entities and philanthropic giving. We think the regulatory arms of Charities Services and Inland Revenue are the appropriate place for following up on concerns with any charities competing with businesses or abusing charity or taxation regulations.
- New Zealand has put considerable effort in having a trustworthy and transparent register of charities, including performance and detailed financial reporting. More regulatory capacity and person power would enable Charities Services and Inland Revenue to audit and follow up on concerns, although cuts to public service staff are likely to be limiting this.
- We also note charities providing social services through government contracts are also required to be accredited through Te Kāhui Kāhu.<sup>17</sup> This means they must have strong and

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<sup>14</sup> Susan Edmunds ‘Charities’ \$2billion in untaxed profits’. Radio New Zealand, 4 December 2024

<sup>15</sup> Often providing services on behalf of the government or which are recognised as being better provided by community-based entities

<sup>16</sup> OECD (2020), *Taxation and Philanthropy*, OECD Tax Policy Studies, No. 27, OECD Publishing, Paris, <https://doi.org/10.1787/df434a77-en>.

<sup>17</sup> Te Kāhui Kāhu provides Social Services Accreditation for agencies such as Department of Corrections, Ministry of Justice, Ministry of Housing and Urban Development, Ministry of Social Development and Oranga Tamariki.



safe business practices and deliver quality services. This is a further and appropriate regulatory regime and includes standards on financial management and systems.

### **De Minimis for small-scale trading activities**

We would favour a de minimis exemption threshold and that Tier 3 and Tier 4 charities be exempt (as the briefing paper notes this would limit the impact of a policy change to less than 1,300 charities reporting annual expenses above \$5 million per annum).

## **Chapter 4 - Integrity and simplification**

### **Fringe Benefit Tax**

We don't see anything in the current review of FBT that appears to reduce compliance costs therefore the issue of saving compliance costs still needs to be given consideration. Based on our experience, charities that have vehicles are generally providing front line service delivery and need the vehicles to go out into the community. There are already high costs associated with this including fuel, repairs and maintenance, insurance. Adding FBT would be another cost burden to charities and also increase compliance in accounting for any fringe benefits that may still be provided.

### **Volunteers**

We would be concerned that the FENZ approach would add a burden to the organisation to process the payments as wages / salaries. In our experience many organisations don't pay honoraria and the ones that do don't generally have staff and are quite small or volunteer reliant so adding payroll to what they need to do would be an additional burden to the organisations.

### **Donation Tax Concessions**

We support introducing a delinking of donation concessions from income tax to allow for more real-time payments and other measures suggested.



28 March 2025

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

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

Tēnā koe Deputy Commissioner

## Taxation and the not-for-profit sector

The Institute of Directors (IoD) appreciates the opportunity to make a submission on your officials' issue paper *Taxation and the not-for-profit sector*, released on 24 February 2025.

### Scope of our submission and summary

This submission is presented in two parts:

- Proposals that impact directors and boards of not-for-profit organisations; and
- Proposals that impact the IoD and its members, in our capacity as a not-for-profit organisation.

We note this submission does not and cannot address specific impacts of the proposed tax changes on individual not-for-profit organisations, including registered charities.

For the boards of these organisation, this submission does address the pressures on those organisations (financial and more broadly), the largely volunteer nature of the boards and the organisations and the continuing battle for financial sustainability of many of these organisations. Boards/ committees will have to support management working with the proposed changes and pay attention to tax governance, with the increased risk and complexity the changes involve.

For the IoD, the proposal to tax the profits on members subscriptions would have a detrimental impact on our ability to support directors and their boards with a consequential impact on their governance capability and the design of policy, legislation and regulations that supports governance practice. This will reduce company, not for profit

### About the Institute of Directors

*The IoD is Aotearoa New Zealand's pre-eminent organisation for directors with approximately 10,500 members and is at the heart of the governance community.*

*We believe in the power of governance to create a strong, fair and sustainable future for New Zealand.*

*Our role is to drive excellence and high standards in governance.*

*We support and equip our members who lead a range of organisations from listed companies, large private organisations, state and public sector entities, small and medium enterprises, not-for-profit organisations and charities.*

*Our Chartered Membership pathway aims to raise the bar for director professionalism in New Zealand, including through continuing professional development to support good governance. This includes a focus on directors and boards leading their organisation by actively defining their strategy and purpose, setting expectations of management about how that will be addressed, and considering reporting on implementation of those actions.*

organisation and public sector entity performance and their ability to deliver services to and support our community.

## Proposals that impact directors and boards of not-for-profit organisations

While not speaking for individual not-for-profit organisations, this submission outlines the broader governance implications for the boards and committees responsible for their oversight. We highlight below how the proposed changes could affect the sustainability, governance obligations and risk profile of not-for-profits, most of which are governed by unpaid volunteer boards.

### Financial and structural pressures on the not-for-profit sector

Boards in the not-for-profit sector are already operating under significant financial and structural pressures. Many organisations face ongoing funding challenges, growing demand for services, and increasing compliance obligations across a range of regulatory areas.

These pressures are further compounded by rising expectations around transparency, performance measurement, and public accountability.

The proposals outlined in the consultation document - particularly the removal of tax exemptions for unrelated business income and the introduction of integrity rules for donor-controlled charities - would add to the financial and administrative burden on many organisations.

Even with proposed thresholds or de minimis exemptions, the changes would still require boards to commit more time and resources to compliance, oversight, and tax governance.

### The volunteer nature of governance in the not-for-profit sector

Many not-for-profit boards are made up entirely or predominantly of volunteers. In many cases, board members also contribute to the day-to-day operations of their organisations. While these boards are characterised by a strong mission focus and deeply connected to their communities, they often lack easy access to professional tax, legal, or accounting advice – largely due to limited funding.

Although some larger Tier 1 or Tier 2 organisations have more established governance and support structures in place, most of the sector – made up of Tier 3 and Tier 4 entities - operate with lean governance and operational models. According to the consultation document, these smaller Tier 3 and Tier 4 organisations account for 88% of registered charities reporting business income in 2024.

Imposing new obligations to assess and manage unrelated business income and manage tax obligations would place a disproportionate compliance burden on these smaller, volunteer-led organisations. This added complexity is unlikely to generate significant tax revenue or improvements in compliance, yet it would significantly stretch already limited governance capacity.

### Governance implications of increased tax complexity

If the proposed changes proceed, boards will be required to exercise increased diligence in overseeing compliance with tax obligations. This includes:

- Ensuring appropriate systems are in place to distinguish between related and unrelated business activities
- Monitoring distributions and accumulations to ensure they meet any new rules

- Overseeing the implementation of reporting systems, especially where small-scale trading or donor-controlled structures are present
- Navigating additional integrity and anti-avoidance rules, particularly if investment restrictions or distribution requirements are introduced

Boards and committees, which are ultimately accountable for an organisation's compliance with tax law, will need to allocate governance time and resources to understanding the new rules and overseeing implementation. There will be a greater need for tax expertise at board or management level and increased attention to documentation and evidence trails supporting tax positions. For many of the organisations that will have to implement that proposed changes, this expertise is not readily available.

### **Risk, accountability and tax governance**

With the introduction of a more complex tax framework, the risk profile for NFPs will change. Boards will need to adopt a more deliberate approach to tax governance, including:

- Ensuring tax is considered as part of organisational risk management
- Including tax compliance within internal audit and assurance scopes
- Seeking external tax advice where relevant, particularly on related-party transactions and business structuring
- Documenting board oversight of tax compliance and decisions made in respect of distributions and accumulations

For many organisations, this will require a shift in governance maturity which some may never achieve and potentially the development of new policies and practices. In the long term, this could lead to stronger governance capability, but in the short term it will likely create additional pressures on volunteer board members, many of whom already commit significant time without remuneration or other benefits.

### **Financial sustainability and policy design**

The sector's financial sustainability is already fragile. Not-for-profits, and particularly charities, are "squeezed" at both ends: if providing or supporting services for the community and funded in part by the government, the full costs of service provision are not generally met; there is an assumption that there will be fundraising or donations from the community that will make up the difference. At other end, the ability to fundraise is equally constrained, particularly in difficult economic conditions. Adding the proposal tax changes has the potential to reduce retained earnings from business activities could undermine a not-for-profit organisation's ability to reinvest in its mission – one that both government and the community want to see delivered. This is especially the case for those organisations using business income to fund core services in areas such as housing, education, health, and social services. Boards may need to revisit investment and funding strategies and consider alternative models for income generation.

To mitigate these impacts, policy settings should be designed with careful attention to governance capacity and sector sustainability, including analysis that is systemic rather than myopically focused on tax policy settings. To achieve this, we recommend that the final consideration of the proposals include:

- Clear and practical definitions of unrelated business income, with examples and interpretive guidance
- De minimis thresholds aligned with reporting tiers, especially to protect Tier 3 and 4 charities
- Relief mechanisms for distributed surpluses, including transitional support to help boards adjust financial strategies
- Simplified compliance options for smaller entities and those predominantly run by volunteers

## Proposals that affect the IoD and its members

The IoD is a Tier 2 not-for-profit incorporated society which supports directors to positively transform the future. IoD is not a charity.

While we do not describe ourselves as being a mutual association, we function in a similar way with our 10,500 members furthering our ‘mutual purpose’ of promoting excellence in governance.

In line with the comments noted in 4.5 of the official issues’ paper, we do not currently pay tax on profits from our member subscriptions. We do, however, pay tax on all our commercial operations – governance development courses, governance services, and national and local events – and agree this tax treatment is fair.

Our constitution prohibits the distribution of surpluses to our members including on winding up (consistent with section 216 of the Incorporated Societies Act 2022), meaning IoD would not qualify for mutual treatment as outlined in 4.6.

The impact of imposing tax on the profits from member subscriptions would significantly impact IoD’s financial model with a considerable impact including:

- Increasing fees for members thereby disadvantaging potential members, including younger people and supporting not for profit organisations, from being part of a community of leading governance professionals in New Zealand
- reducing the availability of governance training and other development offerings to support good practice governance in New Zealand – across companies, not for profit organisations and the public sector because of the need to increase the price of governance development training and/or reduce the investment IoD makes to recover the additional tax expense the proposals will generate.
- curtailing the contribution to the public policy, legislation and regulation to support good practice governance would be curtailed.

Based on impacts we cannot support a change to the tax treatment of membership subscriptions.

## Conclusion

The taxation proposals in the discussion need to reflect on the nature of New Zealand’s not-for-profit sector made of predominantly small and volunteer lead and run organisations.



While delivering for the government (in many cases) and their communities, their financial situation is fragile, their ability to cope with major changes in tax arrangements low and their financial situation precarious.

The weight of this and the risks and complexity of the proposed taxed changes, fall on predominantly volunteer boards of not-for-profit organisations.

For these reasons we advocate for significant care in proceeding with the proposals in the discussion document, along with a rigorous and systemic cost-benefit analysis, notably in relation to the additional tax revenue collected, the compliance costs involved and the unintended consequences for organisations that are at the heart of the fabric of our society.

For the IoD itself, the proposed change to the tax treatment of member subscriptions would have a detrimental impact on the quality of governance in New Zealand, with impacts on the performance and delivery of services by New Zealand's major companies, not-for-profit organisations and public sector entities.

Ngā mihi  
s 9(2)(a)



Guy Beatson

**General Manager – Governance Leadership  
Centre**





28 March 2025

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

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

Tēnā koe,

**Re: Taxation and the not-for-profit sector: submission by Parry Field Lawyers**

### Introduction

1. We are the leading law firm for charities in New Zealand and represent many hundreds of charities from all across the whole country, involved in every type of charitable purpose.
2. We have spoken with many of them and so are submitting this to provide feedback on the key points those clients have raised with us or are of concern.
3. We have also been leading in efforts to raise awareness of the issues raised by the consultation paper and attach for your reference an article our Partner Steven Moe wrote for Stuff, as well as the paper written by Steven and Craig Fisher.
4. We very much appreciate the opportunity to provide feedback on the Officials' Issues Paper on "Taxation and the not-for-profit sector".
5. As some overarching comments it seems like:
  - the pursuit of a few "bad apples" results in a discounting of the contribution of charities to society itself and will reduce their ability to good if funding sources are reduced.
  - The approach also perpetuates an approach of being focussed on donations, rather than encouraging an innovative and dynamic charitable sector that looks to increase funding streams which are sustainable.
  - There are likely to be unintended consequences and some charities might not be able to continue without the system that has been in place.
  - It seems unfair on Iwi groups who have often been required to use Western paradigms and set up charitable trusts as part of their post settlement entity



structures and encouraged to set up charitable companies that benefit their people, to now change the rules of the game for them.

- Opening the door of changes to tax regime for charities will introduce significant confusion and uncertainty and distract from what should be support for charities
6. There are several specific concerns regarding the proposed changes and questions posed and we turn to those now.

#### **Charity Business Income Tax Exemption - Questions 1 to 6**

7. We recommend that the current broad tax exemption for charity business income is retained.
8. Many charities have sought diverse and sustainable income streams to advance their purposes and to allow them to do more good. Having income from a business outside of the direct purpose of the charity helps the charity to be viable and thrive. Also there is a concern that there could be creep over time if it starts with unrelated business income but then moves into passive business income or related business income - once the door is opened where will it stop?
9. Trying to define “unrelated” will be very challenging and could force creative structuring and descriptions to get through a new approach.
10. The benefit of any tax revenue to be gained is likely to be outweighed by the adverse impact on the sector - noting additional admin and compliance required.
11. In our view:
- (a) Taxing charity business income discourages them from being innovative and seeking sustainable income streams;
  - (b) It will increase compliance costs while not actually increasing revenue by that much;
  - (c) It perpetuates a view of charity that donations are their only domain; and
  - (d) What are the objective measures and figures on these proposals, how much is even involved?

#### **Donor Controlled Charities - Questions 7 to 9**

12. We suggest dealing with specific examples that are known to the IRD on a case by case basis rather than changes that affect all such charities. In our experience many such arrangements are structured around the donors providing free or at below cost support to a charity and it would be only a few outliers where there are actually concerns around how much is charged or some incorrect ways of approaching this.
13. If this is pursued then we think the definition proposed is too widely framed.

#### **Integrity and Simplification - Questions 10-15**

14. It is unclear what the impact of proposed changes would be - how much is actually at stake here? We suggest impacts are considered before exemptions are changed. It seems likely that many of those charities impacted will not be aware of the consultation or have considered likely impact within the time frames provided.



15. In response to question 13, we recommend that the FBT exemption for charities is retained.
16. Charities are not able to offer incentives that other entities can, such as shares. Removing this will affect the ability of charities to attract good staff.
17. Regarding question 15:
  - (a) These seem like sensible suggestions so worth endorsing and adding any other suggestions on improving donation tax credit system.
  - (b) Perhaps due to so many steps there is a lot unclaimed - there is the lag of giving, getting a donation receipt, then claiming at year end (easy to lose receipts, forget to claim).

### **Conclusion**

18. While we think it is good to encourage charities to think about their role in society, changing their income streams will reduce their ability to support the most vulnerable in our communities. Ultimately this is likely to lead to increased compliance costs as well as an increase in demands on Government which will cost more than the charities to provide services.
19. If you have any questions, we would be happy to meet to discuss.

Ngā mihi

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Steven Moe & Kris Morrison



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**CHARITIES & TAX**  
EXAMINING THE  
FOUNDATIONS OF HOW AND  
WHY WE EMPOWER CHARITIES  
TO HAVE POSITIVE IMPACT

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*STEVEN MOE & CRAIG FISHER*

ParryField  
Lawyers



To the heart of what matters.



*The nonprofit or civil society sector remains the invisible subcontinent on the social landscape of most countries, poorly understood by policymakers and the public at large, often encumbered by legal limitations, and inadequately utilised as a mechanism for addressing public problems.*

**Dr Lester Salamon**  
*'Putting the Civil Society Sector on the Economic Map of the World' Published in 2010*

TABLE OF CONTENTS

Introduction	1
Starting with thanks	2
The charitable sector	2
The role of Charities by numbers and stories	3
What Charities do : the anchor of Charitable purposes	4
The exemptions they are granted	4
Philosophy of why we do this	5
Funding souces - traditional and new	6
Business income - passive versus active	7
Innovation and sustainability	8
The pandoras box of taxing Charities income	10
The competition argument explained	11
Accumulation	12
Genuine consultation	13
An accounting perspective (Craig)	13
A legal perspective (Steven)	14
Reporting on impact	14
A way foward	15
Resources	16
Some relevant feedback and perspectives from posts	17
About the authors	21



# INTRODUCTION

An audio version of this briefing paper has been released as episode 428 of Seeds Podcast which is on all podcasting apps or at [www.theseeds.nz](http://www.theseeds.nz)



## About Parry Field Lawyers

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ISBN 978-1-7385894-7-0

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*“I believe the basic attribute of mankind is to look after one another.”* Professor Fred Hollows

We all bring conceptions of how systems operate based on our past and what we have seen, been taught and what we believe. Seldom are we given the opportunity to step back from preconceptions and take a macro perspective on important issues. That is what this paper is all about.

For many years the underpinnings of a functioning Society have involved charity. It is often charities that are the final backstop. They look after those who for whatever reason cannot look after themselves, and for whom government or others in society have failed to look after. Whether that be people or the planet. Charities hold a very important role in supporting and giving voice to the voiceless. They provide education opportunities and enhance our understanding of culture and the arts as well.

In this paper we want to consider the role of charities in Aotearoa New Zealand and consider their funding streams and their future, in light of potential changes to introduce taxes on business income.

While a lot of heat is generated by this topic it is important to note that while some have suggested it, there does not appear to be an intention that all Charities should pay tax on all income. It appears that tax exemptions for business related income of Charities will be looked at. This should alleviate the concerns of many in the Charitable sector. Yet it is also a timely reminder to consider as a society what we support and why and how.

The government messaging about change may not have been as clear as it could have been, leading to confusion over what the focus is.

It has also sparked discussion and opened up the door for people to cite outliers as the norm and reinforce a negative and inaccurate narrative about Charities overall. This is not helpful for the charities who are doing amazing work and we hope this paper addresses that.

There is a lot of emotion involved in the question of Charities and their tax position. We want to unpack the issues and lay them out so we can all objectively review them and have a sensible discussion about the topic. We will do this by considering as many angles on this topic as possible. In our view, *taxing charitable business would discourage innovative thinking and reduce the sustainability and self sufficiency of charities with negligible benefits.*

If you find this helpful, we suggest reading our 2020 collaboration *“A Framework for thinking about Change”*, which highlights the 7 hard questions we think all charities should ask.

We will be holding an online gathering to discuss this paper and you can sign up to attend that [here](#).

NGĀ MIHI NUI,

CRAIG FISHER  
s 9(2)(a)

STEVEN MOE  
s 9(2)(a)



Starting with 'Thanks'

We'd like to exercise our author's licence and right up front say a huge and heartfelt thank you to all the charities in Aotearoa New Zealand.

To all those unsung heroes who generously do the mahi. To all the generous Kiwis who support in a myriad of other ways including via their financial assistance of charities. To all those who provide services and support for this sector.

Our society, our environment, our culture and our health as a nation is better for all that charities do. Yes, there is always more to do and that is sad. But the aggregate impact of our charitable sector is vital glue that helps make our country what it is and helps indicate who we will become.

The Charitable Sector

Let's set the scene – there are many charities out there who are doing good, and we see them on a daily basis. Not all are “registered” charities – there are about 29,000 or so of those who are on the charities register which is overseen by DIA Charities Services.

But there are many others not on that list. In fact IRD in their March 2024 report to the Minister on the charitable sector ([here](#)) released under an OIA request noted that there are approximately 90,000 NFPs (not-for-profit entities) in Inland Revenue's system.

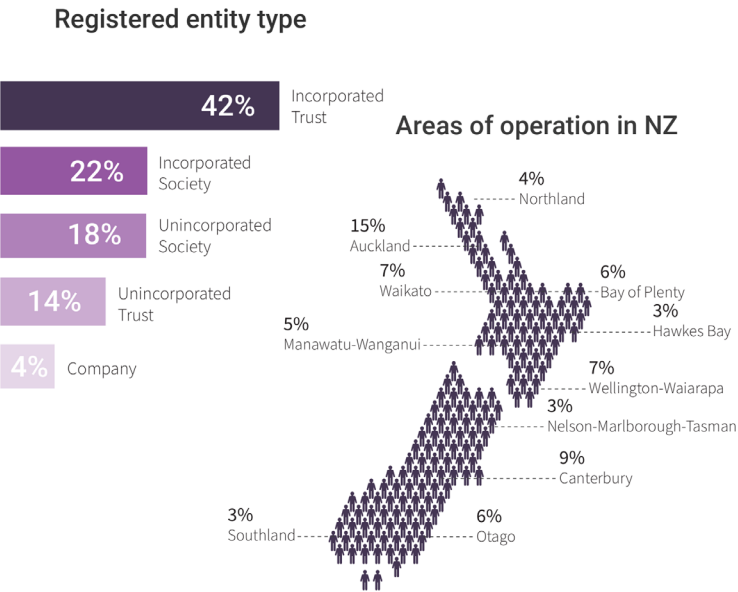
These include:

- the 29,000 tax-exempt charities.
- 20,000 tax-exempt amateur sports bodies.
- 28,000 NFPs that are not tax exempt of which about 24,000 have net income below a \$1,000 deduction threshold available for NFPs, so do not file returns or pay tax.

The Tax Working Group provided a summary in February 2019 of the positive role charities play:

*“Charities and non-profit organisations make important contributions to the wellbeing of New Zealand. The activities of these organisations enhance the social, human and natural capital of New Zealand. In turn, the Government supports the work of charities by offering tax exemptions for charity income and tax benefits for donations to charities.”*

Charities Services included this diagram in their recent annual report (note that companies make up only 4% of the total registered charities):



Source: Page 13 of the Charities Services Annual Review [here](#)

The role of Charities by numbers and stories

BY NUMBERS...

In its latest [annual report here](#) Charities Services notes the following statistics:

- There are 29,000 registered charities.
- There are around 121,000 individual officers.
- More than 100,000 people work full-time in the charitable sector, making up around 4% of the workforce in New Zealand.
- people volunteer approximately 1.4 million hours each week.
- The largest charities in the sector make up only 1% of all registered charities but account for over half of the sector's annual expenditure (approximately \$25.3 billion).
- Most charities are small and rely heavily on volunteers, with around one-third of charities with annual income under \$10,000.

Numbers can be deceptive though (says the accountant!). The numbers do not describe the important diversity of the sector. Our charitable sector consists of a wonderful mix of charities by reference to nature, size, type, structure, scope, operating approach, and resourcing.

Hence, we are always wary of “*throwing a blanket over all charities*” as many do when they consider or speak on this sector. If you have met one charity, then you have met one charity.

In our experience, failure to appropriately consider this diversity is a fast track to adverse unintended consequences.

BY STORIES...

We are not going to overdo this part with more statistics. Instead, we ask for you to imagine your own situation and place. Likely you are involved in one or some of the following and yourself can fill in the blank about the work of the local school PTA, sports club, religious group, youth charity, food bank, homeless shelter, social housing, food rescue, animal welfare, ambulance provision, mental health initiative, environmental group and so on. One of the authors has now had 426 hour long conversations with inspiring people for [Seeds Podcast](#) and many times it is about the amazing charities and initiatives people are involved in.

The point is clear – charities play a vital role in our communities and step in to provide services and support that Government does not. Unfortunately, this narrative can be switched quickly when there is an aberration and the 0.01% of charities who have something negative happen get highlighted as the norm. So we need to tell more and more good stories of positive impact to outweigh the unusual negative examples.

It's also perhaps worth noting that it is in our Kiwi DNA to be humble about charitable involvement. Yet we know through interacting with many in the sector just how much great mahi does get quietly done out there. It really is the glue that helps hold a functioning society together. Perhaps this positive attribute of being humble also serves to hurt the sector as many others may not appreciate how much good mahi does go on every day?

We need to celebrate and talk about the good that they do in our society – why not choose someone inspirational or a charity doing good work and do a post about how they have impacted you. Go on, shout out someone or a group and spread the word about their 'why'.



## What Charities do: The anchor of Charitable Purposes

Our current accepted views of charity traces its origins back to the 1601 Statute of Elizabeth, which was interpreted in the judgment of Lord Macnaghten in the Pemsel case to identify four 'heads' of charity. The definitions of what is charitable are based on being in one of these categories:

- the relief of poverty;
- the advancement of education;
- the advancement of religion; and
- other purposes beneficial to the community

That last one is not as wide as it sounds – usually it is paired with one of the others. These categories have been in place for a long time and in our view there is no need to revisit them (a topic for another paper).

Some charities might do the mahi/work themselves and some might fund the work of other charities by grants or donations to them.

The point of this is just because there is something "nice" being done it is not necessarily charitable at law. It is a rigorous process to become accepted as a registered charity. This provides a safeguard for ensuring that charities operate within an agreed framework and there are appropriate checks and balances to ensure they are remaining charitable.

It may be that those regulatory checks and balances need an adjustment to address the very small percentage of situations where things go wrong, if this is indeed the main concern. This would be a better focus than concentrating on taxing charities. This should go hand in hand with allocating enough funding to allow Charities Services to have a dual role – first in its regulatory function and second, to be even more active in promoting the sector in positive ways and educating people about how they should operate in charities.

One of the biggest challenges we find when talking about charity is that what is considered charitable can mean different things to different people often based on their backgrounds and life experiences. This can strongly influence perceptions.

As a result, we observe that sometimes when people have issues with charities and/or the treatment of them, what they are actually concerned with is what is considered a charitable purpose at law.

Take the advancement of religion for example. It is at law clearly considered a charitable purpose. Yet if you were raised in a secular family with no exposure to the benefits of religion then you may struggle to see why a religious organisation should receive the benefits of charitable status. However, religious charities do more than many might expect – offering youth programmes, counselling, helping the elderly, providing service opportunities and support through the loss of family members or friends, and fostering a sense of community. For those interested in this topic, the recent *Faith in Action* report is worth a look.

The question of whether business income of charities should be taxed is not about, and importantly, should not be confused with, the separate and more fundamental question of whether advancing religion should continue to be considered charitable at law in 2025. That is an entirely different and much more fundamental question.

## The exemptions they are granted

*"In this world nothing can be said to be certain, except death and taxes."*

*Benjamin Franklin, 1789*

The Government supports the work of charities in a few different ways, with one of the most important being the granting of registered charity status. This status confirms that a charity has met the rigorous application process to be considered charitable at law. It then becomes listed on the very thorough Charities Register. This is possibly one of the Government's best publicly available and searchable databases.

This helps pour sunshine on registered charities and ensures a standard of transparency which assists with accountability. While many of the public may never access this register, the fact that a registered charity has had to attain and then maintain the Charities Services registration requirements provides general comfort to the public that a registered charity's status is validly charitable.

However, one of the other main differences, and more of the topic that inspired this paper is the Government, on behalf of the general public, granting charities a tax exemption on passive income and business income and the possibility of being a 'tax donee organisation'. Being considered a donee organisation allows those who donate to the charity to receive back 1/3 of what they gave (incentivising the initial and further donations to the charity).

This means no tax flows to Government on donations a charity receives or on any income it derives from the charity's passive investments, or the active investments, efforts, and risk taking of running a business. That latter point is the one that we will consider more in this paper.

## Philosophy of why we do this

*"Unfortunately it will only be when they are gone that we will truly understand the positive impact of Charities on society, socially, economically and environmentally. Let's hope we don't have to find out that way."*

*Israel Cooper*

One way of looking at this is that the Government by granting registered charitable status, and hence these exemptions, is just being an administrator for the general public (the "collective us") and saving them the time and administration of doing their own due diligence in assessing every charitable good cause. The Government also funds the regulation of registered charities to ensure they are playing by the rules.

Ultimately any Government is supposed to be an expression of the "collective us", albeit the choice of Government only comes around once every 3 years. Hence sometimes the collective us needs to speak up when Governments act in ways that many in the public disagree with.

As regards tax, charities are not taking advantage of a loophole. They are granted these tax exemptions in recognition of the positive work they do in the community for the good of all.

No matter what the flavour of the Government of the day, it is fair to say that governments want the outcomes of what charities do. Governments want these services to be provided as they assist a well-functioning society.

Charities that are close to the issues, often run by passionate committed individuals, many of whom are either partially or in some cases completely volunteering their time, also tend to be very effective and efficient at helping address the issue. Especially in comparison to direct Government intervention attempts to address the same issues which often prove to be more expensive and less effective.

If the charities did not exist, then there generally would be even louder calls on the Government to provide and/or fund those services. Hence by supporting charities with some tax exemptions, as well as assisting public trust and confidence via appropriate regulation, a Government should actually be achieving a great value result. Both financially as well as in terms of addressing the issue at hand.

It is not fair to compare a charity with a company because it is extremely difficult for a charity to go out and raise money from investors. In other words, there is limited access to capital and so the tax exemptions help offset that deficiency in the charitable model.

Additionally, charities often struggle to compete for attracting and retaining the human capital they need to run their operations as For-Profit competitors tend to be able to pay more.

At a philosophical level it is important to remember that tax is imposed on individuals or companies by reference to their private gain where they are getting wealthier. This is different to a charity which is set up to benefit a class of people who need help – that is, for public benefit. So there is not 'lost' tax as funds that flow to a charity from business must ultimately go towards the public benefit rather than increasing an individual's wealth.

In that sense it is not a 'concession' granted, because there is no personal gain, which is normally what tax is focussed on. If there are occasional issues with this it is about the levers to ensure the rules are followed rather than moving to tax business income of charitable entities.

Just because a charity receives tax exemptions does not mean that the funds it has raised are Government funds. They were donated to advance a particular purpose with governance in place to ensure that happens so it should not be for Government to say how and when those funds are used.

One other point here is that some commentary has made reference to a large untaxed profit by charities, but the information used to calculate that was not accurate. As Dr John Godfrey pointed out *in a blog post*:

*We must hope the Minister's thinking is not based on a ludicrous Radio New Zealand (RNZ) report on Charities' \$2 billion in untaxed profits. The reporter reached that figure by subtracting the charity expenditure from the charity income disclosed in the latest **Charity Services annual report**. Overlooked from that crude analysis is how much of that \$2 billion represents non-cash items such as charities' reserves, income received for future year expenditures, and other provisions none of which would be subject to income tax.*

Increasingly there is a shift to professionalise those who serve in governance of Charities. This can be *seen in recent changes* such as expanding the definition of who is an Officer of a charity as well as spelling out the duties of Officers in the new Incorporated Societies Act 2022.

Amendments to the Charities Act also mean that those in governance need to confirm that their rules are fit for purpose (our view is this extends to policies not just Constitutions and Trust Deeds). So, we are asking more of those in governance and should let them consider and try different funding sources, in order to better advance charitable purposes.

## Funding sources – traditional and new

***"Never depend on a single income. Make an investment to create a second source."** Warren Buffett*

A charity's primary purpose is their charitable purpose.

Charities do not exist with the core focus of income generation and profit seeking that commercial entities do. However, as fundamental as the concept of gravity, a charity cannot exist and be effective unless it has a sustainable income source or sources. While they do not exist for profit, all charities need sustainable income sources to operate.

Traditionally charities have been established by caring individuals or groups largely focused on the issue the charity exists to address rather than the mechanics of running a sustainable enterprise. As such many traditional charities have heavily relied on the charity of others for their operational funding.

Over time some charities have become sophisticated at how they successfully appeal for funding. This gives them a little more security of funding. However, many have not. No matter how sophisticated in approach, an appeal for funding remains an appeal to the largesse of others.

There are certain funding sources for charities which it is possible to categorise. In our view these move from an Oliver Twist "please, can I have some more" traditional approach to newer ways of approaching this such as impact investing or creation of businesses. Put at a high level we suggest there are the following sources of funding:

- private individual donors,
- philanthropic grants from trusts, foundations, and occasionally business,
- government (or private) contracts for service,
- interest and earnings on investments (could be shares in another business), and
- business operations.

Interestingly only the last one provides a charity with a high degree of self-control as an income source yet also comes with higher risk.

Each of these funding streams has unique pros and cons. Some of these include:

Appealing to private individual donors requires good communications and fundraising systems. Having a large base of individual small regular donors can provide some protection from rapid changes in funding.

But it is a funding stream highly sensitive to the quality of the communication and systems, as well as the state of the economy and personal finances, and topics de jour.

Philanthropic grants can provide larger amounts of funding from a smaller number of targets which can sometimes mean less effort to secure. But this funding source commonly suffers from the "all eggs in one basket" risk – when the grant funder decides to cease funding and/or fund something else then the impact on the recipient charity can be immediate and extreme.

Government contracts tend to be subject to politics of the day and the state of the government's finances. They also suffer sometimes from stifling, and at times frankly uneconomic, levels of bureaucracy regarding applying, performance, and accountability requirements. Added to this occasionally is the challenge of not being fully funded to provide a required service on the expectation that the charity will be able to raise some other funds somewhere else. A common gripe of charities is receiving funding for direct services but with no appreciation or funding of the indirect costs that are still required to operate the charity in order to be able to provide direct services.

To earn income from investments, one must firstly have investments! This commonly raises an ethical dilemma for charities regarding how much of their financial resources should be used for charitable purposes today compared to reserved for future generations? To earn significant income, charities also need a significant amount of capital locked away in these investments. Then there is the issue of how much investment risk is prudent to accept for a charity? And on top of all this is the performance of the economy which will in turn impact any returns on investments. Charities also don't benefit from any imputation credits as a for-profit investor would i.e. share dividends paid with tax already deducted as they have no income tax to offset this deduction against.

Operating a business involves all of the operational and market risk of providing a commercial product or service.

Operating a business also requires initial capital investment and ongoing working capital to be funded by the charity. As has already been noted, unlike commercial entities, charities are unable to easily raise capital from the markets as private companies can. However, operating a business does enable significant direct control over this income generation source and results will generally be determined by the skills applied.

## Business income – Passive vs Active

Business income can be seen to fall into two main types; passive or active.

The most common form of passive investment for those charities fortunate enough to have funds to invest would be an investment by a charity into financial products such as bonds, equities and term deposits via a fund managing entity. For-profit fund managers fall over themselves to attract this investing business. These investments are usually of a conservative risk appetite due to charity governing body's concerns over protecting their financial capital.

Albeit, as we have previously mentioned, depending on how the investments are undertaken, charities investing in shares may be disadvantaged by not being able to get the benefit of tax paid dividends as they have no income tax to offset it against.

There is a long history of these types of passive investments in financial products and it appears accepted and non-contentious.

Active investment in contrast is direct investments in establishing or purchasing and then running a business directly.

Oddly attitudes towards active investment appear much more contentious and largely appear to be fuelled by an argument of threats to competition by for-profit competitors. We explain more about this later in this paper.

From a policy and principle basis we are perplexed as to the different attitudes towards passive and active business income.



## Innovation and sustainability

*"Necessity...the mother of invention."*

*Plato*

A principle question for our country is: Do we want our charity sector to be innovative, self-reliant, and able to fully focus on positive impact? Or do we seek to impose a very traditional paternalistic old school view of charity on them for ever more?

No matter what the flavour of Government, all profess to want to encourage innovation and self-sustaining solutions for the achievement of better results. In our experience, they understandably, would prefer others to pay for this.

Governments being bureaucracies at heart are not known for their innovation. Nor for brutal efficiency demanded by necessity.

Charities being resource poor but led by passionate committed individuals often achieve outsized positive impact. Amazing results achieved on what looks like the "sniff of an oily rag" as grandma used to say. But in being resource poor they also usually operate with a pervading existential risk – especially when their funding is reliant on the charity of others and hence outside their control.

Relying on the charity of others also commonly reinforces a deficit mentality which in turn can stifle innovation. Innovation is key to discovering new and better ways to achieve positive outcomes.

Yet, despite this and having constrained funding, charities can and do achieve some incredibly positive impacts – remarkable given the challenges they face. Their strong focus on a compelling purpose drives effort, and inspires commitment.

Sustainability of funding is key.

Throughout history business has been a major deliverer of innovation and advancement. The capitalist pursuit of profit has fostered invention, innovation, and the often brutally efficient delivery of products and services to market, all driven by a motive to maximise profit.

Sadly though, sometimes the brutal efficiency and focus of businesses to maximise profit has resulted in collateral damage and issues subsequently requiring addressing by governments or charities.

In our experience, some of the best performing and hence most positively impactful charities have managed to get the best of both worlds. The efficiency and focus of a commercial business approach married with the heart of a charitable purpose.

In our view there are two types of situations where business income is relevant to charities. The first is where a charity comes up with a business idea that directly advances its charitable purposes. The second is where it invests in an unrelated business to derive income then applies the surplus from that to fund its charitable purpose.

The first type has the benefit of directly, or sometimes indirectly, addressing the issue for which it exists to address while at the same time providing funds for other interventions to deliver on its charitable purpose.

Consider the example of a waste minimisation charity that exists to reduce waste, educate and encourage waste minimisation, recycling and other related interventions that runs an opportunity shop selling recycled or rescued products. Any surplus it makes from operating its shop helps fund other non-funded initiatives and innovations the charity delivers. It also provides the added leverage of being a valuable use for what would otherwise be costly waste to dispose of, and to provide education.

While in theory this situation sounds ideal, commonly these types of businesses are not always economically viable on a standalone financial analysis. In many cases they are in effect subsidised by other activities of the charity. As such they are often only justified only if there are sufficient other direct leverage benefits for achieving the charity's overall charitable purpose.

On a standalone financial basis many such charitable businesses at best make a breakeven or a small operating surplus. As such the income tax "lost" to the Government via this charitable exemption could in fact be minimal.

The second type of charitable business operation tends to be the result of charities that have seriously grappled with the challenges of sustainable funding and options open to them. From a pure economic analysis these charities have determined that developing and/or purchasing, and then operating a standalone business is the best use of their capital and resources.

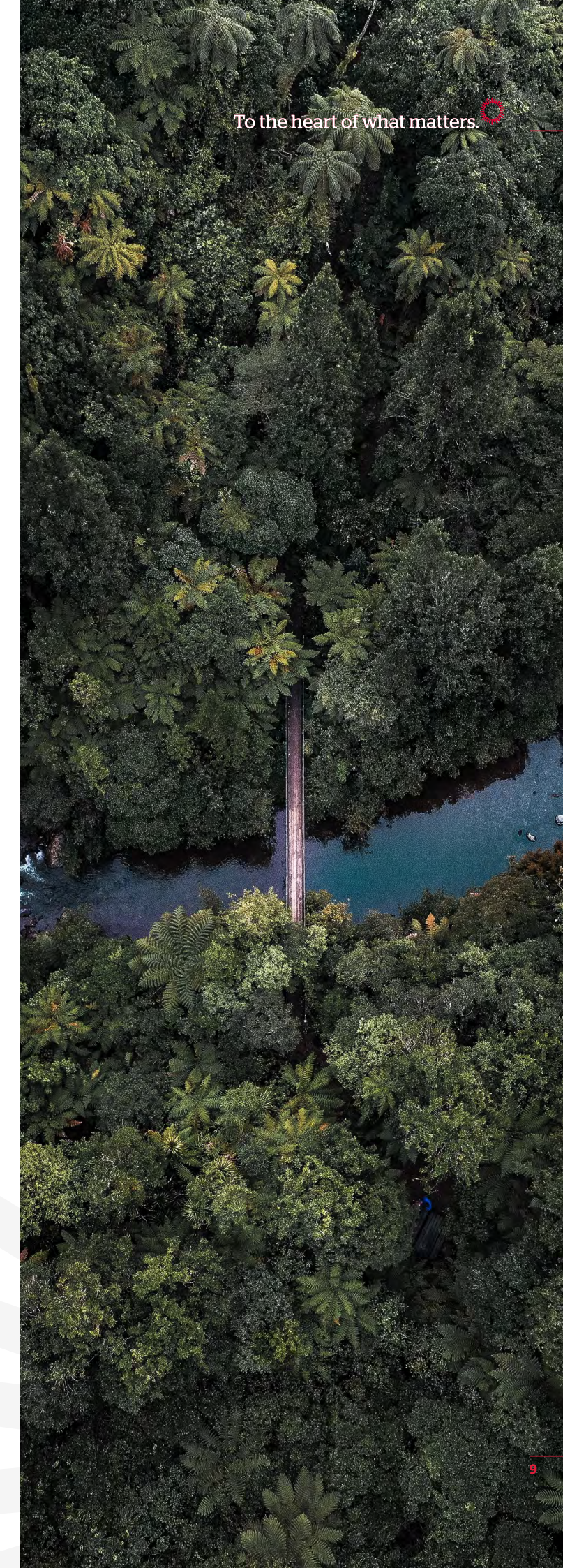
Ownership and funding are from the charity, and all profits (although generally termed surpluses in the charity world) including any reinvestment needed for continued business operating health, are ultimately directed to the charitable purpose. While never without risk, and not to underestimate the challenges of being in the market with For Profit businesses, this gives charities operating businesses the most control over their future income flow.

This approach also generally fosters innovation.

It does seem somewhat perplexing to the authors that recent announcements to consider the taxing of charity business income are coming from a government that is investing in a new social investment agency. This agency's stated aims include a focus on outcomes, supporting social system innovations to deliver better and to work with local community providers. Yet any changes to the taxing of charity business income is likely to impede innovation and weaken some of the very local community providers the agency intends to work with.

To echo how we started this section – a key question for our country is; Do we want our charity sector to be innovative, self-reliant, and able to fully focus on positive impact? Or do we seek to impose a very traditional paternalistic old school view of charity on them for ever more?

To the heart of what matters.





The pandoras box of taxing charities income

So, lets trace how we got here.

The idea of introducing tax on business income for charities has been brewing for a number of years.

Most recently we can trace it to the Tax Working Group report that was released in February 2019 where there was a section in their recommendations for further consideration. It is really what kick started the policy review and where we are at now 6 years later. The initial briefing paper *in chapter 16* had more details but the final report mentioned these points, reproduced in full below.

Our view is that any change will open up the pandoras box and could lead to additional future changes and on balance it is better not to go down that road.

Statements in Tax Working Group Paper on business income (2019)
38. The Group received many submissions regarding the treatment of business income for charities and whether the tax exemption for charitable business income confers an unfair advantage on the trading operations of charities.
39. The Group considers that the underlying issue is more about the extent to which charities are distributing or applying the surpluses from their activities for the benefit of the charitable purpose. If a charitable business regularly distributes its funds to its head charity, or provides services connected with its charitable purposes, it will not accumulate capital faster than a taxpaying business.
40. The question, then, is whether the broader policy settings for charities are encouraging appropriate levels of distribution. The Group recommends the Government periodically review the charitable sector's use of what would otherwise be tax revenue, to verify that the intended social outcomes are actually being achieved.
41. In this regard, the Group notes that other countries, such as Canada, have introduced regimes where all registered charities are required to spend a minimum amount each year on their own charitable activities or on gifts to qualified donees (for example, other charities).

The Competition argument explained

Competition can be fierce in the for profit ecosystem. The main argument from competing for-profit businesses appears to be that because a charitable business does not pay tax that it will undercut competitors. We have not seen any studies that show this.

In Australia when this was looked into in the *Henry report* in 2009 they concluded at page 209:

*“In relation to pricing, NFP organisations, like for-profit organisations, will seek to maximise their profits in support of their philanthropic activities. Accordingly, it appears that the income tax exemption does not provide an incentive for NFP organisations to undercut the prices of their for-profit competitors; rather, NFP organisations follow the same pricing policies as their competitors to maximise their profits.”*

Sanitarium, a business 100% owned by the Seventh Day Adventist Church, is possibly the most commonly cited example of being able to operate unfairly as it doesn't pay income tax whereas its for-profit competitors do.

These authors have no relationship or involvement with Sanitarium but hear this example so often that we thought it interesting to explore further. Albeit, we note that this is just one situation and don't wish to put all charitable businesses in the same basket.

We are unaware of any studies into competition and pricing in the breakfast foods sector in New Zealand. Unscientifically we haven't observed any extraordinary price differences on the supermarket shelves. It doesn't appear that Sanitarium products are the highest price or the lowest – in other words not undercutting competitors or overcharging consumers.

While Sanitarium is commonly given to us as an example of unfair advantage, frustratingly there never appears to be any substantive detail provided to support this claim.

To assist readers to think about this competition argument more deeply we make the following observations:

- Sanitarium's financial results are required to be disclosed publicly annually as part of its Charities Register filing. This is unlike most (all?) of their non-charitable competitors. The disclosure is part of the overall Seventh Day Adventist charity's group reporting. In our experience, for-profit businesses vigorously resist suggestions of disclosure of their own financial results as this would be “commercially sensitive”.
- As a registered charity of scale their annual financial statements are also required to be independently audited to assure readers of their reliability. This is not the case with most of their for-profit competitors unless they are publicly listed companies.
- While Sanitarium does not pay income tax, they do pay payroll tax for all their employees as well as GST on all their business activity. In the author's experience unlike income tax which can vary significantly from year to year, these two other forms of taxation are much more consistent and often significantly exceed any income taxation.
- As a business Sanitarium appears to be generous donors of their product towards food poverty schemes. From their 2024 annual financial statements: “Sanitarium supported the community directly through the donation of 9.5 million serves of healthy food in 2024, compared to 8.2 million in 2023.” Additionally, this information has been independently verified as due to its size the charity is required by legislation to be audited each year.
- One of the author's children have every year participated in the Weetbix “Tryathlon” where thousands of children across the country are given a chance to try swimming, running and cycling – no placings or winners, everyone “Trys” and all who finish get a medal and encouragement to a healthy exercise filled lifestyle. Since 1992 when it began more than 450,000 children have been part of it.
- Another initiative is Kickstart Breakfast: “KickStart Breakfast is available to all primary, intermediate and secondary schools and operates in over 1400 schools, serving over 195,000 breakfasts each school week”. 70 million breakfasts have been served in the last 15 years.

- As a registered charity that is also a company Sanitarium is subject to a greater degree of regulatory oversight than a for-profit company. i.e. the same as any other company as well as the oversight of the charities regulator.

## Accumulation

As noted above by the Tax Working Group paper, concerns have been expressed by the levels of accumulations of funds by some charities. Importantly this only relates to a relatively small proportion of the registered charity population.

Most charities we talk to would love to have the “problem” of accumulating funds!

As noted previously, charities have a financial sustainability challenge. If their funding is predominantly dependent on the charity of others, then they always face a potentially existential sustainability risk. One solution to this is to accumulate some funds to cover for that “rainy day”, and ideally to also earn some operating income from. However, in doing so charities tread a number of tightropes between:

- spending on charitable purpose today vs creating a fund to be able to continue to operate and deliver on charitable purpose into the future; and
- Being “seen” as poor and needing charitable funding vs being seen as having funds accumulated and therefore not needing funding.

Some other countries enforce requirements for certain charities to spend down a certain percentage of their capital accumulations each year. However, given the huge variety in charities, as well as the varieties in their chosen theories of change (i.e. their operating philosophy and approach), putting a generic blanket over the whole sector is likely to cause significant unintended consequences.

While mooted for possible legislation change in NZ in the most recent update of the Charities legislation, we think a sensible pragmatic result was landed upon in requiring improved disclosure and hence increased transparency and voluntary accountability.

The recent change is that new annual return forms for charities ask large charities to explain why they are accumulating funds.

In its annual report Charities Services says: “By specifying their reasons, charities can show they are using their funds wisely, not just storing money without a clear plan. Previously, charities only reported the amount saved. This change helps reassure donors and the public that funds are managed responsibly and support the charity’s mission.”

In line with the adage that “sunlight is the best disinfectant” we think this is a sensible approach. A well-functioning and well-led charity should be able to clearly explain why it exists, the scope and scale of the need, and how it operates to meet that need. This will allow those that support it to form their own informed view regarding their ongoing support.

It also should allow the charities regulator to more easily monitor this area for any concerns. However, this does assume that the charities regulator is appropriately resourced to actually perform a critical review for the ongoing trust and confidence in the sector.

A footnote on accumulations and perceptions. We find it interesting that charities seeking to build charitable reserves (i.e. funds to passively invest) is a reasonably well accepted traditional governance strategy. Yet, the reality of a prudent investment portfolio is that the capital to be invested needs to be of considerable scale to actually generate any significant income that can then be used to fund operations.

### A WORD ON WORDS

We are starting a movement and you are welcome to join us – why do we talk about the “*Not for profit*” sector. That starts with a negative word, and is in relation to profit, as if that is what was the most important thing. Instead we prefer “*For purpose*” and you are welcome to join our movement to use that terminology too. More on this is [here](#)

## Genuine Consultation

*To go fast, go alone - to go far, go together. African proverb*

Most charities are busy delivering on their charitable purpose. As a generalisation they are usually heads down trying to use their limited resources in the most efficient and effective way to create the biggest impact. Unlike large for profit corporate interests, they do not generally have the capacity nor employ the specialist capabilities to closely monitor and strategically lobby on matters that may impact their sector. Again, and unlike large for profit corporate interests, charities do not generally choose to apply their limited resources to funding co-ordinated sector advocacy groups. As a result, the potential for unintended adverse consequences of rushed legislation or regulation changes in the charitable sector is perhaps greater.

A less consultative approach might be faster, but we suggest it would be a fast track to complexity and cost. Not to mention unintended consequences.

New Zealand’s tax system when compared with many of its overseas counterparts is often considered elegant in its simplicity, and hence, and importantly, its efficiency.

You only have to compare the GST system of NZ to that of Australia to appreciate the benefits of simplicity. Our GST was introduced before Australia’s and our Labour Government of the time resisted the political calls for hosts of exemptions. As such it works well and is efficient. Australia didn’t follow New Zealand’s example, and their introduction was subject to considerable political influence which resulted in numerous exemptions. The result is complexity and additional costs on administration of which the Australian accounting profession are probably the only winners!

## An accounting perspective (Craig)

As a former audit, assurance, ethical and professional standard setter for accountants both in NZ and representing NZ internationally, as well as being actively involved in the development of accounting standards, I can attest that New Zealand has high quality reporting standards in place.

We partake in the development of and adopt international best practice and also are unafraid to develop our own when international standards have been found wanting or deficient.

This includes having sector specific standards that more appropriately recognise the differences of for-profit and for-purpose entities. In this regard New Zealand has traditionally been a leader and innovator.

High quality reporting standards assist trust and confidence.

For charitable entities the standards of disclosure imposed are relatively high and their annual financial statements required to be publicly available - A point raised as costly and unfair by some charities! However, this follows the philosophy that NZ charitable and other public entities owe a duty of accountability to the general public for any public funding or exemptions granted to them and/or any public funding received.

In addition, the threshold for registered charities to be independently audited is relatively low. A mandatory audit is another impost on charities not shared by most for-profit entities. But again, this follows a principle of transparency and accountability to help maintain public trust and confidence in the charitable sector.

A significant New Zealand example of reporting innovation is the requirement for registered charities to now report on their Service Performance i.e. what they set out to achieve and what they have actually achieved. This reporting encompasses non-financial and financial reporting. In essence this type of reporting is seeking to help charities communicate their positive impact and in doing so continue to engender stakeholder support.



This reporting innovation recognises that unlike for-profit organisations, charitable entities exist with a primary purpose of delivering on their charitable objectives. Yet for years they had been required to report using standards more appropriate to for-profit entities which led to some unintended negative consequences.

From a financial perspective, we would be very interested in estimates of income tax “lost” from firms like Sanitarium as to my knowledge of auditing corporates often the GST and Payroll tax take exceeds income tax. Also, if Sanitarium wasn’t the one making weetbix, it would likely be by a foreign owned multinational and most of those entities in my experience profit shift to the very edge of the law via various transfer charges resulting in limited income tax impost.

From a commercial viewpoint, if increasing taxation revenue is the government’s primary issue then surely there are much greater targets in New Zealand such as grappling properly with taxation on capital gains? Both from a cost benefit analysis, as well as the not inconsiderable risk of expending of political capital perspective.

If the perceived bad behaviour of what is likely to be a very small number of charitable entities is the government’s primary issue, then surely the answer is to appropriately empower and appropriately resource the regulator to better investigate and take action.

## A legal perspective (Steven)

In my view the legal safeguards around charities and their use of funds are sound. They come in the form of the purposes that the charities must advance. There cannot be private gain, instead funds must be used for the purpose – it is just a question of timing of when that happens.

Charities which are innovative and looking for sustainable funding streams may invest in companies, may start their own ventures, may collaborate with others in **impact investing** – all this should be encouraged. It leads to a healthier ecosystem and less reliance on Government to provide services to the most vulnerable.

I’d also like to see more of a focus on training and education for those in governance of charities – we assume by joining a board people will ‘download’ knowledge but they need resources. That is one reason I’ve been hosting the Institute of Directors podcast on governance called **Board Matters** (the latest season is about creating safe spaces in the Boardroom).

Company reform is also planned soon as the Companies Act 1993 needs a refresh. There are 731,000 registered companies but unlike charities we do not require any of them to state their purposes or mission (a Constitution is not compulsory). The social license to operate for companies should not be so freely given out and we should expect more of companies like we do from charities.

## Reporting on impact

Reporting on impact is an increasing trend for charities and also across many types of reporting entities whether they be Government or for-purpose. This is logical as these organisations do not exist with a primary purpose of creating profit. Rather they exist for a purpose and hence their reporting should focus on how impactful they are in addressing that purpose.

Interestingly this trend is also happening in some areas in the for-profit sector as well, largely as a marketing initiative or way to shore up a for-profit company’s social licence to operate.

New Zealand has been world leading in requiring our registered charities to start to report on their impact via a Statement of Service Performance, i.e. what they set out to achieve and what they have achieved. The reporting requirements re mandatory but reasonably flexible recognising that there is a huge variety in charities, and they should have some flexibility in how they best tell their story in a way that best reflects them.

This reporting is in its early days but already it is helping some organisations better focus on impact, and by communicating to its stakeholders more clearly, engendering better stakeholder support.

Importantly, and in line with a principle of transparency, it also helps stakeholders better assess what a charity is delivering to allow them to make up their own minds as regards ongoing charitable support. This is in line with a relatively light hand approach to regulation putting the onus on the charity to report.

As is a common refrain in this sector: Sunlight is the best disinfectant.

## A way forward

Messaging from the Government about potential taxing of charities to date has been brief and unspecific. This has caused fear, anxiety, and a fair amount of emotion within a sector that is generally under resourced for what it is trying to address.

► **Good clear communication along with appropriate consultation will go a long way to bringing the sector along with any eventual changes.**

The issue to be fixed has not been named. Is this a government revenue concern? Or is it an abuse of charitable status concern? Or is it something else? Without clear issue definition any solution is generally more like a shotgun rather than the precision of a .22 rifle.

► **Clear problem definition is essential to avoid adverse unintended consequences.**

Our current charities law and regulation is in many respects very sound. If there is a failure allowing a very small number of rogue charities to abuse this then the issue is probably more one of resourcing the existing regulator, or prioritisation of effort with their limited resources.

► **In our view Charities Services has been tasked with a lot but needs additional resources to properly fulfil its role and be a proactive enabler for registered charities and advocate for the sector.**

The brutal reality for Governments is that the less healthy the charitable sector then the more that falls directly on the Government. The Government’s ability and success at funding and delivering services directly in turn carries significant political implications.

► **If the Government truly wants to support a vibrant, healthy, and innovative charitable sector, then reducing their flexibility at achieving financial sustainability by taxing business income seems counter to this aim.**

Numerous documents and rhetoric from the current and past governments recognise and acknowledge the fact that community entities close to their communities are generally much more efficient at addressing issues than Government departments.

► **Supporting community entities to be successful, which includes policy settings to assist ensuring their financial sustainability, is a cost-effective solution for any Government.**

While the charity sector is without the financial resources and lobbying power of for-profit organisations, charities touch a huge proportion of the New Zealand public. This is an economically significant sector when one considers number of entities, number of people employed, number of people who volunteer, number of people and issues served, and the funds that flow through the sector for charitable purposes.

► **Support for charities should not be underestimated nor the potential political distraction that an aggrieved public outcry may generate.**



## Resources

### PAPERS

[Charting the Future: A Framework for Thinking about Change](#) by Craig Fisher and Steven Moe.

Dr Lester Salamon, 'Putting the Civil Society Sector on the Economic Map of the World' [PUTTING THE CIVIL SOCIETY SECTOR ON THE ECONOMIC MAP OF THE WORLD - Salamon - 2010 - Annals of Public and Cooperative Economics - Wiley Online Library](#)

["Laying Foundations for Reimagining Business"](#) book of essays by Steven Moe

[Legal Handbook for Charities](#) in New Zealand

[Not-for-Profit Cash Reserves](#) – NFP Insight - CA ANZ

Summary of [Charities Act changes](#)

[Impact Investing resources](#) including legal opinion on why Trustees should consider that more

JB Were Cause report: [JBWere NZ Cause Report 2021 » JBWere](#)

[Board Matters](#) governance podcast (the latest season is about creating safe spaces in the Boardroom).

### RECENT POSTS ON THIS TOPIC (the comments are worth reading)

Steven Moe post on Charities and Consultation [https://www.linkedin.com/posts/steven-moe-0b3b008a\\_charities-are-essential-yet-often-forgotten-activity-7274865844151590912-FJ28?utm\\_source=share&utm\\_medium=member\\_desktop](https://www.linkedin.com/posts/steven-moe-0b3b008a_charities-are-essential-yet-often-forgotten-activity-7274865844151590912-FJ28?utm_source=share&utm_medium=member_desktop)

Sue Barker and 10 reasons <https://www.linkedin.com/pulse/ten-reasons-why-we-should-tax-business-income-charities-susan-barker-ixemc>

An article focussed on Sanitarium by Liam Hehir called Cereal killers: Why taxing charitable businesses is a recipe for cutting community services, not creating fairness. <https://thebluereview.substack.com/p/cereal-killers>

Dr John Godfrey blog post [The Taxman Cometh](#)

### SOME RELEVANT FEEDBACK AND PERSPECTIVES FROM POSTS

*These are responding to this post Steven Moe put on LinkedIn end of 2024:*

Feels like a creeping negative narrative around Charities and the role they play - anyone else noticing that? Seems timely to share [this article](#) penned for Stuff during Covid as all true today. I know many of you tautoko/support this, but some reminders:

1. Charities are essential and provide services that support our communities
2. They are innovative and make do with little, and should be applauded for seeking income streams for sustainability so they can advance their purposes (and often such initiatives themselves advance the purposes too)
3. The message should be: Thank you Charities for all you do!
4. Any changes should have proper and meaningful consultation with the sector to ensure the focus is right and to avoid own goals (reduction of service offerings as less income available, so more costly govt input needed)
5. In a vacuum without detail on what tax changes might be it's supremely difficult to helpfully comment
6. Also, without details it builds distrust for all charities as negativity is given an open pass to comment on aberrations characterised as the norm, which is unhelpful to the 99.9% of charities that do so much good in a hurting world
7. It also opens a Pandora's box to start down a path of taxing businesses owned by charities where profits go towards advancing their purposes - even those in favour of some tax probably don't intend for local op shops owned by a charity to be included, but where is the line...

Am working on a paper probably for late January with the always insightful [Craig Fisher](#) outlining in much more detail the philosophical clashes and issues really going on here - if you'd like a copy when it's done (or to help review a draft) drop a comment below and will add you to the list.

And here is a simple idea: Could you take 30 seconds to share a positive story of a charity or person in one you admire, to counter negativity - or feel free to adapt this post to help spread the word?

Here are some comments which help provide different perspectives.

**Laura Black:** Generally, I'm of the view that legislating against a couple of outliers will always punish the mainstream with perverse incentives, and almost certainly won't work: by definition the large players able to indulge in bespoke arrangements to minimise tax exposure etc, will always be able to afford the folks who can find a loophole or an arrangement to their benefit. But the bureaucracy that legislation always seems to create will cost the rest of us in time and paperwork in ways that will generate no positive benefit, and risk considerable wastage.

**John Godfrey:** We, Aotearoa fail to have a mature informed discussion around charities partly because, in my view, unlike many other countries, we lack any tertiary education centre for charity and nonprofits research and education. As a result, even those of us who work in the sector are ill-prepared to explain and defend it.

We also lack a strong and united sector voice; hardly surprising given the heterogeneity of charities and nonprofits, which include the full range of organizational types from local sports groups to universities. These both being the case, it is extremely difficult to present a strong case against policy proposals which often draw on ill-informed populist criticisms.

An independent charity commission, such as exists in other countries such as the UK and Australia, would also be conducive to independent advice being given to government.

**Sue McCabe:** Just want to reinforce your point number 3 "The message should be: Thank you Charities for all you do!". And it's great to see a strong response to these Govt suggestions and looking forward to your paper. Sadly the sector isn't well resourced to undertake the time consuming reactive advocacy Govt after Govt requires of them year in and year out just to stay in the same place.



It would be cool if this scarce resource could instead be put to progressing opportunities for the sector to have even greater community impact, or even innovating!

**Israel Cooper:** Unfortunately it will only be when they are gone that we will truly understand the positive impact of Charities on society, socially, economically and environmentally. Let's hope we don't have to find out that way.

**Angela Norton:** Thanks Steven for these great reminders! I couldn't agree more. Every time I meet with member charities or those starting their journey with us, I'm deeply moved by the incredible work they're doing to support communities, both here at home and around the world. I'm also inspired by the everyday Kiwis and supporters who give their time, finances, and advocacy to champion these causes. Their contributions are so crucial—without their support, these organisations can't continue their mahi and create the positive change we all hope for.

**Ryan Jones:** I'd love to see your written paper when it's finished Steven. I think that there are many charities that truly deliver on their core purpose, however like all things, there may be some who, to quote Eric Hoffer, have degenerated into a racket also. Charities should be lean and efficient and deliver value and effectiveness to their given cause, and I think Charities Services should take a more active role in monitoring charities to ensure that they are delivering against their purpose and obligations.

**Robyn Scott:** We at the J R McKenzie Trust have the privilege of supporting many who work super hard every day to support those who may need a hand up / rather than judging people who might need a bit of a lift we should remember the old adage 'therefore by the grace of god go I' - we just never know when or someone we care about we might need a bit of a hand - 🙏🙏🙏 for all those many charities in NZ currently adding huge value to Aoteroa - for just how much have a peek at JBWere New Zealand various reports on value of the charitable sector and charitable giving. John Morrow

**Kate Vennell:** So many mixed messages at present. On the one hand seeking to reduce the size of the state and fill gaps with "social investment".

On the other pulling the rugs by sudden decisions to stop funding, and a left field proposal on tax changes. Strategically we have a golden opportunity to grow philanthropy with the wall of money flowing to the next generation. Let's nurture our charity sector.

**Loudon Keir:** Steven Moe when we started The Hāpai Access Card as a charitable business we were determined that we would strive not only to be self sufficient, but also to be able to distribute a surplus. While we are still someway off, we are generating an income of \$60k PA, and will break even in a couple more years, unless of course tax is applied. Being registered for GST, but being a manpower intensive business, means we already are net contributors to the tax coffers. We are grateful to Assura Software for financial support and free software, Microsoft Google and Canva for free software, and others for discounts, to Christchurch City Council for their provision of refurbished ex-council laptops and to Kilmarnock Enterprises for a low rent with access to meeting facilities. We are also thankful for Volunteering Canterbury and the volunteers that come via them. Plus we are thankful for our board who give their time and expertise. Wendy Alexander (She/Her), Karla Gunby, Nini Smith, Tim Jones - That B Corp Bloke, Shannil Varma, MBA, Bob Shearing, Bill McElhinney, Ruth Keating, CMInstD, Mike Bourke. And lastly gratitude for the support of our Patron, Sir David Carter KNZM

**Nives Botica Redmayne:** it seems to me that desperate people do desperate things. Looking for every scrap of revenue (including taxing charities)? Only goodness knows why anyone would not be celebrating charities and assisting them in what they do given how much charities and their volunteers and private donors assist in making NZ a decent and (still) caring country/society.

**Russell Garrett:** Thanks Steven Moe for calling this out Couldn't agree more. Unless the good stories are shared, all we hear is the negativity (and there seems to be so much of that about, whatever the topic). There's a real risk of the baby going out with the bathwater here. The irony is of course that the government cut social services and expected charities to step in. Now it's beating up on charities. How to turn social need into revenue for tax cuts in two easy steps. Keen to support your paper.

**Tim Hughes:** I will look forward to reading your paper Steven. It almost seems Shakespearean (or is that Douglas Adams?) - bad news is the only thing that travels faster than the speed of light - , some real balance in the narrative would be great.

But yes: there is a gestalt around apparent abuse of tax free status, or outright fraud in a few charities getting air time out of all proportion. The "own goal" seems by far to be the most likely outcome, absent some thorough thinking. I'd love to see a good argument to the effect that investment in effective charities (even by government) is economically effective, not to mention, simply decent. It is certainly true.

**Carl Sunderland:** I think it was you Steven Moe who mentioned our previous Finance Minister's acknowledgement that this country relies on the generosity of strangers. But yet, no government has ever supported the sector. I use that quite a bit in my own writing. I'm on your mailing list and always interested in anything you and Craig Fisher produce. Looking forward to reading it.

**Rob Campbell:** I'm reserved and suspicious. There may be some misuse of "charitable" exemption. But in reality we need more businesses operating with charitable purpose.

**Kim Harvey:** So many of our fellow citizens would not eat if it weren't for our food banks and food rescue charities. I wish that they weren't needed because everyone had enough to thrive, but as our system currently does not support that, I am incredibly grateful for the organisations who support anyone who needs it.

**Wendy Bremner:** This is true. People who work in charitable organisations are predominantly there for a purpose, to make a difference, to give back. So many volunteer in governance roles, advisory roles and operational roles. The cost of doing business has increased for charities as much as other businesses and finding funding is more competitive. Think about charities who support us throughout our lives from those who focus on physical, mental, and spiritual health to those who focus on protection from abuse, support in a crisis, or supporting carers.

Those who help people who experience the worst time in their lives, people trying to become free of their addictions, helping vulnerable and marginalised individuals, those who teach us about arts and culture, those who want to help us have a healthy planet, those who care for animals and forests and so many more. We need to value the role of charities in our societies and support them not make it harder to exist.

**Nathan P:** It's the disconnect between old and new wealth, historically the privilege was tied with an obligation to society. Mysteriously even new wealth of the past century was brought to this realization. Currently, the extraordinarily wealthy boomers represent a boon to the wealth of charitable organizations. However, as new wealth increasingly flexes their influence on the scene, old habits are fast to perish. Issues with rising inequality and wealth concentration have compounded the decline in available resources. Charity faces increasing financial constraints in the coming decades. It's difficult to imagine the impact this will have on broader society.

**Tom Brady:** It is important that we don't allow it to become a money conversation. The desire to help and to fulfil the needs of others is deeply human. Charities are organisations responding to needs - usually needs of people who have fallen through the gaps. In today's world, their effectiveness is often 'measured' in terms of the money, yet that is incidental to the work and impact. With money involved, we are led to believe that only outside regulation can provide the trust that the money is being used well. However, the more we structure charities to look and act like the institutions that created gaps, the less effective they are likely to be.

**Brian Lacey:** 100% agree with your post and the commentary. Great fear of the oak tree being felled because of 2-3 perceived bad acorns. Looking forward to your paper.

**Vicki-Anne Parker:** As a founder of a small grass roots charity that has existed since 2019 with little to no external funding like places like lottery etc. We've been grateful to the likes of TC Transcontinental Packaging, Christchurch Casino, Christchurch City Council, Strathlachlan Women's Fund and some other small \$500 donors we would not exist.

We have had to think outside the square make items by our volunteers to sell at markets to fundraise as every man and his dog books in for the weekly sausage sizzles at bunnings and mitre 10 so you have to think of ways of generating enough income to survive. We have never had any paid staff to keep costs down. But we can't compete with the bigger charities with huge marketing budgets, celebrities fronting them etc. Yet some of us smaller charities are doing essential work eg smaller food banks, mine providing healing tote bags for youth aged 13 to 17 in the wider Canterbury area affected by sexual harm having a forensic medical at the Cambridge Clinic the same place adults do (Canterbury has the highest statistics for this). We do the hard yards, think of ways to generate income whilst it's currently under \$60k eventually I can see they will come after us to and at that stage how many of us will go.

**Amanda Fraser-Jones:** Running a charity in a sector that is often overlooked for funding as it's not human based is hard. If they make it any harder many of us will be forced to shut, which would be sad indeed. We run using innovative ideas for fundraising and begging for almost every cent. The majority of grants are unavailable to us, so we do what we can. Any surplus at the end of the year is for emergencies, which happen a lot in my industry.



Charities provide the services to those who need it, so unless the government plans on doing it themselves they need to give us support to keep doing what we do. I'm from [Chained Dog Rehabilitation & Rehoming NZ](#).

ABOUT THE AUTHORS

Craig Fisher FCA

Craig is a Consultant and a professional director with a strong interest in governance, audit and assurance, and sustainability of impactful organisations. He is a Fellow Chartered Accountant with 30 years of public accountancy experience, a former Audit Partner, and the former Chairman of the RSM New Zealand group. Passionate about a strong and healthy Aotearoa he holds a diverse range of For Purpose governance roles and provides governance and other consulting services.


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Steven Moe

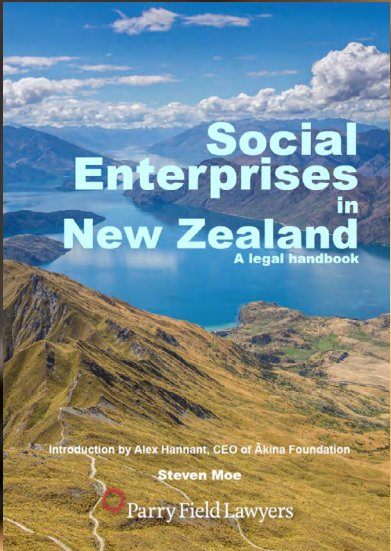
Steven is a Partner at [Parry Field Lawyers](#) leading the Impact Team, with 25 years experience. He has worked as a lawyer in Wellington, London, Tokyo, Sydney and Christchurch. He hosts [Seeds](#) with 425+ interviews of inspiring people and for the IOD [Board Matters](#) on governance, and is Chair of [Community Finance](#) (impact investing). He shared some of his journey in 6 minutes [here](#).

His LinkedIn profile has more:  
<https://www.linkedin.com/in/steven-moe-0b3b008a/>

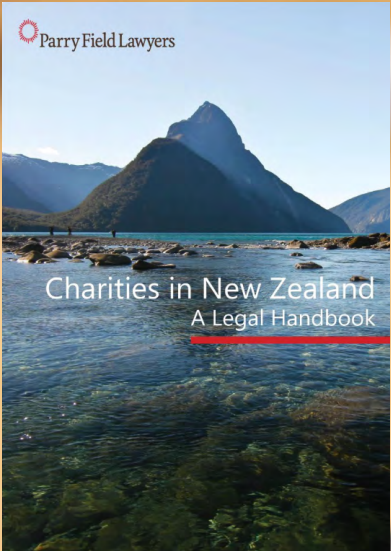
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Governance



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Part 3/6  
People



Charities Healthcheck  
For the charities in Aotearoa  
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Part 4/6  
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# Comments on IRD Consultation Paper

## Issues Paper on Taxation and the not-for-profit sector

This document has been prepared to provide an overview for the session on 10th March 2025 at noon where we (Craig Fisher, Jenny Gill and Steven Moe) will be discussing the IRD consultation paper and the 15 questions it contains.

- Summary of conceptual key points – positive and negative
- Which Charities are affected by the Consultation Paper?
- Conceptual thoughts
- Run down on specific issues
- Summary of thoughts for each of the 15 questions

[Click here](#) to watch the recording of the session.

Our thanks for their input to: Matthew Wall, Toni Owen, Peter van Hout, Derek Caudwell, and John Godfrey.


For additional background we suggest: This is the link to our earlier [briefing paper](#) and the video of our earlier session on it + overall context is [here](#). Also, more info [here](#) (including charity health checks) and our earlier Charting the Future paper [is here](#).



 [Steven Moe](#)

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 [Craig Fisher](#)

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# Part 1: Summary of conceptual key points

## Positives:

1. The issues paper is relatively narrow in its focus
2. Well explained – even supportive of the sector in places
3. It's stated objectives of “simplifying tax rules, reducing compliance costs, and addressing integrity risks” are great objectives. They deserve supporting. But the devil is in the detail. Submitters will need to refer back to those objectives and see if they are in fact likely to be met.
4. Provides a fantastic opportunity for charities to positively communicate & reinforce their value, and that of the sector, to NZ society

## Negatives:

1. An overall reduction in support for the sector (“thin end of the wedge” inroads argument re Govt support of the sector)
2. A complete absence of costings/estimates of how bad issues are, and/or of the compliance cost impacts of proposed changes. Given this is framed as a stopping abuse/revenue issue we believe cost benefit analysis is essential.
3. Moves us further away from a simple tax system – which has been a strength of our system in NZ.
4. Doesn't address unintended consequences/longer term likely impacts e.g.:
  - Makes it harder for charities to achieve financial self-sustainability if not allowed business income
  - How much revenue will be gained by Govt vs how many additional services will Govt need to fund if charities are less sustainable? Flows on to a political calculation for Govt regarding do positives outweigh negatives?
  - Is Govt likely to fill unmet social need if less ability for charities to?
  - Will proposed changes simply result in other structures or approaches to the issues – e.g. giving funds to charities to reduce profits
5. Still get a sense this is very directed at a few charities that the IRD may believe are clearly ‘taking the mickey’ on the current settings – concur with action being taken on that - but how is important. Taking a blanket approach via taxation concessions, if in fact the core concern is abuse of charitable status under the Charities Act, is likely to cause more damage than benefit due to flow-on unintended consequences.

## Part 2: Which Charities are affected by the Consultation Paper?

It is likely that many different classes or types of charity will be impacted if changes that are hinted at are implemented. Here are some examples:

Charity Type	Why impacted?
All Charities	<p>Underlying this is a conceptual framework that perpetuates an approach to charity that they should be dependent on donations and handouts rather than seeking to diversify and be encouraged to look for diverse sustainable income streams.</p> <p>Also, the door opens here – if changes are implemented which will lead to higher compliance costs for charities and likely minimal revenue for Government, then what is to stop additional future changes to tax passive income or related business income?</p>
Charities that own businesses	<p>The focus is on taxing those entities who may have “unrelated” business income when compared to their purposes e.g. if a charity owns a company or has an interest through another mechanism in a business operating in another area. How would this be defined is a complex big question.</p>
Donor controlled charities	<p>This is where a person or a family sets up a charity and that entity then interacts with other businesses or entities associated with the family’s holdings. It is proposed that there are changes for these which might include how they relate with other entities in a group. There are also some references to requirement of minimum distributions (other countries do this) so that assets are not just accumulated and hence not used for the charitable purpose.</p>
Charities that issue donation receipts	<p>There are some questions about how the tax donations regime works and way that it could be improved e.g. allowing for claims to be made sooner than the end of financial year – these are positive ideas and could impact these charities as it may encourage people to give more.</p>
Mutuals and societies, credit unions, vet services, science bodies etc	<p>There is a section of the paper talking about these and similar entities where “...income tax exemptions available to NFPs that appear to have become out-of-date and may not be fit for purpose today.” These groups should read and consider the implications for them or removing the exemptions.</p>
Offshore charities	<p>These charities are less likely to even be aware of this consultation, but non-resident charities may have some removal of their ability to have tax exemption for NZ income.</p>
Charities that have employees with FBT exemption	<p>It is proposed to change the position here for charities so they would be aligned with other entities on Fringe Benefit Tax. Though our view is this likely has logical policy merit, it is something that would adversely impact many charities so should be submitted on.</p>

# Part 3: Conceptual Thoughts

**New Zealand has a relatively simple taxation system.** This is a huge benefit in terms of understanding, cost, and efficiency, and hence adherence. One hopes it is a policy stance that is to be protected. As a rule, exceptions often create complication, cost, and unintended consequences.

The consultation contemplates many new definitions, special rules, thresholds etc all of which require debate, detailed guidance, and could still result in misinterpretation and litigation.

**Charities are recognised as important in NZ.** Aotearoa has more charities (& not-for-profit entities) per head of population than most (all?) of our international peers. This demonstrates the strong level of societal ownership of charities. They have been supported by successive Governments by taxation concessions because all their resources are required towards their charitable purpose and private pecuniary gain is not allowed. 4% of New Zealanders are employed by charities and kiwis also volunteer a staggering 1.4million hours every week.

Charities are recognised for their broad public benefit/impact and absence of private ownership with a 0% marginal tax rate on income received or surpluses generated, similarly to other public benefit entities such as local government.

**Charities are usually highly efficient deliverers of services.** They are close to their communities and due to constrained resources are commonly forced by necessity to be incredibly efficient. They are generally much more cost-effective service providers than direct Govt service provision.

**Absence of charities will fall back on Govt in both cost and political support.** If charities are not providing their services and addressing societal needs, the result will generally become increasingly loud calls to Govt to address the issues that charities used to. This has direct cost implications for Govt – likely to be more than their support of the charitable sector via tax concessions. It will also likely eventually equate to an adverse impact on the political support of the Govt of the day if they are then not seen to be addressing the issues effectively themselves.

**The broader regulatory settings for charities are supportive but there are “tickets to the game”.** Our legislation allows establishment of charities with wide variety and relatively low friction. The quid pro quo is mandatory obligations on charities as to their public transparency. This includes financial reporting and now Service Performance reporting (an attempt to assist communicating impact). This level of public transparency comes at a compliance cost. Generally charities have significantly greater transparency requirements than for-profit entities in New Zealand, most of which have no legislated obligation.

**The curse of unintended consequences.** Due to the very wide variety of type, scale, operating approach of charities and NFP entities in NZ care needs to be taken to carefully consider implications of changes. If the issue is concern over entities abusing their tax concessions, then the first step should always be to:

1. Understand clearly the size of the issue – i.e. How many entities? How much in \$?; and
2. Is this an issue that requires a blanket approach over the whole sector, or is it better addressed via very targeted intervention of those entities suspected to be abusing the concessions?

**The sector is financially fragile.** This statement is a generalisation, but it is fair to say that many in the sector “run on the smell of an oily rag”. There are only 5 main ways that an entity within the sector can raise funds to support its mahi. These are:

1. Donations from individuals
2. Donations from Trusts and Foundations or other philanthropic entities
3. Govt (or private) contracts for charitable service provision
4. Income from passive investment into term deposits, shares, and bonds (assumes the charity has any funds to invest!); and
5. Business operations

1-4 are largely outside the control of the charity. 1-3 are directly reliant on the charity of others. Only the last one provides a charity with a high degree of self-control as an income source - yet also comes with higher risk.

**Charity sector statistics under-report true costs.** Many charities operate with the benefit of considerable pro-bono or semi pro-bono goods and services. Volunteer labour is common as is some people willing to work for less than standard commercial rates due to the charitable purpose. Donated goods and services are commonly either not reflected in financial statements or not at market values. Many leases are provided at discounted or are peppercorn leases.

**Funders want to see financial sustainability of charities they choose to fund.** A common irony of the sector is that funders often only want to fund charities that can demonstrate they are financially sustainable. Yet often the funding provided will not be sufficient to cover full costs of providing the funded service.

**Ensure the medicine fits the illness.** If abuse of tax concessions is the primary issue, then resource the regulator sufficiently to investigate and ensure it can take appropriate action.

**Ensure the correct tool is used for the job.** Provisions/amendments to Charity Law is the most appropriate approach to maintain the social licence and public confidence of the Charitable sector, provided changes do not over-burden the 29,000 charities to address a few bad actors. An entity should be assessed as charitable or not using the Charities Act/Charities Law – not using tax rule changes as a proxy for whether an entity is a Charity.

We would welcome a review of the Act to strengthen the sector and increase its integrity. Albeit we note the last review was very protracted and also very limited in its scope.

**Need to look at both sides of the equation.** With respect this appears to be a one-sided evaluation of the Charitable sector's income tax contribution, i.e. only considering the tax take cost to Government. This approach is not balanced nor evidence-based and inconsistent with the Government's [Statement On Regulation](#) where *the benefits of the preferred option not only exceed the costs (taking account of all relevant considerations) but will deliver the highest level of net benefit of the practical regulatory options available*

# Part 4: Run down on specific issues

## **Charity business tax exemption**

Only unrelated business activities are the focus of this review

1. What is the policy logic of allowing passive unrelated business income e.g. investment in term deposits, shares and bonds etc, but not active unrelated business income?
2. What is the policy logic of allowing related business activity to charitable purpose but not unrelated?
3. How does one define/demark what is considered “unrelated” to charitable purposes? For example, Sanitarium provides healthy food and education around healthy eating and lifestyles. A school provides education as part of its charitable purpose but also has high fee-paying foreign students as an income generation strategy. A charity hospital offers high fee-paying elective surgery operations. A native tree nursery provides trees for ecological restoration but also sells some to the public.

We see this definition and demarcation of what is considered “unrelated” to be highly problematic. It is likely to lead to considerable compliance cost for charities and we suspect for the IRD and DIA Charities Services.

## **Competitive advantage argument**

1. Despite hearing claims from business of competitive advantage of charities we have not seen evidence of predatory pricing examples or independent studies showing this. This has been looked into in Australia with no evidence found.
2. Charities are held to a much higher level of reporting requirements and public transparency which provides a commercial disadvantage compared to any for-profit competitors.
3. Charities reporting requirements in compliance with legislated reporting standards, and often independent audit, depending upon their scale, imposes greater compliance costs.
4. Charities are at a competitive disadvantage due to being restricted in raising finance as they cannot share their profits.
5. Charities are at a competitive disadvantage in investing in shares as they cannot claim the imputation tax credits from tax paid dividends.
6. Charities operating businesses cannot offset losses against future year profits as for-profit businesses can.

## **Reason given for review:**

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

“Whether charity business income unrelated to charitable purposes should be subject to tax therefore depends on the level of support that the Government wants to provide to charities.”



### Response & Implications of proposed change:

1. There is a societal question of should charitable services be provided via charities run by local communities or a Govt?
2. The fiscal cost argument may well be a false economy. It is highly likely that charities are more cost effectively meeting charitable need at present than a Govt could without them. If a Govt doesn't provide services, but has by its support settings reduced charity capacity, then they are exposed to adverse public sentiment and hence political risk.
3. Removing business income of charities impedes their financial sustainability ability.
4. Many charities currently operating businesses are not accounting for their true input costs. If they are required to pay tax they will be entitled to claim all available input expenses, as for-profit businesses do. This is likely to dramatically reduce the business profit and hence any taxation revenue.
5. Reducing the ability for charities to operate businesses is likely to reduce financial sustainability innovation, and by reducing available funding, also reduce innovation in addressing charitable purposes.
6. Reducing the financial capacity of charities is likely to lead to much greater pressure on both Govt and philanthropic entities to fund issues charities are currently addressing.
7. Reducing charities income sources to reliance on the charity of others will lead to more competition between charities for funding, incurring more cost on fundraising which in turn is not available for charitable purposes.

Perhaps an example of the flawed conceptual framework on the issues is shown by the phrasing in paragraph 1.4 of the Issues Paper:

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

This could be alternatively thought of as:

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

### Policy design issues

We agree that distinguishing between related and unrelated business activities will be difficult in practise. Drawing a line in the sand always results in significant issues as to where the line should be drawn. Experience shows that thresholds often promote activities and structuring specifically to avoid exceeding thresholds. Without question, this will result in increases in compliance costs for both charities and the government. Any increase in compliance costs will translate to less funds for charitable purposes.

The simplicity of the New Zealand tax system is one of its most significant features and translates to efficiency. This proposal appears to lessen that simplicity.



### **De minimis for small scale trading activities**

We agree that removing the tax exemption for unrelated businesses will impose increased compliance costs for charities.

In addition to the cost of charities needing to seek appropriate accounting resource, we note that it has become increasingly difficult for charities to find pro bono or semi pro bono accounting and audit resource. This is especially noticeable for smaller charities who may be unable to pay for this.

If the tax exemption is removed, then we strongly support a de minimis threshold being set. An exemption for Tier 3 and Tier 4 charities is logical to reduce the cost impost on the very small. However, without detailed impact analysis provided in the Issues Paper it is difficult to understand how many charities operating businesses would be affected by any proposed changes.

It would be important to ensure any taxation exemption remains aligned with the statutory financial reporting tiers.

### **Relief for distributed business income**

We agree that if the tax exemption is removed for unrelated charity business income that is subsequently distributed for charitable purposes, then it should remain tax exempt. Such a relief system would need to be simple and clear. For example, a donation or dividend deduction.

We note that such a system would however increase compliance costs therefore reducing the overall amount able to be applied to charitable purposes.

### **Other considerations**

We concur with the other considerations listed as all being further complications and complexities that would need to be addressed. This will increase compliance cost for both government and charities, reducing funds available for charitable purposes.

We also note the following issues as considerations that were not raised in the issues paper:

1. The valuation of pro bono or semi pro bono services as input expenses. Labour cost is a significant input expense for any business. Currently many in the charitable sector receive some pro bono or semi pro bono labour. Accordingly, it would be important for charities to be able to claim the true cost of their business in any income tax return. This raises the conundrum for the tax department as to what the appropriate fair labour costs should be.
2. The valuation of other advantageous terms such as peppercorn leases may also need to be considered.
3. Currently there is not a level playing field as regards transparency of reporting with for profit businesses, i.e. charities have to currently meet a higher level of public transparency. Failure to address this issue results in charities being at an unfair competitive disadvantage with for-profit businesses.

## **Donor controlled charities**

We are aware that donor-controlled charities appear to be an area of some growth in recent years in New Zealand. Often these are charitable vehicles for very generous businesspeople and families. However, given the heightened potential for related party transactions and control in a donor-controlled charity situation, it probably does make sense for there to be tax rules that specifically relate to donor-controlled charities.

We concur with the potential areas for abuse as outlined in the issues paper. We do note however from experience that sometimes transactions between the donor and their associates are on terms much more generous and advantageous to the charity than open market terms.

### **Should New Zealand make a donor-controlled charities distinction?**

We find it difficult to answer the question should New Zealand make a distinction between donor-controlled charities and other charitable organisations for tax purposes due to a lack of clarity as to the scale of the issue. If Inland Revenue is aware of significant abuse and that this appears to be a growing problem, then we believe a distinction is valid.

Anecdotally, the authors are aware of donor-controlled charities where the donors continue to willingly provide funding to the charity as donations.

### **Restriction on investments for donor-controlled charities**

Again, if the levels of abuse noted by Inland Revenue are significant then it would appear logical to seek to restrict investments by donor-controlled entities to related entities. Given this issue has been addressed by overseas jurisdictions it would make sense to thoroughly review those experiences as to what has proved most successful, and also what unintended consequences arose. We would not want to disincentivize valid charitable activity in New Zealand.

### **Minimum distribution rule**

We agree that accumulation concern is most heightened in relation to donor-controlled charities as this is the area that could be most likely subject to abuse.

We also note that DIA Charity Services has recently introduced additional disclosure requirements on charities to explain their reasons for any significant accumulation. This helps put a spotlight on and strengthens the public transparency around this issue.

We note the wide variety of charities in New Zealand and differing issues which require immediate action as well as medium term and longer-term actions. Accordingly, it is appropriate for many charities to accumulate some reserves. A good example is Iwi organisations which not only have to address current members but also future generations.

Whether donor-controlled charities should be required to make a minimum distribution each year depends again on how big an issue this is and evidence of any current abuse. We are interested to see some broad consistency in other countries experiences and as such would be interested to understand what lessons and consequences have arisen in those jurisdictions.

## **Integrity and simplification**

We are strong supporters of initiatives to improve both integrity and simplification in any system. However, the devil is always in the detail, and it is important that appropriate consideration is also given to unintended consequences, and whether any changes disincentivize and/or weaken our charitable sector.

## **NFP and friendly society member transactions and related matters**

We note that the \$1000 deduction seems both small and a very old number. As such if this is designed to remove small scale in NFPs from the tax system it will likely require increasing.

## **Income tax exemptions**

We note there are a range of specific tax exemptions for unique circumstances and suspect these may have been implemented in a different era.

It is difficult to comment without knowing more of the detail of the specific areas.

However, if the scale of the issue warrants it then it would make sense to review these cases and ensure they are as much as possible in line with other policy settings and that any policies in relation to them are appropriate for the current environment.

## **Fringe Benefit Tax exemption**

We appreciate the rationale of introducing and maintaining the FBT exemption to support the charitable sector. This has indeed allowed charities to offer more competitive remuneration packages at a lower cost to the charity allowing them to attract appropriate labour resource. It helps them compete with the for-profit sector. That also increases funds available for charitable purposes and reduces compliance costs.

The most common fringe benefit that is provided in the charitable sector appears to be the private use of a charity owned vehicle to employees.

However, we also appreciate the core policy rationale behind FBT is to ensure that remuneration paid to employees is appropriately taxed on a fair and equitable basis. As such we can see that the FBT exemption in the charitable sector distorts this policy. The likely implications of removing or reducing the exemption for charities will be significant for some charities in their ability to compete for appropriate labour resource with the for-profit sector. It will also increase compliance costs in accounting for any fringe benefits that may still be provided.

### **Tax simplification**

The simplifications introduced for FENZ volunteers appear logical.

In relation to extending this as an option for all NFPs, our question would be; has this worked appropriately for FENZ? And have there been any unintended consequences?

### **Donation tax concessions**

We are aware of the low numbers of people that claimed their donation tax concessions.

We appreciate this potentially reduces the amount of public donations that can be recycled back into the charitable sector.

We are also cognizant that donation tax concessions reduce the overall tax base.

The policy related recommendations proposed appear to be sensible initiatives to help increase the uptake of donation tax concessions.

# Part 5: Summary of thoughts for each of the 15 Questions in Tax Consultation paper

Chapter 2: Charities business income tax exemption	Thoughts to ponder for submissions
<p><b>Q1.</b> What are the most compelling reasons to tax, or not to tax, charity business income? Do the factors described in 2.13 and 2.14 warrant taxing charity business income?</p>	<ul style="list-style-type: none"> <li>• Taxing charity business income discourages them from being innovative and seeking sustainable income streams</li> <li>• It will increase compliance costs while not actually increasing revenue by that much</li> <li>• It perpetuates a view of charity that donations are their only domain</li> <li>• Won't this open the door to other changes e.g. why not tax passive income from investments in funds which are unrelated to the charities purposes?</li> </ul>
<p><b>Q2.</b> If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what would be the most significant practical implications?</p>	<ul style="list-style-type: none"> <li>• How to define what is "unrelated" would be challenging.</li> <li>• Wouldn't a company just find other ways to do the same thing e.g. donating out profits to the charity, so it wasn't taxed – so what is gained?</li> <li>• What are the objective measures and figures on these proposals, how much is even involved?</li> </ul>
<p><b>Q3.</b> 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?</p>	<ul style="list-style-type: none"> <li>• Make sure it is truly unrelated if this is a criteria that is to be used e.g. a charity that focusses on housing poverty and runs a social housing company would be related.</li> <li>• How will a meaningful definition be made of non-business vs. business income (for example, what about passive investments) and also related and unrelated business?</li> </ul>
<p><b>Q4.</b> 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?</p>	<ul style="list-style-type: none"> <li>• Consider your context and how this line might be drawn.</li> <li>• Monetary limit?</li> <li>• Tier 3 and 4 charities (the smaller ones) being exempt?</li> </ul>

<p><b>Q5.</b> If the tax exemption is removed for charity business income that is unrelated to charitable purposes, do you agree that charity business income distributed for charitable purposes should remain tax exempt? If so, what is the most effective way to achieve this? If not, why not?</p>	<ul style="list-style-type: none"> <li>• While this seems logical it begs the question as to what is being achieved as wouldn't a business just do this?</li> <li>• If this were not allowed, then would it impact on charitable giving from non-charity businesses as well reducing the amount they give</li> </ul>
<p><b>Q6.</b> 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?</p>	<ul style="list-style-type: none"> <li>• This will increase compliance cost for both government and charities, reducing funds available for charitable purposes.</li> <li>• The valuation of pro bono or semi pro bono services as input expenses. Labour cost is a significant input expense for any business. Currently many in the charitable sector receive some pro bono or semi pro bono labour.</li> <li>• Accordingly, it would be important for charities to be able to claim the true cost of their business in any income tax return. This raises the conundrum for the tax department as to what the appropriate fair labour costs should be.</li> <li>• Currently there is not a level playing field as regards transparency of reporting with for-profit businesses, i.e. charities have to currently meet a higher level of public transparency. Failure to address this issue results in charities being at an unfair competitive disadvantage with for-profit businesses.</li> </ul>
<p><b>Chapter 3: Donor-controlled charities</b></p>	
<p><b>Q7.</b> Should New Zealand make a distinction between donor-controlled charities and other charitable organisations for tax purposes? If so, what criteria should define a donor-controlled charity? If not, why not?</p>	<ul style="list-style-type: none"> <li>• Very unclear extent to which this is a major issue, or if there are just a few examples or instances.</li> <li>• Will a distinction be helpful or add additional complexity without much real impact?</li> </ul>
<p><b>Q8.</b> Should investment restrictions be introduced for donor-controlled charities for tax purposes, to address the risk of tax abuse? If so, what restrictions would be appropriate? If not, why not?</p>	<p>As above</p>
<p><b>Q9.</b> Should donor-controlled charities be required to make a minimum distribution each year? If so, what should the minimum distribution rate be and what exceptions, if any, should there be for the annual minimum distribution? If not, why not?</p>	<ul style="list-style-type: none"> <li>• Perhaps policy question should be whether this should apply for all charities not just donor-controlled?</li> <li>• To determine the figure perhaps continue with looking at what is done in other places.</li> </ul>

Chapter 4: Integrity and simplification	
<p><b>Q10.</b> What policy changes, if any, should be considered to reduce the impact of the Commissioner's updated view on NFPs, particularly smaller NFPs?</p> <p>For example:</p> <ul style="list-style-type: none"> <li>• increasing and/or redesigning the current \$1,000 deduction to remove small scale NFPs from the tax system;</li> <li>• modifying the income tax return filing requirements for NFPs; and</li> <li>• modifying the resident withholding tax exemption rules for NFPs.</li> </ul>	<ul style="list-style-type: none"> <li>• Many of these points will be specific for small charities and mutuals so consider your context and if it will impact your situation.</li> <li>• As a policy point, these smallest of small charities probably won't be aware of the consultation or have the capacity to review and submit on the points raised.</li> <li>• We note that the \$1000 deduction seems both small and a very old number. As such if this is designed to remove small scale in NFPs from the tax system it will likely require increasing.</li> </ul>
<p><b>Q11.</b> What are the implications of removing the current tax concessions for friendly societies and credit unions?</p>	As above
Income tax exemptions	
<p><b>Q12.</b> What are the likely implications if the following exemptions are removed or significantly reduced:</p> <ul style="list-style-type: none"> <li>• local and regional promotional body income tax exemption;</li> <li>• herd improvement bodies income tax exemption;</li> <li>• veterinary service body income tax exemption,</li> <li>• bodies promoting scientific or industrial research income tax exemption; and</li> <li>• non-resident charity tax exemption?</li> </ul>	<p>These are quite specific provisions - for those mentioned it could have big implications so suggest if you are one of these entity types consider submitting on how it would impact your ability to operate.</p>
FBT exemption	
<p><b>Q13.</b> If the compliance costs are reduced following the current review of FBT settings, what are the likely implications of removing or reducing the exemption for charities?</p>	<ul style="list-style-type: none"> <li>• This does make policy sense but if your charity will be impacted greatly then suggest you explain how and why.</li> <li>• The likely implications of removing or reducing the exemption for charities will be significant for some charities in their ability to compete for appropriate labour resource with the for-profit sector. It will also increase compliance costs in accounting for any fringe benefits that may still be provided.</li> </ul>

Tax Simplification	
<p><b>Q14.</b> What are your views on extending the FENZ simplification as an option for all NFPs? Do you have any other suggestions on how to reduce tax compliance costs for volunteers?</p>	<p>This is not an issue we have seen talked about regularly before as an issue.</p>
<p><b>Q15.</b> 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?</p>	<ul style="list-style-type: none"> <li>• These seem like sensible suggestions so worth endorsing and adding any other suggestions on improving donation tax credit system.</li> <li>• Perhaps due to so many steps there is a lot unclaimed – there is the lag of giving, getting a donation receipt, then claiming at year end (easy to lose receipts, forget to claim).</li> </ul>

Wow, you made it all the way to the end, nice work! :-)

We really hope this helps you understand this issue better and urge you to make a submission as it relates to your circumstances. For democracy to work effectively it requires participation and people's voices being heard. Charities speaking up about the important work they do, and implications that changes in support via taxation will have, is critical for the current Government to hear. And for future Governments.



## **Submission on Taxation of Charities and the Not – for Profit Sector**

Please accept this submission in response to the consultation paper on Taxation and the Not-for-Profit sector.

New Zealand has long adopted a policy of providing tax concessions to charities and not-for-profits (NFPs) that support organisations that provide public benefit, in particular, those enshrined charitable purposes of enhancing education, relieving poverty, enhancing religion and other purposes that are beneficial to the New Zealand community. Primarily in response to the questions in Chapter 2 of the consultation paper:

1. Charities provide funds that Government either does not support, or does not provide sufficient support. To remove the support that is provided to charities, by taxing charities, will undermine the sustainability of charities. This will make it harder for charities to contribute to fund their clear charitable purposes.
- 2. Taxation of Business Income:**
  - a. The non-taxation of business income allows charities to build a stable financial base. This allows them to grow and continue to their charitable activities. Government should ensure that funds are directed towards New Zealand's charitable purposes; assets derived from the non-taxation of charitable income should be utilized in New Zealand and not allowed to accumulate.
  - b. Charities should be able to structure themselves in ways that make them less dependent on donations. Business activities achieve this aim.
  - c. Inland Revenue should continue to monitor the business activities of charities to ensure that charitable funds directly benefit the tax-payers of New Zealand.
  - d. Any direct taxation of charitable income, should be substituted with the equivalent amount being distributed towards an entities charitable purposes and therefore benefit New Zealand tax-payers.
  - e. Any benefits over taxation entities would therefore be minimal.
3. The impact of any changes to the existing tax exemptions should be carefully thought through. Changes could extend beyond existing charities to include gaming trusts, universities and asset-holding charities that provide significant funding for sports, arts, cultural and welfare organisations i.e. entities that support the New Zealand tax-paying community. Consider what would be lost if charities are substantially less sustainable by them becoming taxable in whole or in part.

### **Changes required:**

4. All New Zealand registered charities should be required to use 100% of their charitable income within New Zealand. This will benefit all New Zealand tax-payers and relieve Government of having to totally or in-part directly fund charities.
5. New Zealand registered organisations seeking charitable donee status for overseas activities, should only be those on the Governments Schedule 32 of the Income Tax Act 2007.

*John Holden*



New Zealand, Fiji, Tonga  
& Samoa Territory

My name is Sera Tolo together with my colleague, Ritihia Leilua work with The Salvation Army at Tokoroa Corps for 2 years and 10+ years. We are writing to share our thoughts on the proposed tax changes affecting charities and not-for-profits.

1. The Salvation Army Tokoroa Corps was established on the 30<sup>th</sup> of June 1974 and has been existence in the Tokoroa community for 51 years.
2. Tokoroa has a population of 14,500 (June 2023) – European/Pakeha – 59%, Maori – 42.7%, Pacific Peoples – 4.2%, Asian – 1.4% and 13.3% other ethnicities born overseas.
3. Tokoroa is the hub of NZ's massive forestry, timber and pulp & paper industries. The economic life of Tokoroa is forestry, dairy farming and little businesses with major food outlets, Woolworths and New World.
4. Tokoroa is a low socio-economic town where unemployment rate is 6.3%. Additional to the 6.3% was the 230 people employed at the Kein Leith Mill had now lost their jobs.
5. The median household income is below poverty line ranging from \$20k-\$31.8k per annum. The national median household income is \$122,500 almost 4 times greater than that of Tokoroa.
6. The Salvation Army Tokoroa has been providing a plethora of services for our little community. In the last 2 years now, we have been focussing on food support through our Foodbank service which we operates 4 days a week.
7. Due to the extreme cost of living, food increase costs, families/individuals we support are struggling to survive.
8. There has been an increase of people using the Foodbank service. It's not only people who are beneficiaries who come for food parcel, we also find people who are employed in full-time work.
9. Statistics gathered from December 2023- March 21, 2025, showed that we had provided 1033 food parcels to 393 individuals/families who had come in for assistance.

10. Currently there are only 2 Foodbank services that are now in operation in Tokoroa. A major one BBM is now closed, people who always been assisted are now using our services. One of the Foodbank has limited provision for food to the people, since then we have now seen the increase with the number of people we assist.
11. In the last 12 months, we do stock up our foodbank for about 2-3 week due to the increase of need, we do need to stock up weekly so that we can meet up the need of food for our community.
12. Donations received from the Family Store financially supports us and keep our operation going.
13. If TSA get taxed, this will impact the service we provide which will be devastating to the people we serve. This limits the service we provide or may be not functional anymore. The increase of financial, social, psychological and emotional issues these leads to.
14. If our services and supports are not present or are significantly limited here in Tokoroa due to your proposals, there would be an increase in need in the community. The fallback will result in the government having to step in add fill these gaps often a greater cost.
15. We recommend that additional burden around tax is not placed on the charity sector and churches because we carry out this work with limited funds and limited resource but with a heart to serve our communities and see family's flourish.
16. If you would like to speak to us about our work and the difference we make in this community, feel free to contact us.



# *Bay of Plenty Officers' Club (Inc)*

Clubrooms: Classic Flyers NZ  
9 Jean Batten Drive, Mount Maunganui

Mail: c/- Classic Flyers  
Tauranga 3144

18 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](mailto:policy.webmaster@ird.govt.nz)

Dear sir

## **Submission on the IRD's Proposal to Tax Incorporated Societies**

### **Introduction to the Bay of Plenty Officers' Club Incorporated**

The Bay of Plenty Officers' Club Incorporated (BOPOC) is a not-for-profit incorporated society with 37 current members. They mainly reside in Bay of Plenty area with some further afield.

The BOPOC was established in 1956 to maintain, develop and improve relations and comradeship of all members of the Club. Membership is encouraged for any person of good character who is an officer, retired or former commissioned officer of a New Zealand or other friendly nation, as well as officers of the NZ Cadet Forces. Associate membership has been extended to the spouses of members. The Club has continued to function as on-going fraternity mainly for retired and serving military officers and their spouses.

In June 2021, the Club could no longer use its old clubrooms due the building compliance downgrade of the NZ Defence Force building where it was located. The Club subsequently signed a Memorandum of Understanding with Classic Flyers Aviation Museum to provide a venue, to exhibit Club records and memorabilia, hold regular monthly Club Nights and stage other events in exchange for a regular set of new patrons at the café and the events areas. These events are funded by those members attending. Membership subscriptions are used to cover operating expenses, which are offset by modest income from interest on savings and a term deposit investment, with last year's operations making a profit of \$471.

Since 2018, the Club has convened an 'Les Munro Speech Competition'. This is an annual contest of the champion speakers from the three Tauranga-based NZ Cadet Units. Speakers are required to deliver a speech on a preset topic, as they compete for the Les Munro Trophy for their unit. In conjunction with several others sponsors, Club partly funds prize money for competition, as part of our youth outreach initiative.

**BAY OF PLENTY OFFICERS' CLUB INCORPORATED**

**NZBN: 9429042591955**

<https://officers-club.org.nz/>

The Club will seek Reregistration as an **Incorporated Society** in June 25 following AGM approval of the new constitution. As noted in its annual Financial Statement dated 21 June 24, with cash assets of \$15.7k the reregistered Club would become a 'Small Society' as defined in the: 'Financial reporting standards for small societies'.

### **Our Opposition to the IRD Proposal**

BOPOC strongly opposes the IRD's proposal to tax incorporated societies by removing the current tax exemption granted to the Club.

This exemption recognises the importance incorporated societies have to their members and contribution to the wider society. With a not-for-profit motive, the Club has faithfully served its members continuously for 69 years. This can be attributed to successive Club committee members serving solely on a voluntary basis. No payments or honorariums are made to Club committee or other members for their services, who give their time freely in these endeavours and any costs are often absorbed personally.

Since its establishment in 1956, the Club has appreciated the Tax Exemption provided under the current tax framework for Incorporated Societies like as ours. The proposed framework outlined by Simpson Grierson provides a useful summary of the possible tax impacts on the activities being undertaken by other Societies in NZ. This opinion is just that and each Society will need to comply with any changes that are made.

In seeking to reregister to conform to the corresponding 2022 Act, we will continue to maximise our Club's meagre income, where all our efforts are done by volunteers. Specifically, we seek the retention of simple but responsible and open accounting requirements. As any tax change will incur a cost to comply with the necessary rules and necessitate the engagement of engagement of professional accounting services. This would place an unnecessary burden on our already modest means.

As a Small Society wishing to remain viable, we submit the validity of the current Tax Exemption for the Bay of Plenty Officers' Club Inc be **Retained As It Is**.

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

Yours sincerely,

s 9(2)(a)

Des Underwood  
Treasurer Bay of Plenty Officers Club Incorporated  
s 9(2)(a)

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# Kindergartens Aotearoa

Kaitiaki Kindergartens  
PO Box 35223, Browns Bay, Auckland 0753

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28 March 2025

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

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

**Reference: Taxation and the not-for-profit sector**

Tēnā koutou katoa

Thank you for the opportunity to provide feedback to the IRD Issues Paper: *Taxation and the not-for-profit Sector*.

## **Introduction:**

Kindergartens Aotearoa [KA] is a collective of Kindergarten Associations operating over 260 licensed centre-based and home-based early childhood services across the country<sup>1</sup> catering for over 12,000 tamariki each day. We also provide social services to many families and young people in our regions. Our culture is one of inclusivity and professionalism, focused on the child and family. Our Kindergarten Associations operate solely for New Zealand charitable purposes, and each Kindergarten Association is registered as a charitable entity under the Charities Act 2005 with New Zealand Charities Services.

## **Statement:**

KA supports the continuation of the tax exemption status given to Kindergarten Associations for net income derived from their charitable activities. We also strongly advocate for retention of the current status of not paying fringe benefit tax on benefits provided to employees to support them in carrying out the work to advance Kindergarten Associations' charitable activities.

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<sup>1</sup> Our services are located in communities on the Hibiscus Coast north of Auckland, Cormodandel, Bay of Plenty, Murupara, Wairoa, Napier, Taranaki, Whanganui, the Central Plateau, Horowhenua, Wairarapa, Whanganui-a-Tara, Christchurch metropolitan area and greater Canterbury District, the West Coast of the South Island and Central and Southern Otago.

The “Taxation and the not-for-profit sector” 24 February 2025 officials’ issues paper states the reason for the review is:

*“Reason for review:*

- 2.15 *The fiscal cost of not taxing charity business income unrelated to charitable purposes, particularly income that is accumulated is significant and is likely to increase. Tax concessions for unrelated charity businesses, reduce government revenue, and therefore shift the tax burden to other taxpayers.*
- 2.16 *Whether charity business income unrelated to charitable purposes should be subject to tax therefore depends on the level of support that the Government wants to provide to charities.”*

Kindergartens are very different to commercial businesses with charitable purposes who accumulate large assets and financial reserves which appear to be unrelated to their charitable purposes. Kindergartens by way of contrast do not operate commercial businesses which are unrelated to their charitable purpose or from the communities that they serve. Kindergartens’ income generating activities are related to, and directly invested in, their charitable purposes and activities. Any accumulated reserves are required to ensure the financial prudence and viability of the Kindergartens for the direct and ongoing benefit of the communities they service. Any business related income that Kindergartens may generate, directly benefits the communities they serve and is tangible, obvious and usually immediate.

#### **Ownership of Kindergartens Aotearoa Member Associations:**

All KA member Associations are community owned with no private ownership and therefore no benefit to private individuals arising from Association activities. This differs from the commercial ownership/private benefit focus of many others in the early childhood education sector. In this context, and in the context of the principle focus of the IRD paper, Kindergarten Associations do not derive income from business activities unrelated to their charitable purpose.

Having made it clear that KA does not believe its Kindergarten Associations have any significant activities producing income that is unrelated to their core charitable purpose, we do however provide comments on matters raised in the IRD paper.

#### **Introductory Comments:**

##### **(a) Unrelated Income**

The focus of this review relates to unrelated business activities however what is considered to be unrelated is highly problematic. The demarcation of what is “unrelated” is likely to lead to considerable compliance costs for charities and we suspect for the IRD and DIA Charities Services.

It is difficult to assess the value of taxing unrelated income without knowing how big the issue is and what the unintended consequences/longer term likely impacts would be, such as:

- Will it be harder for charities to achieve financial self-sustainability?
- How much revenue will be gained by Government vs how many additional community services will government need to fund if charities become less sustainable?
- Is Government likely to fill unmet social needs due to lower income, if there is less ability for charities to meet their needs?
- Will proposed changes simply result in other structures or approaches being used to get around the taxation issues?

The time that it would take for a charity to accumulate tax free profits to become a competitive advantage against a for-profit operator would be more than offset by the speed and ease with which commercial/for-profit entities can raise capital, which mitigates any potential for a charity to obtain a competitive advantage.

KA agrees that if the tax exemption for unrelated business income is removed, any unrelated business income distributed for charitable purposes should remain tax exempt. This would encourage charities to distribute surpluses rather than rewarding the retention of any surplus. In addition KA proposes that any unrelated business income used in the execution of its charitable purpose should also be tax exempt.

There are however practical issues with this, as in most cases the surplus will be generated in one tax year and all or part of the distribution will be completed in the next financial year or years, and at that stage the amount to be distributed may not be determined. To overcome this issue the accounting standards for charities will need to be revised to include a provision for the accrual of any charitable payment that is expected to be paid in the next and or subsequent financial years.

It is noted that the current regime for charities require a significantly higher reporting requirement and assurance than for private businesses to ensure public transparency of funding and fund utilisation.

**(b) Fringe Benefit Tax**

The implications of removing or reducing the exemption associated with fringe benefit tax settings will be significant for Charities in their ability to compete for appropriate labour resource with the for-profit sector. There will also be increases in compliance costs in accounting associated with the implementation of FBT.

**(c) Blanket or Targeted Approach ?**

Is this an issue that requires a “blanket approach” over the whole not for profit sector, or is the issue of tax avoidance better addressed via very targeted intervention aimed at those entities suspected to be abusing their tax concessions? We consider it is the latter.

If tax avoidance is the primary issue, the regulator needs to be appropriately resourced to investigate and to take action. Genuine charitable organisations, would in our opinion, whole heartedly support this approach and believe it would avoid any unintended consequences that may flow from a “blanket approach”.

Whatever approach, blanket or targeted, must be balanced, evidence based and consistent with the Government’s Statement of Regulations *where the benefits of the preferred option not only exceed the costs (taking account of all relevant considerations) but will deliver the highest level of net benefit of the practical regulatory options available.*

**About Kindergartens Aotearoa:**

All Kindergarten Associations operating within the KA collective, carry out activities for ‘charitable purposes’ rather than for profit; operate for the public benefit, and view early childhood education as a public good.

- The public good that KA brings, benefits the Government and the tax payer.



A large body of research indicates that children who experience high quality ECE (particularly from professionally qualified and registered early childhood teachers) grow up to earn more, pay more taxes, have better health, commit fewer crimes and are more likely to save for retirement.<sup>2</sup>

- Our overarching charitable purpose is to benefit our communities by providing high quality early childhood education and services to families. Children who have been through high quality early childhood education are better placed to then enter and do well at primary school and beyond.
- The income of Kindergarten Associations arises from:
  - varied forms of government funding (approximately 92% of the total funding)
  - interest from cash investments or reserves used to maintain and improve our assets and services and provide a level of certainty to navigate the impact of politically driven policy changes that occur in the early childhood education sector. Most kindergartens have benefited from extensive community engagement, involvement and fundraising over many decades. The Kindergartens which are operated by our members, along with their buildings, playgrounds, and related facilities are in every sense “community assets” serving the communities in which they operate all over New Zealand.
- Asset improvement is important so that tamariki have modern and safe learning environments. Modernising and enhancing an existing kindergarten building is likely to cost a Kindergarten Association approximately \$1 million per kindergarten. To build a new kindergarten, the cost (including the purchase of the land) is likely to be in the vicinity of \$2.5 to \$3.5 million. Raising funds for such improvements and developments can take a number of years to achieve and will increase the level of accumulated funds held, and the interest/income earned during what may be a lengthy holding period.

Government grants for services provided (including the cost of employment of staff) do not fully cover a Kindergarten Association’s annual operating costs. It is critical therefore that Kindergarten Associations have other revenue streams such as fees and donations. For example this will ensure an Association can meet its contractual obligations to the Kindergarten Teachers, Head Teachers and Senior Teachers Collective Employment Agreement negotiated between the Ministry of Education and New Zealand Teachers Union.

Compliance costs with the myriad of legislation that applies to the early childhood education sector are another example of the funding required to maintain quality services that is at least partially not funded by government grants.

The timing of government grants is also very important to the funding of Kindergarten Associations. Government grants are largely given in advance of costs having to be met.

This allows Associations to attract interest through investing funds until they are required for operational purposes and asset improvement.

As a not for profit organisation, the current tax regime allows Kindergarten Associations to use annual surplus funds to:

- Remove potential financial barriers for families accessing early childhood education services by keeping their fees as low as possible and/or providing incentives such as 20 ECE hours free for 2 year olds, building on the government’s policy of 20 ECE hours free for 3 – 5 year olds.

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<sup>2</sup> Mitchell et al (2008), *Outcomes of Early Childhood Education: Literature Review. Report to the Ministry of Education*. Cited in NZ Kindergartens (September 2010) Quality ECE: Worth the Investment; OCED, *Starting Strong* (2001 & (2006) cited in ECE Taskforce (2010) Paper 3 The New Zealand Early Childhood Education System in the International Context: Introductory Briefing.

- This has a flow on effect of encouraging parents of pre school age children back into the workforce (either in a full time or part time capacity) easing the financial strain that this often brings.
- Employ 100% qualified and registered teachers to work alongside tamariki resulting in more meaningful interactions, improved cognitive development and greater social competency in tamariki. The benefits of such a qualified and skilled workforce has been well researched both nationally and internationally.
- Provide high levels of professional learning and development for all staff.
- Invest in enhancing learning environments, educational equipment and resources to challenge and extend our tamariki.
- Take a holistic approach that wraps around tamariki and their whānau, often providing the pastoral support required between the various social agencies charged with ensuring the safety, well being and development of our future generations.
- Support for parenting of teenage parents.
- Support to other early childhood education services, not for profit and profit organisations in the areas of governance, management and professional development associated with teaching and learning.
- Provide early childhood services in low socio economic communities which “for profit” organisations are often not prepared to consider. Over a third of our kindergartens serve diverse communities located in low-socio economic areas.

## To Conclude

**“When Not-for-Profits and Charities are thriving, it positively impacts on communities, the economy and the well being of New Zealand [IRD “Not for Profits and Charities Landscape – sharing insights” - Published July 2020].**

We would urge that this principle is fully recognised when considering the tax exempt status of the community owned element of the early childhood education sector, rather than applying a “blanket” one size fits all approach to taxing the income earned by organisations such as the Kindergarten Associations within the KA Collective.

Please get back to me should you require clarification or any further information s 9(2)(a) and we welcome the opportunity to discuss any points that we have raised in our submission with IRD officers.

Ngā mihi nui

s 9(2)(a)

Sherryll Wilson  
Chief Executive  
Kidsfirst Kindergartens on behalf of Kindergartens Aotearoa

## Who are we?

[Inclusive Aotearoa Collective Tāhono](#) is a project hosted by Shama Ethnic Women's Trust. These are the views of our project and not the host organisation. We work and hold partnerships with a wide range of organisations and individuals, seeking to build belonging and inclusion through community development, training and community engagement.

## Initial Comments

The consultation period has been too brief, nor has there been specific and in-depth consultation with the affected sector. The consultation needs to be wider than written submissions, so that a broader range of views is sought.

The consultation document is silent about Te Tiriti o Waitangi, and about the implications for Iwi, Hapū, Runanga and other kaupapa Māori organisations. This is a failure of the Crown obligations relating to Te Tiriti.

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

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

As long as income is used for charitable purposes over the life of the charity, it should not be taxed. We understand there is an issue with established commercial organisations shifting their enterprise into a charitable trust, thereby avoiding tax while taking cash out of the charity through loan repayments. This kind of activity should be dealt with through tax avoidance and tax evasion laws rather than a blanket taxation of all charities.

Charities are providing a benefit to the whole of society, or to specific communities. Given the difficulty in raising funds for so many charities, taxation of the income of charitable organisations will necessarily reduce the level of benefits to society or to specific communities. Given that the majority of charitable organisations serve particularly vulnerable populations, the impacts will be felt by the whole community.

Regarding the notion that charities not paying tax leads to unfair competition, we note that charities need to price their business offerings in such a way as to ensure enough funds for their charitable activities. They are not able to price at cost. Therefore, they will usually price at market rates to ensure a reasonable charitable income. In the majority of cases, there is no unfair competition. We further note that if society was structured fairly and equitably, we would have no need for charities.

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

Distinguishing between related and unrelated income is meaningless, as the impact of taxing either will be the same. It means that charities that already struggle to raise enough income to cover the societal issue they seek to address, will be much worse off. The result is that society will be much worse off. To have charities taxed while the company tax rate is reduced will mean



that charitable organisations are subsidising the private sector, when the private sector are already privileged as compared to individuals, partnerships and non-charitable trusts.

The private sector uses a large share of society's resources, many international corporations are paying much less tax proportionately than local corporations. The private sector should pay tax equal to what is required of those on PAYE, or sole proprietors. If the commercial tax base was taxed properly, then the notion of taxing the charitable sector would not even arise.

**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?**

There is no meaningful way to make the distinction between related and unrelated income. The business activities fund the charitable purposes of the organisation and are therefore related to the operation of the charity. The key factor is not how the money is raised but how it is used.

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

It is impossible to answer this when we believe there should be no such tax. The threshold should be the full amount of business income unless tax evasion/avoidance can be proved. In which case, all income should be taxed and the charity voided.

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

All income used for charitable purposes should be exempt, and there should be no time constraints on this, subject to our answer to Q.9 on donor-controlled charities. Complex societal issues sometimes take a generation or more to solve or to make some improvement in key indicators. Time limitations hamper the ability of charities to use a long-term approaches and create an unnecessary barrier for charitable work. Moreover, charities may need to build up reserves to build key infrastructure, such as purchasing land and buildings. As long as some of the income is used for charitable purposes (see our answer to Q.9 for potential thresholds), another part should be able to be held in reserve for long-term sustainability, weathering changes of government policy, withstanding downturns in markets or for purchase of infrastructure.

**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 do not believe the tax exemption should be removed. Charitable organisations must be able to use appropriate and effective structures to earn income. As noted above, at least part of the income must be used for charitable purposes.

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

Where a charity is being used to avoid or evade tax, and there is little evidence that the charitable purposes are being adhered to, then a donor-controlled charity should fall under strengthened tax avoidance/evasion provisions. Other than this situation, there should be no distinction between donor-controlled charities and other charitable organisations.

**Q8. Should investment restrictions be introduced for donor-controlled charities for tax purposes, to address the risk of tax abuse? If so, what restrictions would be appropriate? If not, why not?**

We do not agree for the need for arms length restrictions on investments, as long as the purpose of the structure as a whole is not tax evasion or avoidance. One of the things to consider are significant loans back to the donor, which the donor draws repayments on as a source of income that is tax-free. If a structure is truly charitable, the donor will have donated without the need for any loan back to themselves.

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

Yes, there should be a minimum distribution rule, based on the size of the charity. A minimum distribution of 20% of income in a financial year would be appropriate. However in years that there is no income, a provision such as 4% of base capital (excluding reserves) would be appropriate.

**Q10. What policy changes, if any, should be considered to reduce the impact of the Commissioner's updated view on NFPs, particularly smaller NFPs? For example:**

- • increasing and/or redesigning the current \$1,000 deduction to remove small scale NFPs from the tax system,
- • modifying the income tax return filing requirements for NFPs, and
- • modifying the resident withholding tax exemption rules for NFPs.

The exemption should be based on the type of work the organisation is doing. If the funds are used for the altruistic benefit of communities (even if it is a specific and small community such as those suffering from a rare disease), then it should not be taxed and there should be no threshold. We understand that there are people abusing the system, but any changes need to be carefully examined so that they don't stifle charitable activity that is beneficial to communities.

Changes to income and resident withholding tax should err on the side of allowing funding to stay with organisations that have a charitable purpose, and don't exist solely for the purpose of providing personal income to members (unless it's a charity dealing with poverty, and this is one of the stated objectives to support vulnerable and/or homeless people).

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

We do not have sufficient information to comment on this matter.

**Q12. What are the likely implications if the following exemptions are removed or significantly reduced:**

- **local and regional promotional body income tax exemption,**
- **herd improvement bodies income tax exemption,**
- **veterinary service body income tax exemption,**
- **bodies promoting scientific or industrial research income tax exemption,**
- **and non-resident charity tax exemption?**

We generally oppose the removal of the tax exemption, other than where the organisation exists solely for the purpose of providing support for commercial operations. For example, where herd improvement and veterinary service bodies are providing support to animal welfare and to personal pets, they should remain tax exempt. Where they exist for the sole purpose of providing support to commercial farming operations, they should not be tax exempt. This rule should apply for other entities as well, for example industrial research that is used solely for enhancing the profits of a commercial organisation that purchases the research services, and there is no wider societal benefit. A wider societal benefit may be, for example, that health research improves the wellbeing of members of society, so even if the research is then used for a profit-making entity, the research organisation should be tax exempt.

We understand that it may be difficult to make some of these determinations, and professional judgement should be used to make these determinations. Other areas of tax law also require judgement, such as the distinction between repairs and capital.

**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?**

Workers in the charities sector are chronically underpaid, and these benefits are ways to entice valuable workers and compensate them fairly. As opposed to business operations where fringe benefits are a way to avoid PAYE, for charities they are a way to provide slightly more equitable remuneration.

Many charitable organisations are having to compete with the private sector or government for staff, and those sectors are generally better funded and able to pay more. Charitable organisations are hampered by the decisions of their funders or their ability to raise funds from members and/or the general public. Many funders don't fund for salary and wages, other funders don't give enough money to compete with private and public sector salaries.

In this environment, it is extremely difficult for NFPs to attract staff and keep them. Taxing the unrelated income of charitable organisations will make the whole situation so much worse, and adding FBT on top of that will make it incredibly difficult for charitable organisations to continue to exist.

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

Honoraria payments should be exempt up to a certain threshold. For example, honoraria of \$150 per hour for a maximum of 30 hours in a 6-month period should be tax free. Charities benefit greatly from people giving their time and expertise, and this will encourage them to do so. It is also an example of structural racism to limit what can be given as kōha for matauranga Māori.

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

Allowing people to claim the donations as part of their income tax return should make the process easier, rather than having to fill a separate form. For those who don't file a tax return, a routine email reminder from the IRD may help. It is unfair to put the burden on charities to keep a record of all IRD numbers of people who donate. This will take a lot of time, especially for organisations that receive a large volume of small donations. And often, people donate anonymously – requiring charitable organisations to collect their personal data will reduce the number of donors, as anonymous donations will no longer be possible.

# Submission on Government Review of Charity Tax Rules

28 March 2025:

*Thank you for the opportunity to give feedback into the Government's Review of Charity Tax Rules. My name is Christina Tyson. I am a Salvation Army officer of almost 35 years. I currently lead The Salvation Army's frontline welfare work of Community Ministries across New Zealand.*

## Salvation Army origins and development

The Salvation Army came to New Zealand in 1883 in response to a plea from the Presbyterian daughter of one of Dunedin's richest businessmen (accompanied by a generous donation of 200 pounds), alongside a separate request from an Auckland-based printer. Both were concerned at the social misery already evident in New Zealand. They knew of The Salvation Army's hard work in the slums of East London and thought this was the sort of charitable force needed in New Zealand.

Right from the start, The Salvation Army, while still engaged in the sustaining spiritual practices people typically associate with the descriptor of 'church', was intently focused on serving those in abject human need. This kaupapa continues today. We do not believe that faith and good works can be separated into parts without fundamentally breaking the value of the whole.

## About Salvation Army Community Ministries

There are 60 Salvation Army Community Ministries centres across Aotearoa, embedded within or working closely alongside Salvation Army 'corps' (churches). Our purpose is to journey with people from adversity through to resilience and wellbeing. We provide a wrap-around service that includes food provision, case management of clients to increase people's financial capability and support growth in both self-awareness and life skills (including goal setting, communication, anger management, parenting, cooking/nutrition), access to housing, advocacy, and referrals to other Salvation Army services, including drug and alcohol rehabilitation and ex-prisoner reintegration, as well as other services in local communities.

While a lot of this work begins as crisis response, our approach is focused on helping people build capacity so that, over time, they have erected multiple safeguards against future crisis and chaos. At the same time, we recognise adversity can come in an instant through simple and unexpected changes in circumstance; therefore, we will always be ready to offer a response of *mannakitanga* to people in crisis. All our welfare responses are offered in a non-judgemental and inclusive fashion, with high regard for our responsibilities as responsive Treaty partners.

The value of our work is in its comprehensiveness, which allows clients the best opportunity to make positive change that benefits not only themselves but potentially successive generations.

## Contracts, donations and a robustly-kind tax system

There are crucial funding mechanisms supporting how The Salvation Army operates in New Zealand today. One is government contracts. The Salvation Army knows all about these. We are long-term, valued partners with Government to deliver life-changing interventions and supports to people. But this alone is a fraught funding mechanism. As governments change and funding priorities with them, as contracts are stepped up or stepped away from, the transformative interventions we can provide can become harder to maintain. Time and time again we pivot so our work can continue. *Direct government funding through targeted contracts is significant and valued, but it does not suffice.*

The confidence that donors, individuals and corporates with social conscience have in us is a further funding mechanism. The Salvation Army is well aware that some of our attraction to donors is due to the certainty that their giving is multiplied and made more efficient through a tax system that effectively increases the value and impact of their donation. *Giving to The Salvation Army is therefore a smart investment, because it is both supported and incentivised by New Zealand's tax system to maximise a solid social return.*



But donations alone cannot suffice for the financial challenges we must overcome to do our charitable mahi. And these donations also ebb and flow with shifting economic tides. When individuals and businesses hit hard times, so does their ability to support us. *Our ongoing security to maintain our frontline work is therefore crucially – and appropriately – dependent on New Zealand’s robustly-kind charity tax system.*

### Tax benefits are social wellbeing benefits

It is this system – including provision around not taxing incomes from mission-funding-related activities such as our Family Stores, and accumulating income to wisely safeguard our ability to serve into the future – that gives us the certainty of a base level of sustainability for many of the sinews of our work when other funding mechanisms shift in response to various headwinds.

The current charity tax system means, for example, that we can continue to maintain the buildings from which we deliver our social services. It means we can offset the cost of staff not covered by contract funding but no less essential: our IT, HR, Finance, Fundraising, and church-based infrastructure. It means we can plan for the future. It means we can deliver on our mission to care for people, transform lives, and thereby play our part in the reformation of society.

For five years I led a Salvation Army church in Newtown, Wellington, that comprises long-term Salvation Army church members alongside recovering addicts, food bank clients, the homeless, ex-gang members and criminals, and those struggling under the impact of mental illness. I have seen that it is impossible to separate out the holistic fabric of The Salvation Army into its constituent parts. It is this integration of faith and works together that sees a significant cohort of people locking in the long-term change they seek.

It is entirely appropriate to examine how our tax system funds the social wellbeing work of churches. *Is it possible, for instance, to direct tax benefits only to those aspects of church life that are more ‘charitable’ and that meet the needs of ‘clients’ only, and not general church life?* But in practice – at least for The Salvation Army – this is not an easy distinction or separation to achieve. And for what benefit would such segmentation occur? And, ultimately, at whose cost?

### In closing...

The Salvation Army is a safety net for the most vulnerable New Zealanders. The current charity tax system is our own safety net. If this is dramatically altered, so too is our ability to serve the community. The unintended consequence of this change will be that the Government needs to step in to shoulder the resulting deficit – financially, structurally, and with the same degree of compassionate commitment.

This is no small matter, and I therefore urge Government and others to think very carefully about the cost of changing our current system. Because I assure you that this cost won’t be paid by the stereotypical picture that some might have of a handful of people singing hymns on a Sunday morning; it will be paid by the many thousands who come through The Salvation Army’s doors in their most desperate times.

*I am happy to contribute to this conversation further, including working with others within The Salvation Army to provide additional detail and commentary around the services we provide and the way in which we operate. Thank you for considering this submission.*

**To:** Deputy Commissioner, Policy  
Inland Revenue Department (IRD)

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

**From:** Alan Pollard  
Chief Executive  
Civil Contractors NZ Incorporated (CCNZ)

**Subject:** Submission on taxation and the not-for-profit sector

**Date:** 31 March 2025

## **1. About CCNZ**

- 1.1. Founded in 1944, Civil Contractors New Zealand is an industry association representing the interests and aspirations of more than 860 member organisations, including 520 large, medium-sized, and small businesses in civil engineering, construction, and general contracting. Our 340 associate members provide valuable products, support, and services to contractor members. We live and work in all communities across New Zealand.
- 1.2. Our members play a vital role in the development of our country, our economy, and our way of life. They physically construct and maintain the roads connecting our cities and towns; they install and care for the water networks that bring fresh water to houses and wastewater to treatment plants; they install the cables that bring the internet to homes and businesses. These are services a modern and developed economy must have to compete efficiently in world markets and to deliver high living standards for all New Zealanders.
- 1.3. The broad civil construction industry employs more than 60,000 people and undertakes infrastructure construction and maintenance projects worth more than \$12b annually. More specifically, our organisation represents the contractors who carry out the physical construction works on country's roading, water, rail, port, and public transport networks.
- 1.4. As an Incorporated Society, CCNZ has the principal objective of protecting, promoting and enhancing the long-term interests of its members and the civil construction and general contracting industry. CCNZ has a small staff of 10, but members volunteer their time in service of the industry.
- 1.5. At a national level, CCNZ:
  - Acts as a central point of contact for decision makers on behalf of members, including making submissions and providing media comment.

CCNZ is the collective voice for the civil construction sector. We work closely with like-minded associations on matters of mutual interest, and we present member knowledge to advisory committees, working groups and construction industry related bodies.

- Builds member networks through meetings and events.
- Raises public awareness of the value of the work contractors do.
- Raises contractor member profiles as legitimate and credible businesses, identifying them on the CCNZ website as part of the industry association of professional contractors, who operate under a Code of Ethics and work to ensure a safe, viable and progressive industry.
- Communicates with members through emails and articles, blogs, and social media posts to make sure important information reaches members, and they are aware of it on a timely basis.
- Pools industry good practice knowledge and upskills members through online resources, best practice guidelines, technical committees, working groups, seminars, roadshows, and training sessions.
- Negotiates access to comprehensive discount and savings schemes for member businesses and employees.

1.6 At a local, regional level, CCNZ:

- Runs technical events, where experts present on technical matters relevant to the industry.
- Organises meetings with councils and other clients and stakeholders to advocate for members.
- Hosts social and networking events.
- Provides regional forums to address infrastructure construction challenges

**2. Focus of our submission**

2.1 While the Issues Paper proposes three areas for discussion, CCNZ has limited the focus of our submission to Chapter 4, which considers several integrity and simplification issues. However, we do wish to make one brief comment on Chapter 2 – Charity Business Income Tax Exemption. This goes to the fundamental question that should be asked – what is the problem that you are trying to solve.

2.2 It is clear there are some charities that have strayed from their core purpose and are “abusing” their charitable status – some church charities for example. Our view is that this reflects a failure of compliance and enforcement. Rather than penalising all charities and not-for-profits, IRD should focus on exercising their compliance and enforcement responsibilities.

**3. Chapter 4 – Integrity and simplification**

3.1 As we understand it, IRD has developed draft guidance, which will only be released after submissions have been received on the issues paper, that departs from its previous position with respect to the tax status of mutual associations. It proposes that trading and other (normally) non-taxable transactions with members, which includes membership subscriptions, should be deemed taxable income regardless of the application of the common law principle of mutuality.

- 3.2 Such a change would have a significantly negative impact on CCNZs business and viability and would undermine our purpose as defined in our Constitution. Membership subscriptions make up almost 70% of our income, with event fees and sponsorship another 27%.
- 3.3 CCNZ does not set out to make a profit. Margins between surplus and deficit can be small. However, any surpluses that are derived or reserves held serve three key purposes:
- They enable CCNZ to reinvest funds back into programmes to support members, including research, training and development, capability, scholarships, tools and resources, industry promotion, advocacy, and the like.
  - They enable CCNZ to invest activities and programmes that benefit the communities within which we work and live.
  - They provide CCNZ with a level of financial security. Associations are subject to economic variability and uncertainty, which can significantly impact association membership - the current economic conditions are an example of this. Surpluses and reserves provide associations some confidence that they can weather economic shocks.
- 3.4 We sense a lack of understanding by IRD of the broader social and economic benefits that derive from association activity. For example, in the case of CCNZ:
- We invest in time and resources to promote career pathways, with associated tools and collateral, to school leavers who may not have considered a trades career before. This helps students and career seekers into jobs rather than relying on state support.
  - We invest in time and resource to work with the Ministry of Social Development on programmes that are intended to move their clients off the benefit and into meaningful employment, having both a significant fiscal and social impact.
  - We are able to provide industry knowledge to government and regional decision makers on request.

Member and broader community benefits will be lost if association/society income is taxed.

- 3.5 There is suggestion in the document that sports clubs and societies promoting amateur sports should be treated differently from societies. However, both have close similarities – they are membership-based organisations operating under a common mission and often funded through subscriptions. Both are governed by a board or committee, host events, and advocate for their members. And they both rely on subscriptions, fees and sponsorships to ensure their financial sustainability. We believe that these sports clubs and business associations should be treated the same under tax law and policy. Not to do so would be unfair and inequitable.

#### **4. Conclusion**

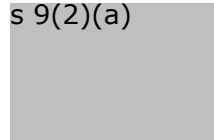
- 4.1 CCNZ strongly advocates for the principle of mutuality to remain. If IRD persists with its counter view, we would expect a law change to be introduced to reinstate the taxation environment under which most membership organisations have been operating for decades.

## Recommendation

**We recommend that the Government does not proceed with the draft operational statement incorporating the IRDs updated view on the tax status of not-for-profit entities.**

Thank you for the opportunity to make this submission. Please do not hesitate to contact us if you require further information.

s 9(2)(a)



Alan Pollard  
Chief Executive  
Civil Contractors New Zealand





## **Submission on the Inland Revenue Department's Officials' issue paper "Taxation and the not-for-profit sector"**

Thank you for the opportunity to comment on the above paper.

### **Brief summary points**

- a. Appreciation of the findings and conclusions relating to competitive advantage and review of donation tax credits
- b. For purpose organisations gain their mandate to deliver services from the communities they serve; and should not have their ability to fulfil their role through diversion of their community sourced revenue to the state
- c. government contract funding of for-purpose organisation service delivery is no longer able to be publicly tracked but has been reported anecdotally, to be reducing in real-terms, with the prospect of taxing income further contributing to increasing strain
- d. There are numerous compelling reasons to reject the taxing of any income sourced by for-purpose organisations and this submission seeks complete dismissal of such a proposal
- e. removal of any tax exemption would result in numerous potential behaviour changes in impacted for-purpose organisations, plus increased compliance costs
- f. arguably, income from both related and unrelated business are one-in-the-same as the proceeds are both used for exactly the same purpose
- g. A compelling de minimis for application or exemption would be the same as the threshold for GST registration (or higher)
- h. Taxing subscriptions and levies would generate significant disruption and create both unintended consequences and a significant resolutions sub-industry
- i. Non-resident charities fundraising in New Zealand should be subject to the same constraints as New Zealand-based charities
- j. FBT exemption is crucial to staff availing themselves for urgent or key tasks outside of normal working hours and changes would impact on the dynamics of those arrangements
- k. A high proportion of honoraria are paid in lieu of expense claims
- l. Greater promotion of the gifts tax credit regime is welcome, as is effort to keep the system simple and efficient

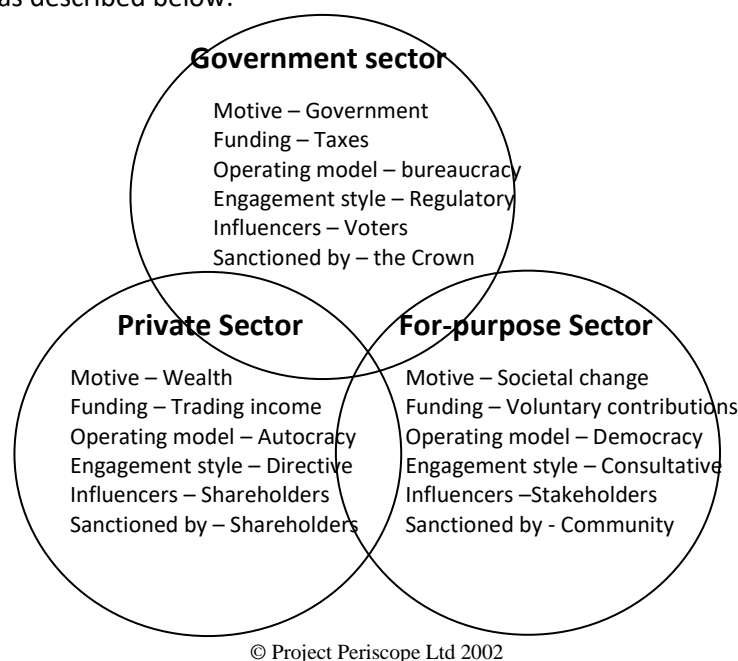
- m. government is encouraged to consider having the credit paid directly to for-purpose organisations
- n. government is encouraged to change the use of language and refer to infrastructure and compliance costs (neither of which is avoidable) rather than administration, overheads or running costs.

You are welcome to contact the author (details at the footer of page 1)

## Comments in overall context

1. There are two components of the Issues paper that warrant being applauded:
  - Dismissal of claims that for purpose organisations conducting business have a competitive advantage over private enterprise endeavour
  - findings and recommendations from reviewing the donations tax credit regime (DTC).

It is unusual but particularly welcome to receive supportive evidence-based commentary. Please ensure that the appropriate teams are extended thanks for their work.
2. This submission uses the graphic below as a touch-stone comparison of the attributes of the for-purpose sector, compared with civil service on one hand and private enterprise on the other as described below:



*Government is the deliverer of Crown sanctioned activities and services primarily funded from taxes. For-purpose sector organisations are the deliverers of community sanctioned activities and services primarily funded from voluntary contributions.*

The activities and services of each are not entirely divorced from the other two. Government for example, can benefit from more than tax income. It can charge fees, as do private sector businesses, and accept donations and volunteer labour as do for-purpose organisations ... although only government can impose taxes (or sanction rates for local bodies). Other cross-overs also occur.



3. The very short consultation timeframe is noted. The sector predominantly has little to no spare capacity resource. It is unreasonable to impose short submission timeframes.
4. According to data sourced from the Charities database, reported charities' income derived from government contracts dropped from approximately \$6.0 bn in 2012 to approximately \$5.55 bn in 2015 (the last year in which this data was published). While CPI inflation rose by 3% between 2012 -2015 it rose by 27% between 2012 – 2022. Anecdotally, indications are that government contract income continued to fall over the longer ten-year period, at least in real terms. Taxing some for purpose organisations income while reducing government contributions towards delivery of charitable services ... alongside anticipated announcements of reduced corporate tax seems unreasonably punitive and arguably misguided.

## Comments relating to Issues Paper questions

### Q 1 Reasons (or not) to tax for-purpose organisations business income

The most compelling reason to tax for-purpose organisations business income would be because government can and it would pander to noise that would be helpful to reduce.

The most compelling reasons for not taxing for-purpose organisations business income include:

- business and individual taxes are an equitable way to fund state delivery of Crown-sanctioned services; for-purpose organisations must rely on less controllable (voluntary) income sources to deliver community sanctioned services - the point being that both are the authorised deliverers of sanctioned services
- delivery of for-purpose sector services fails to meet community needs despite efforts to maximise income, so imposing tax simply worsens that situation
- For purpose organisations need to both maximise use of volunteer labour and employ all revenue-generating means at their disposal to deliver what services they can
- The net surpluses of for-purpose organisations can only be retained to further deliver charitable services whereas the net after-tax surplus from business can be used to either increase capital in the business or contribute to the individual wealth of owners and share-holders (neither of which are options for for-purpose organisations)
- Neither infrastructure nor compliance costs are avoidable and both drain available funds as priority obligations; introducing tax on income will increase compliance costs, despite the outcome of calculating any obligation potentially produces a 'no tax revenue' result!
- While a lot of weight is given to the argument that some business income is related and some non-related, the reality is that surpluses generated from both sources are used for the same purpose.

Clause 2.13      The claim that for-purpose organisations do not face compliance costs related to tax is contested. Every GST registered organisation carries tax-related compliance costs; and charities in particular, are arguably subject to greater compliance costs than businesses due to the reporting requirements of the Charities Act

Non-refundability (ie, compensation) of losses incurred by for-purpose organisations is not an option and in fact under some circumstances can result in recipient organisations being required to refund grants and

donations, so there is definitely no advantage to charities under such circumstances of reported trading losses

The salient point in the third bullet point is that for-purpose organisations cannot raise capital in the same ways available to for-profit entities.

Clause 2.14 Governments have been long criticised for lack of capital raising on the basis that it's the fastest way to gain meaningful economic expansion.

So, no. Neither clause provides persuasive evidence to warrant taxing the business income of for-purpose organisations. The concept warrants dismissal.

## Q2 Practical implications of removing tax exemption

If tax exemption is removed for unrelated business income, the most significant practical implications would be any or all of the following:

- Increased pressure applied to attract additional philanthropic revenue to compensate
- A move away from pursuing unrelated business income
- Loss of product/services sales from the unrelated business (which are often-times to individuals who choose to purchase from that business because the net surplus will be applied to charitable purpose)
- Reduction in service delivery capability
- Increased compliance and infrastructure costs to comply with tax reporting.

The issue extends beyond the above in two ways:

- all income generated is exclusively confined to being applied to charitable purpose – it cannot be used any other way and
- whatever definition is used, the risk is that it becomes the thin end of the wedge with the potential that all income that is subject to GST be ultimately regarded as taxable, impacting the likes of
  - Opportunity shops
  - Merchandising
  - Fundraising activities that attract GST (lotteries, gala events, festivals and fairs
  - Membership subscriptions (including member discount benefits – see comments on Q 11 below
  - Fee-for-service activities like first-aid training, Medical alarms, rental or licence to occupy income, Ambulance part-charges and Emergency subscriptions, entrance fees, sponsorship, etc).

## Q3. Criteria for removing tax exemption

Arguably none because the revenues of both related and unrelated business are indistinguishable in their purpose.

## Q4. Potential threshold for application of tax

Notwithstanding the argument that unrelated business income should not be taxed, the only logical criterion for establishing an applicable exemption threshold would be that of the GST registration threshold.

Q5. Continued tax exemption of related business income

The wording of the question shows the ease of confusion inherent in separating related and unrelated business. No matter what definitions are used, there will be unintended consequences and a whole new sub-industry to manage the predicted appeals, the costs of which will both impact on government and further cost to those impacted for-purpose organisations inadvertently caught up in the new regime.

Q10. Reducing the impact of the Commissioner's changing views

I would encourage and welcome consideration of the following:

- Of the 2022 performance reports from 21,905 current registered charities,
  - 1446 (6.6%) report no annual expenditure at all
  - 1055 (4.8%) report up to \$1000 expenditure during the year
  - 2254 (10.3%) report between \$1001 and \$5,000 and
  - 1834 (8.4%) report between \$5001 and \$10,000
  - 13,186 (60.2%) report annual expenditure of less than \$60,000 (the threshold for GST registration)
- 30% report their annual income at under \$10,000 - a combined income of just over \$20.2m or less than 0.09% of the total reported sector expenditure of \$22.7bn
- GST registration (from \$60,000) is the point where organisations require the establishment of a tax compliance process. The 13,186 charities (60.2%) who are below that threshold report a combined annual expenditure in 2022 of \$206,510,690 still representing only 0.9% of total sector reported annual expenditure. This is arguably a compelling de minimis threshold
- I would encourage the Commissioner to explore the donations tax credit (DTC) regime in Singapore to understand their logic of recognizing the true savings that the sector brings to government through reduction of state funded services
- I would also advocate that the Commissioner give serious consideration to the DTC being paid to the for-purpose organisations rather than the donor. It could potentially be positioned as IRD wanting to augment the value of donations by contributing to organisation running costs *'so that your donation can be better applied to the delivery of services.'* That would go a long way to overcoming resistance to donating caused by an assumption that it will all just go to running costs; and could arguably be a strong motivation to encourage more people to donate.

Q11. Taxing membership subscriptions and levies

Taxing membership subscriptions and levies at any level would have a deleterious impact on a huge proportion of for-purpose organisations, with the likelihood of small organisations hit hardest. Incorporated Societies for example are compelled to have a membership and commonly apply an annual subscription fee. It's an easy way to prove membership numbers.

Subscriptions may also apply to grant privileges – discounted tickets to the local community theatre, admission to a U3A lecture series, enhanced access to the local Zoo, waiver of an ambulance part-charge should the need for ambulance attendance be needed, etc.

Subscriptions all carry GST obligations above the standard threshold. It is unconscionable that such income be additionally taxed. Government is urged to be very careful with implementation of such a tax. The price of unintended consequences could be significant, even to the point of being catastrophic.

#### Q12. Removing non-resident charity tax exemption

It does not seem right to have overseas charities seeking philanthropic contributions in New Zealand without the same level of scrutiny that applies to New Zealand-based charities. Charity law here is heavily weighted on providing visibility, transparency and accountability, which is not required of overseas charities fundraising here.

#### Q13. Potential FBT changes

I wonder if 'compliance' was the correct platform on which to argue against FBT being applied. I would urge the Commissioner to be cognizant of the high numbers who are required to work outside of normal working hours – evening meetings of volunteer committees in communities anywhere in the country, service on-call requirements, ability to respond immediately should any disaster/calamity arise requiring urgent organisation response, etc.

#### Q14. Tax impacts on volunteers

In respect of tax liability, the IRD website does not state any minimum threshold for the treatment of honoraria. While at higher payment levels such an arrangement might be entirely defensible, applying a tax becomes questionable at a lower level. Honoraria may reasonably be paid as compensation to a volunteer for meeting travel expenses, home office expenses, phone or internet costs associated with an organisational contact point, etc. It is urged that this be taken off-line from this process and consulted on more widely and deeply. This is particularly so given the apparent drop off in volunteer availability (see Q15 graph). Consideration might best be given to more actively encouraging volunteering – perhaps including motivating options such as reduction in personal tax for formal volunteer work.

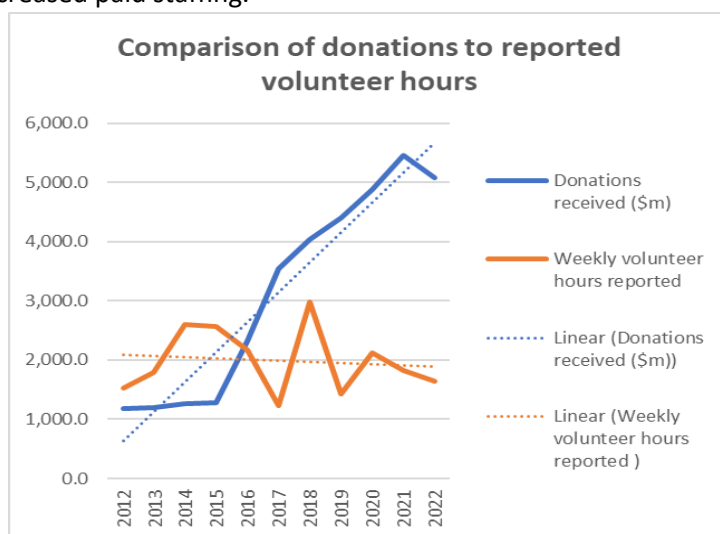
In respect of ACC, it is argued that it is imperative that volunteers who are otherwise not in paid employment, receive living income up to age 65 in addition to therapeutic cost cover in recognition of them having foregone the equivalent of paid employment in order to volunteer their time and talent. Volunteering is often encouraged and pursued as a pathway to paid employment.

#### Q15. Review of the Donation tax credit regime

Intentions to increase promotion of the scheme as it is, is welcomed, as are efforts to reduce both processing and claiming demands. Additional comments include the following:

- If further consideration is given to delinking the DTC from annual income tax, we recommend you consider the potential for fraud. For example, someone might donate \$10,000 (receipted) and then seek a differential refund. This presents an avenue for potential fraud that would need safeguards.
- that government seriously consider the tax rebate be paid directly to for-purpose organisations. This could potentially be positioned as IRD wanting to augment the value of donations by contributing to organisation running costs '*so that your donation can be better applied to the delivery of services.*' That would go a long way to overcoming resistance to donating caused by an assumption that it will all just go to running costs; and could arguably be a strong motivation to encourage more people to donate.
- That government note the Fundraising Institute submission (to the review of DTC) that urged that donating and volunteering be regarded as two sides of the same coin. The graph below demonstrates the strain on charities to continuously raise additional

income as people become increasingly time-poor and reduced volunteering drives the need for increased paid staffing.



Source: Project Periscope Ltd analysis of Charities database

- note that 'donations' in this context include both grants and gifts in wills income, neither of which are subject to the DTC regime.
- the Commissioner is urged to note from the FINZ submission to the review of DTC, the issue and impact of the terms 'overheads' and 'admin costs,' etc. These are real donation impediments due largely to people's lack of understanding of the cost of doing for-purpose organisation business. Their submission references an alternative description of 'infrastructure and compliance costs,' none of which are avoidable. IRD's adoption of this terminology when promoting the DTC regime could help educate people about the realities faced delivering responsible, transparent, and accountable charitable services.

ENDS

## About Project Periscope Ltd

Project Periscope Ltd is a small boutique consultancy specialising in improving for-purpose organisation operating capabilities, particularly in respect of strategic positioning, understanding their operating environment opportunities, brand positioning and funding. Principal, Jim Datson, has more than 40 years operating as a fundraising and general management specialist. His key contributions and achievements include:

- National Fundraising Manager for various charities not the least including time fulfilling that role for New Zealand Womens' Refuge Inc
- The first fundraising professional in New Zealand to gain the international standard of Certified Fundraising Executive (CFRE)
- Fellow of both the New Zealand and Australian Institutes of Fundraising
- Multi award winning
- Founding member of the Fundraising Institute of New Zealand
- Former Board Member, President and Chair of the Fundraising Institute of New Zealand
- Volunteer policy analyst and submission writer for the Fundraising Institute of New Zealand (to 2024) and Co-author of the current Codes of Ethics and Professional conduct
- Member of the Charities Sector Reference Group
- Numerous volunteer and Board roles within the for-purpose Sector.



Inland Revenue  
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Wellington  
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**policy.webmaster@ird.govt.nz**

Tēnā koe,

Please find attached a response from the New Zealand Down Syndrome Association regarding the discussion paper **Taxation and the not-for-profit sector**

s 9(2)(a)

Ngā mihi,  
Zandra Vaccarino  
National Executive Officer  
New Zealand Down Syndrome Association  
neo@nzdsa.org.nz



## **Who we are**

The New Zealand Down Syndrome Association (NZDSA) is a national family/whānau-driven non-profit charity established in 1981 with the sole purpose to support, educate, empower, connect, and advocate for people with Down syndrome and their families/whānau.

We became an incorporated society in 1999 and were registered in 2024. We registered with the Charities Commission in May 2008.

The National Organisation has affiliations with local support groups, ranging from Trusts and Incorporated Societies to more informal groups, located in Northland, Auckland, Bay of Plenty, Waikato, Taranaki, Hawke's Bay, MidCentral, Wellington, Christchurch, Nelson, Otago, and Invercargill. We serve as a peak body for the Down syndrome community.

The NZDSA works alongside families, whānau and carers to support and empower people with Down syndrome to realise their potential and aspirations through all life stages and within all communities.

**The NZDSA's vision is that people with Down syndrome are respected, valued and equal members of their community fulfilling their potential and aspirations.**

The aims of the organisation are to:

- promote the participation of people with Down syndrome in the community
- provide information, support and resources to educate and empower people with Down syndrome, their families/whānau as well as professionals
- promote and advocate for positive attitudes in the wider community
- enhance the understanding of Down syndrome
- advocate for the rights and inclusion of people with Down syndrome
- empower people with Down syndrome
- create a leadership platform for people with Down syndrome
- review policies and lobby the Government and other institutions, and
- promote positive public awareness through educational and media initiatives.

## **Why we are making this submission**

The NZDSA is deeply concerned by this paper, as it contains glaring flaws that, if left unaddressed, could have significant adverse consequences for both the NZDSA and our sector. We are particularly worried that the proposed measures could exacerbate the struggles of many charities, leading to closures. The unintended outcomes may include more charity closures, job losses, and additional strain on the community sector. Furthermore, we feel the paper makes broad, unsupported claims and shows little understanding of how the sector operates. It fails to recognise the vital role Charities Services plays in ensuring that charities comply with legal frameworks and operate with integrity.

**The NZDSA supports the submission made by Community Networks Aotearoa, and we have added our organisation as a signatory to their submission. I have attached their submission, which provides a very detailed response. Below, we have highlighted specific concerns for the NZDSA.**

## **Impact on Community Services and Sector Sustainability**

The proposed tax changes could widen the wealth divide by reducing the ability of charities and not-for-profits to sustainably fund services that benefit our communities. The flow-on effects could place additional pressure on already strained organisations, diverting revenue streams that directly support those in need, such as service users and employees within the charitable sector.

## **Lack of Adequate consultation period**

The consultation process has not genuinely engaged with grassroots organisations, Iwi, Māori entities, charities, not-for-profits, or the wider community sector. Without adequate time and support for grassroots organisations to participate, those with greater resources will take the lead. We are concerned that those outside our sector are positioning themselves to lead the discussions, rather than enabling the community to do so.

This is particularly concerning given the key consultations currently happening in the disability sector, including the Disability Support Services submission, the refresh of the Disability Strategy, and the media submission. Charities and community organisations do not have the resources to respond to multiple submissions over the same period within such short time frames.

Longer consultation periods are needed to ensure meaningful participation and community-led advocacy.

### **Impact on Community Services and Sector Sustainability**

The NZDSA supports the following point highlighted by Community Governance “the tax settings proposed could further drive the wealth divide by reducing charities and not-for-profits ability to sustainably fund services that directly benefit our communities.

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

### **Accumulated surpluses**

The New Zealand Down Syndrome Association receives no government funding, so to offer our unique supports and services, we rely on actively raising funds through national fundraising appeals, donation programmes, and grant funding.

Grant funders expect charities to maintain healthy reserves as a sign of their viability. Additionally, funding received in one financial year may be earmarked for projects in the following year. For example, funding secured in February 2025 might be allocated for a project in July 2025, but since our financial year runs from July to June, this funding would be recorded as accumulated for just one month.

We face an ongoing challenge in securing funding, which is why, in order to demonstrate responsible governance, we need to accumulate funds to ensure sustainability and continue providing our vital support services.

### **The imaginary \$2 billion rolling around the sector**

This statement highlights a fundamental misunderstanding of our sector. It is concerning that such a simplistic insight has led to this misleading and harmful narrative. A basic calculation of income minus expenses fails to account for the complexities involved, including funds designated for future projects beyond the current financial year, donations, and money

raised specifically for certain purposes. These funds do not represent excess profit but are earmarked for specific needs and initiatives.

### **Volunteer contribution.**

Options that allow charitable organisations to minimise tax compliance costs for volunteers enable us to better fulfil our charitable purposes. We welcome the extension of the FENZ simplification to all NGOs. In our case, stipends and honoraria are highly effective for recognising contributions and encouraging volunteerism, without the added burden and compliance costs of treating volunteers as employees. Without volunteers, we could not operate or provide the essential services our community relies on.

Our volunteers generously offer their time, and since we operate in a low-risk environment (except for travel), additional ACC levies are unnecessary, as compliance with the Health and Safety Act is sufficient.

One suggestion we have is for Inland Revenue to provide clear guidelines for stipends, particularly for internships, to help boost the use of stipends and reduce tax compliance costs for student volunteers and disabled young people. We believe this would be an excellent way for disabled school leavers to gain part-time work experience while being valued for their contribution—far better than the minimum wage exemption currently applied in the for-profit sector.

With over 1 million volunteer hours donated weekly in New Zealand, low compliance cost options for volunteerism are essential for charities and NGOs to provide cost-effective services, particularly for disabled people and their families.

### **Lack of information in the paper**

The paper lacks sufficient detail to understand the impact of the proposed tax changes on Tier 3 and Tier 4 charities, including not-for-profits with annual revenues up to \$2 million. Many of these community groups do not hold significant reserves or generate excessive revenue. Therefore, we want more information on how these changes will affect their financial sustainability, as it is essential for the continued operation of these organisations that provide critical services to the community.

**The NZDSA supports the submission made by Community Networks Aotearoa and have added our organisation as a signatory to their submission.**

**I have attached their submission.**

# Submission on the Discussion Paper 'Taxation and the Not-For-Profit Sector'

By Community Networks Aotearoa

## Contact Person:

**Executive Officer:** Ros Rice

**Email:** [eo@communitynetworksaotearoa.org.nz](mailto:eo@communitynetworksaotearoa.org.nz)

**Mobile:** s 9(2)(a)

**Office:** 04 472 3364

**Website:** [www.communitynetworksaotearoa.org.nz](http://www.communitynetworksaotearoa.org.nz)

## Dear Sir/Madam

Our organisation New Zealand Down Syndrome Association would like to forward this Letter of Support of the submission from Community Networks Aotearoa forwarded to IRD on Wednesday 26.3.25 at 3.54pm.

**Name:** Zandra Vaccarino

**Organisation Name:** New Zealand Down Syndrome Association

**Address:** P.O. Box 4142

Auckland

**Signature:** s 9(2)(a)

Community Networks Aotearoa appreciates the opportunity to provide input into this consultation and strongly encourages Inland Revenue to consider the distinct nature of Charities 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 Charities sector.

**Ros Rice**

**Executive Officer**

**Community Networks Aotearoa**

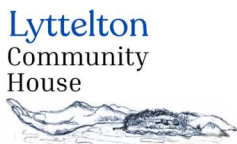
PO Box 262

Wellington 6140

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## Supporting signatories to this submission.





# Submission on the Discussion Paper 'Taxation and the Not-For-Profit Sector'

**By Community Networks Aotearoa**

## **Contact Person:**

**Executive Officer:** Ros Rice

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## **Addressed To:**

Inland Revenue  
POBox 2198,  
Wellington 6140

## Dear Sir or Madam,

Community Networks Aotearoa is the national office or umbrella organisation for non-profit networking organisations provincially and Wellington based. We are a national organisation, a communication agent, a partner with our members, a connector with our members and hopefully a catalyst for change. We provide our members with the opportunity to have their voice heard in the national arena.

We have 80 network members across the country, and considering their provincial members we believe we may reach over 10,000 organisations.

We have addressed numerous issues including questions as highlighted within the Issues Paper.

We understand that the Minister has asked for examples to our points and clarity about how this suggestion would affect Charities. To that point, this submission has more examples and discussion regarding cases in point than perhaps would normally be in a submission.

Although we recognise that there are some positive points for Charities overall, we are very concerned by this paper. This paper has some glaring flaws which need addressing, and it is also our opinion that there is a basic lack of understanding about how this sector works, and how the regulator Charities Services ensures that the majority of Charities work within all legal structures and with integrity.

This discussion paper feels like the 'thin edge of the wedge' about making inroads into Government support to the Charitable Sector. What happens if due to this consideration, multiple charities providing essential work to their communities at extremely low rates, end up closing down? Is Government prepared or interested in filling those gaps which will result as charities close, or have to charge higher rates, or are they considering using commercial companies whose basis of success is how much they can make for their stakeholders, rather than the well-being of their customers. Many in the Charitable Sector are already working on 'the smell of an oily rag'. Funding is harder and harder to access, Government does not fund contracts with cost of living adjustments nor reasonable wage allowance, and has not done so for many years. The charitable sector is already providing more for less to a point where viability is based on innovative and sometimes 'unrelated' revenue streams. Jeopardising those revenue options, could result in serious long-term consequences for the sector and for the people we serve.

It is very interesting that Inland Revenue seems interested in where the money comes from rather than the clear distinguishing interest from Charities Services of where the money goes. This shows a lack of understanding about how Charities are regulated and could create a clash of legislations making it extremely difficult for Charities to find a legislative path to follow.



## Abuse in the system.

This paper appears confused regarding abuse in the system.

We have not seen any shred of data to back up this claim in the discussion paper. Some of the points raised were already addressed by last year's change to the Charities Act eg: accumulated funds. There does not need to be yet another set of regulations overlaying what is already there, already working, and has a dedicated part of Government working on this.

Any proven abuse within the system, should be addressed through the Charities Regulator under existing Charities Law. We need these issues appropriately identified so the right means are used to address them. At the moment there is a lot of discussion about Inland Revenue using a blanket approach using taxation rules to address concerns with only with a small number of Charities.

Compliance is a heavy burden for charities already, and we have heard many times over the years promises from respective governments that this will be resolved. Instead, we are hit with even more compliance.

**"Every Tax Concession has a cost, that is it reduces Government revenue and therefore shifts the tax burden to other taxpayers."**

This statement has sparked significant discussion and once again highlights how little understanding there is about the charitable sector. This paper seems to be extremely one-sided, and this sentence is an example.

We would like to reframe this to:

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

The original statement reflects a particular way of thinking, where charities are framed in a way that makes it harder for the sector to develop diverse income streams and build some sustainability into their models of operation.

## Related & unrelated income.

There is no clarification about what related or unrelated income is. This makes a response to the discussion difficult. The paper infers that any Charity with business income should prove profits provided to the Charity are directly related to the organisation's purpose. This raises a number of questions for us at Community Networks Aotearoa.

**Q –** Are Girl Guide biscuits related or unrelated to the aims of the organisation?

**A –** One could say that the mission of the Girl Guides (we enable girls and young women to develop into confident, adventurous and empowered leaders in their local, national and global communities) does not mention biscuits, and therefore their fundraising is not related to mission, that is of course unless you consider this is learning new and innovative ways to fund their organisation or if you consider selling biscuits might teach them how to become confident, adventurous and empowered in which case maybe it is related. How do you draw that line?

**Q –** Does the SPCA Op shop make related or unrelated money?

**A –** Purpose – To advance animal welfare and prevent cruelty.

One could say that raising money at the Opshop is not related to that purpose. However, if SPCA is unable to advance animal welfare and prevent cruelty because of closure, then the money is definitely related to the ability to meet that purpose. Not to mention that 2nd hand clothing is reused to make dog beds. Are some second hand items (cat beds, leashes, water bowls) animal related and some items (tea pots etc) are not, will the charity be required to audit every item to determine what is related income and what is unrelated income?

SPCA has 28 centres, with over 30,000 animals coming through their centres each year and they need \$66 million a year to operate. With only 10% contribution from the government each year, they need to raise 90% of their funding. If they are taxed on whatever they raise, how will they survive?

These two examples are simply to show that unexplained concept of 'related' and 'unrelated' income, and fairness issues along with lack of clarity about what exactly is intended to be achieved. This issue needs to be thought about very carefully and with consideration for unintended consequences.

## **Charities with fringe benefit tax exemptions.**

The question is for many Charities is "how do we compete for staff in a world where for-profit businesses and Government can offer better wages, better terms, and other benefits to attract competent staff?".

Take for example the wage difference between Oranga Tamariki seeking counsellors for staff a few years ago, where they offered thousands more in wages than the non-profit sector could. When this happened, there was a loss of non-profit staff to Government agencies that caused a crisis in the Charitable Sector.

Staff working for government agencies received higher salaries. Fringe Benefits often are one of the few benefits that charities can use to attract good staff. Taxing this benefit runs the risk of further disadvantaging the Charitable Sector.



## **This imaginary \$2 billion rolling around the sector.**

Once again, this claim highlights how little the sector is understood. The idea that there is an "extra" \$2 billion floating around appears to come from a simplistic calculation of income minus expenses, treating the difference as untaxed profit. It's concerning that the media has picked up on this misleading narrative.

In reality, this amount includes donations, timing differences, and funds earmarked for future events or projects beyond the financial year. It is money raised for specific purposes, not excess profit.

Most importantly, this calculation completely ignores the immense contribution of volunteer labour. Recent figures indicate that volunteers contribute 1.4 million hours per week. If even the minimum wage were applied to this, the so-called \$2 billion would quickly shrink.

## **Accumulated surpluses.**

On one hand Government has strongly encouraged Charities to find alternative sources of funding other than Government contracts. Social Enterprise was deemed the responsible path for non-profit organisations to fund the good they do in the community. Additionally, it has been considered prudent for Charities to maintain healthy reserves to ensure continuation of business and the ability to plan into the future. On the other hand, there seems to be a level of discomfort when this is achieved.

Most funding sources allow only one or two chances a year to apply for funding and if you are lucky enough to be the recipient of this funding, it will usually preclude you from reapplying in that same fiscal year. Some funders will not fund a charity for more than 3 years in a row, with a view that they do not want to create a 'dependence' on that funding. Alternative and self-sustaining funding sources can therefore be critical to the survival of a charity.

Charities have had to find innovative and other ways to not only top up the shortfall in Government contracts (Martin Jenkins 2019), but to ensure their fiscal security. Social Enterprise has been an encouraged and at times, favoured method that has been used by Charities now for years. Charity Social Enterprises are not taxed on their income because that income cannot go out to private pecuniary gain. Instead, that income is directed towards Charitable purposes. Any abuse of that, is appropriately directed towards Charity Services (the regulator) to investigate.

Over a financial year there are many reasons why surpluses might accumulate. Saving a year's operating costs is policy that CNA has, and we have given a dollars and cents amount to this saving in those policies. We also may have money that carries over towards projects and bills to be paid in the next financial year.



Community Networks Aotearoa have produced an on-line training programme called Tick for Governance (it is our belief that this fits the aims of our organisation) and we charge \$10.00 per module. This has become part of our income that we apply towards the annual charge for the platform where our training programme is held. So far this income has not covered the annual cost, even though we have over 1,000 people take up the programme. Taxing this income could result in the platform being unaffordable – and a very valuable and affordable governance training tool could be lost to the sector.

How is this problem solved? Charities Services had a change in law last year requiring Charities explain the purpose of their accumulated funds in their annual performance review. Why is Inland Revenue trying to come in over the top of these regulations with more blanket legislation that is currently unnecessary?

What if a Social Enterprise is not a direct line to the purpose of the Charity, yet without it the Charity does not have enough funding to continue. Then surely the Charitable business is, in fact, a direct line to the purpose of the Charity. This is a grey area, that Inland Revenue seems to have no explanation for.

The sector aims to promote sustainability and innovation, but imposing taxes based on questionable reasoning could lead to unintended consequences that may not have been fully thought through.

- We question if Charities should provide services for the vulnerable and if those services should be run by local communities or by Government.
- Taking away business income directly affects their financial sustainability.

Some for-profit business owners claim that charitable businesses with tax exemptions have an unfair advantage—but this is a myth.

First, charities face significantly higher compliance costs and scrutiny than for-profit businesses. Unlike businesses that receive government contracts, charities are often subjected to the argument that “taxpayers fund you, so you must comply with public demands.”

Additionally, charities rely on fundraising and street appeals to support their work—something businesses never have to do just to operate. They also navigate complex and sometimes contradictory regulations from multiple government agencies.

If the tax-exempt status of charities truly created a competitive edge, we would expect to see businesses rushing to establish op shops or small social enterprises. Yet, that isn't happening.

- Stopping the innovation required via taxing income from Charity business will put pressure on both Government and philanthropic entities to meet the need that Charities are currently addressing.

- Charities are much more cost effective and if Government reduces the support settings for Charities, then Charities capacity to provide services will be lessened. This could be a political risk for the government.

If charities can no longer rely on their existing income sources to meet their needs, competition among them will intensify. This will place even greater strain on fundraising efforts, which are already becoming increasingly difficult to secure for charitable purposes. Charities need to work together for public benefit, not in competition.

- The current simplicity of the New Zealand tax system enables efficiency. This proposal is not simple.
- This suggested tax change will benefit lawyers, accountants and auditors who Charities would need to navigate the system. Most charities have huge trouble finding affordable professional services without this additional compliance requirement.
- Any tax exemption must remain aligned with statutory financial reporting tiers.

At this point we would like to reiterate the summary of thoughts on each of the 15 questions in the Tax Consultant paper as considered by Craig Fisher a member of the External Reporting Advisory Panel of XRB and Steven Moe, Barrister and Solicitor and partner at Parryfield Lawyers. CNA and other signatories to this submission agree with the following:

Charities business income tax exemption	Thoughts to ponder for submissions
<p><b>Q1.</b> What are the most compelling reasons to tax, or not to tax, charity business income? Do the factors described in 2.13 and 2.14 warrant taxing charity business income?</p>	<ul style="list-style-type: none"> <li>• Taxing charity business income discourages them from being innovative and seeking sustainable income streams</li> <li>• It will increase compliance costs while not meaningfully increasing revenue</li> <li>• It perpetuates a view of charity that donations are their only domain</li> <li>• This may open the door to other changes e.g. why not tax passive income from investments in funds which are unrelated to the charities purposes?</li> </ul>



<p><b>Q2.</b> If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what would be the most significant practical implications?</p>	<ul style="list-style-type: none"> <li>• How to define what is “unrelated” would be challenging.</li> <li>• Wouldn’t a company just find other ways to do the same thing e.g. donating out profits to the charity, so it wasn’t taxed – so what is gained?</li> <li>• What are the objective measures and figures on these proposals, how much is even involved?</li> </ul>
<p><b>Q4.</b> 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?</p>	<ul style="list-style-type: none"> <li>• Consider your context and how this line might be drawn.</li> <li>• Monetary limit?</li> <li>• Tier 3 and 4 charities (the smaller ones) being exempt?</li> </ul>
<p><b>Q5.</b> If the tax exemption is removed for charity business income that is unrelated to charitable purposes, do you agree that charity business income distributed for charitable purposes should remain tax exempt? If so, what is the most effective way to achieve this? If not, why not?</p>	<ul style="list-style-type: none"> <li>• While this seems logical it begs the question as to what is being achieved as wouldn’t a business just do this?</li> <li>• If this were not allowed, then would it impact on charitable giving from non-charity businesses as well reducing the amount they give</li> </ul>
<p><b>Q6.</b> 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?</p>	<ul style="list-style-type: none"> <li>• This will increase compliance cost for both government and charities, reducing funds available for charitable purposes.</li> <li>• the valuation of pro bono or semi pro bono services as input expenses. Labour cost is a significant input expense for any business. Currently many in the charitable sector receive some pro bono or semi pro bono labour.</li> <li>• Accordingly, it would be important for charities to be able to claim the true cost of their business in any income tax return. This raises the conundrum for the tax department as to what the appropriate fair labour costs should be.</li> </ul>

	<ul style="list-style-type: none"> <li>Currently there is not a level playing field as regards transparency of reporting with for-profit businesses, i.e. charities have to currently meet a higher level of public transparency. Failure to address this issue results in charities being at an unfair competitive disadvantage with for-profit businesses.</li> </ul>
<b>Chapter 3: Donor-controlled charities</b>	
<p><b>Q7.</b> Should New Zealand make a distinction between donor-controlled charities and other charitable organisations for tax purposes? If so, what criteria should define a donor-controlled charity? If not, why not?</p>	<ul style="list-style-type: none"> <li>Very unclear extent to which this is a major issue, or if there are just a few examples or instances.</li> <li>Will a distinction be helpful or add additional complexity without much real impact?</li> </ul>
<p><b>Q8.</b> Should investment restrictions be introduced for donor-controlled charities for tax purposes, to address the risk of tax abuse? If so, what restrictions would be appropriate? If not, why not?</p>	As above
<p><b>Q9.</b> Should donor-controlled charities be required to make a minimum distribution each year? If so, what should the minimum distribution rate be and what exceptions, if any, should there be for the annual minimum distribution? If not, why not?</p>	<ul style="list-style-type: none"> <li>Perhaps policy question should be whether this should apply for all charities not just donor-controlled?</li> <li>To determine the figure perhaps continue with looking at what is done in other places.</li> </ul>

Chapter 4: Integrity and simplification	
<p><b>Q10.</b> What policy changes, if any, should be considered to reduce the impact of the Commissioner's updated view on NFPs, particularly smaller NFPs? For example:</p> <ul style="list-style-type: none"> <li>• Increasing and/or redesigning the current \$1,000 deduction to remove small scale NFPs from the tax system,</li> <li>• Modifying the income tax return filing requirements for NFPs, and</li> <li>• Modifying the resident withholding tax exemption rules for NFPs.</li> </ul>	<ul style="list-style-type: none"> <li>• Many of these points will be specific for small charities and mutuals so consider your context and if it will impact your situation.</li> <li>• As a policy point, these smallest of small charities probably won't be aware of the consultation or have the capacity to review and submit on the points raised.</li> <li>• We note that the \$1000 deduction seems both small and a very old number. As such if this is designed to remove small scale in NFPs from the tax system it will likely require increasing.</li> </ul>
<p><b>Q11.</b> What are the implications of removing the current tax concessions for friendly societies and credit unions?</p>	<p>As above</p>
Income tax exemptions	
<p><b>Q12.</b> What are the likely implications if the following exemptions are removed or significantly reduced:</p> <ul style="list-style-type: none"> <li>• Local and regional promotional body income tax exemption,</li> <li>• Herd improvement bodies income tax exemption,</li> <li>• Veterinary service body income tax exemption,</li> <li>• Bodies promoting scientific or industrial research income tax exemption, and</li> <li>• Non-resident charity tax exemption?</li> </ul>	<p>These are quite specific provisions – for those mentioned it could have big implications so suggest if you are one of these entity types consider submitting on how it would impact your ability to operate.</p>



FBT exemption	
<p><b>Q13.</b> If the compliance costs are reduced following the current review of FBT settings, what are the likely implications of removing or reducing the exemption for charities?</p>	<ul style="list-style-type: none"> <li>• This does make policy sense but if your charity will be impacted greatly then suggest you explain how and why.</li> <li>• The likely implications of removing or reducing the exemption for charities will be significant for some charities in their ability to compete for appropriate labour resource with the for-profit sector. It will also increase compliance costs in accounting for any fringe benefits that may still be provided.</li> </ul>
Tax simplification	
<p><b>Q14.</b> What are your views on extending the FENZ simplification as an option for all NFPs? Do you have any other suggestions on how to reduce tax compliance costs for volunteers?</p>	<p>This is not an issue we have seen talked about regularly before as an issue.</p>
<p><b>Q15.</b> 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?</p>	<ul style="list-style-type: none"> <li>• These seem like sensible suggestions so worth endorsing and adding any other suggestions on improving donation tax credit system.</li> <li>• Perhaps due to so many steps there is a lot unclaimed – there is the lag of giving, getting a donation receipt, then claiming at year end (easy to lose receipts, forget to claim).</li> </ul>

Community Networks Aotearoa appreciates the opportunity to provide input into this consultation and strongly encourages Inland Revenue to consider the distinct nature of Charities 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 Charities sector.

**Ros Rice**

**Executive Officer**

**Community Networks Aotearoa**

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## Supporting signatories to this submission.



## **Submission to Inland Revenue re “Taxation and the not-for-profit sector”**

28 March 2025

Dear Submission Review Team

Firstly thank you for taking the time to read my submission.

My question relates to a number of questions suggested in Chapter 2 of the consultation paper, but probably most closely to Q3...

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?

### **My Submission Summary:**

**My question is “Is a church’s (and any other charity’s) building facility rental income viewed as business income, and if so is it viewed as related business income?”**

**My Submission is that for the reasons I have detailed below, rental income on facilities owned by a charitable not-for profit organisation should be viewed as RELATED and therefore remain tax exempt.**

I have many concerns around the imposition of a charity tax to our nation’s charities that are mostly struggling to maintain a sustainable diversified revenue base to fund their life-changing impact.

**However my primary focus for this submission is churches which rent out their facilities to community groups in order to both serve their community and gain supplementary rental income.** Again this income diversification is critically needed to keep their work in the community afloat, and provide future-proofing against the risk of reduced church member donations (their only other source of income) in a difficult economic environment.

The church community that my wider family and I have been a member of for over 50 years, St Chad’s Church and Community Centre, Meadowbank, Auckland, was opened in 1929. In the almost 100 years since it has been a source of huge impact to its community, through the sacrificial service of members to individuals and families in need. In 2010 we completed and opened a newly built Church and Community Centre (our original facilities had become dilapidated) to future-proof our work and impact. This was primarily funded by significant member donations, plus local community trusts and a significant grant from the then Auckland City Council, who requested that in recognition of their grant, we provide the facility rooms to local community groups as rental space at reasonable and affordable fees. This was fully aligned to our purpose for building our Church and Community Centre.

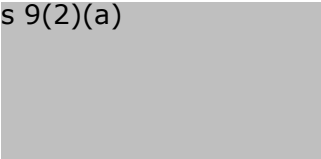
Today community groups using our facility include our local resident groups, older persons groups like Selwyn Centre activities and UTA, groups for young parents and their babies (SPACE), JP facility, music and dance groups and teaching, charity events - an endless array of groups who require a modern, functional, yet affordable rented facility. Every group renting the facility makes a positive contribution and impact on our community, which is a central purpose of our church in serving the needs and caring for the people in the community.

This facility provides \$80k (20%) of the revenue of the St Chad's Meadowbank entity. The affordable and often discounted market rental income less share of overhead costs leaves just \$15k contribution to the running of other church activities (again serving people of all ages and needs across the community). This contribution would be wiped out by a tax on this income, which would leave our church and facility unable to cover its expenses and people resource, with no other income source available to us in addition to the already at-risk member donation income as mentioned above.

Therefore my question is "Is a church's (and any other charity's) building facility rental income viewed as business income, and if so is it viewed as related business income?" and my Submission is that for the reasons I have explained it should definitely be viewed as RELATED and therefore remain tax exempt.


Ngā mihi nui

s 9(2)(a)



Bruce Waldin

Email: s 9(2)(a)



(I am happy for officials from Inland Revenue to contact me regarding this submission if required.)

## Private and confidential

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

27 March 2025

## Taxation and the not-for-profit sector

Auckland Council (**AC**) appreciates the opportunity to submit on the matters raised in the Taxation and not-for-profit sector issues paper (the **Consultation Paper**) issued on 24 February 2025. This submission was completed with the assistance of PwC.

For context, AC is involved with a range of not-for-profit organisations and activities in conjunction with third parties to support positive outcomes for Aucklanders and communities. The pursuit of improved outcomes will often require AC to work with other organisations/groups to achieve results that would otherwise not be possible or would not be possible within the same timeframe or within the same cost bracket.

AC itself, as a local authority, benefits from a broad income tax exemption provided for by section CW 39 of the Income Tax Act 2007 (the **Act**). Consequently, all income derived by AC, other than income from port related commercial undertakings and council-controlled organisations (**CCOs**) constitutes tax exempt income. Following a change of law effective 1 July 2022, an income tax deduction for making charitable donations has not been available to AC. Prior to that time, annual income tax deductions of up to c.\$30m (compared to total annual charitable giving of c.\$130m-270m) were claimed by AC where it was verified through analytics and testing that the donation was made to an approved donee organisation, the donation was truly gratuitous and the total amount claimed did not exceed taxable income of the AC Consolidated Tax Group.

AC therefore has no immediate need itself to rely on either of the charitable income exemptions set out in sections CW41 or 42 of the Act, or to preserve status quo with regards to donations made. However, as noted above, better, quicker, more cost-effective outcomes often require AC to work with and alongside others; and in some cases, the need for independence between Council and not-for-profit activities (either to achieve better results, or due to mandated stipulations) means that AC has a vested interest in any proposed changes to the taxation of the not-for-profit sector.

By way of example, Council's broad range of not-for-profit interests include:

- Registered charities such as the Auckland Zoo Charitable Trust and Tātaki Auckland Unlimited Trust who work together to maintain and operate the Auckland Zoo and zoo hospital;



- Donee status funds such as the Auckland Zoo Conservation Fund, the Art Gallery Fund, the Auckland Council Charitable Purpose Fund and the Tātaki Auckland Unlimited Charitable Purpose Fund;
- Operations such as the Auckland Art Gallery, the Civic Theatre and Auckland Stadiums (such as Mt Smart, North Harbour and Western Springs) are operated by the Tātaki Auckland Unlimited Trust by employees;
- Membership with independent groups pursuing not-for-profit outcomes such as the Auckland Lifelines Group which seeks to enhance the connectivity of lifeline utility organisations across agency and sector boundaries to improve infrastructure resilience;
- The operation of body corporates, Local Boards and similar groups where application of the mutuality principle allows for the streamlined collection and application of funds; and
- The operation of the Business Improvement District (**BID**) programme in collaboration with Auckland's business sector to improve Auckland's local business environment and boost the regional economy.

AC's involvement in this space is broad and varied, we welcome the exploration of whether tax obligations can be simplified with compliance costs minimised, however it is critical that AC's not-for-profit activities are not unduly impacted by the review through either increased compliance or additional tax cost. Increased costs (compliance or tax) across AC's not-for-profit efforts can have two outcomes - either the cessation of the activity (in part or full), or the need to raise additional funds from Auckland ratepayers or Central Government. Neither of these are palatable.

We submit the following:

1. **All income derived by organisations registered under the Charities Act should (by definition) be in pursuit of charitable purposes and so qualify for an income tax exemption, negating the need to introduce the concept of "*unrelated business income*" into the Act.**

**If the concept of "*unrelated business income*" is introduced into the Act, care should be taken to ensure no misalignment with the Charities Act and clear, precise definitions are used.**

In the context of exploring the removal of the charities tax exemption for "*unrelated business income*", we note that all income derived by AC's charities is used in the pursuit of their charitable endeavours. For example, every dollar of income derived at the Auckland Zoo (from admissions paid, gift shop and cafe receipts) directly contributes to its charitable efforts. To treat income from the cafe or gift shop as taxable "*unrelated business income*", would be to remove vital funds from the pursuit of this charitable activity. Visitors to Auckland Zoo have the choice as to whether they engage in this discretionary expenditure. While Auckland Zoo income is treated as tax exempt, cafe and gift shop prices are not reduced to create a competitive advantage over other gift or food options available to our visitors. Instead, income that would otherwise be spent meeting

tax obligations is directed towards charitable endeavours, enabling the respective Charitable Trusts to do more with less, and preventing the need to secure additional funding from other sources.

Furthermore, a prerequisite to accessing the charities tax exemption set out in section CW42 of the Act, is that an organisation is a registered charitable entity under the Charities Act 2005 (the **Charities Act**). To secure and maintain charitable status under the Charities Act, an organisation must ensure that its “*purposes or ends*” are charitable at law (and pursued for public benefit and not for private profit). An assessment of charitable status can then often be subjective, focussing on the “*activities or means*” adopted by an entity to pursue its charitable purpose or ends. As such, where an assessment has been made under the Charities Act that an organisation meets the requirements of having charitable status, we submit that this should be respected by the Act and should be evidence enough that income derived by the charity in question is sufficiently related to its charitable endeavours. Seeking to determine whether income is “*unrelated business income*” for the purposes of the tax exemption, runs the risk of unnecessarily increasing the burden on charities, and causing misalignment between the Act and the Charities Act. As such, we do not support the proposed change to limit the scope of the business income exemption.

However, if this review concludes that it is necessary to remove the tax exemption for “*unrelated business income*”, we agree with the Consultation Document that it is imperative that the definitions are clear and not unduly onerous to apply in practice. We therefore submit that any definition of “*unrelated business income*” adopts metrics that are readily available and quantifiable, with any qualitative considerations being captured only as a catch-all in the absence of quantitative metrics not being met.

Furthermore, the Consultation Document recognises that relief should be provided when the business is distributed to a parent charity, we agree that relief should be provided. However, it should be clear that relief should equally be available if the funds have been applied to the entity’s own charitable purposes (e.g. the Tātaki Auckland Unlimited Trust).

**2. The definition of “*donor-controlled charities*”, if introduced, should be targeted to counter perceived mischief with consideration given to explicitly excluding local authorities from any “*donor-controlled charity*” rules.**

In the context of exploring whether “*donor-controlled charities*” should be distinguished from other charitable organisations, we submit that the definition of a “*donor-controlled charity*” should be sufficiently narrow to be targeted to the perceived mischief, but supported by a specific avoidance provision so as to not limit the effectiveness of any distinction. For example, whilst Tātaki Auckland Unlimited Limited (a CCO of AC) is the sole corporate trustee of the Tātaki Auckland Unlimited Trust, in our view it would be inappropriate for the Tātaki Auckland Unlimited Trust to be regarded as a “*donor-controlled charity*” based on

restrictions incorporated into the underlying trust deed. Specifically, the Tātaki Auckland Unlimited Trust is prohibited from undertaking any activities that would cause it to become a CCO for tax purposes or carrying out any activities for private profit.

Given the inability of local authorities to claim donations deductions under section DB41 of the Act, the inability of non-charitable CCOs to access the income tax exemption set out in section CW42, and the high level of regulation surrounding the affairs of local authorities, together with high levels of public disclosures, it would be inappropriate for local authorities to be captured by any “*donor-controlled charity*” rules.

### **3. No changes to the taxation of the not-for-profit sector as a result of this review should trigger a deregistration tax charge for registered charities.**

For completeness, we note that it is critical that any changes to the Act because of this not-for-profit review do not result in a deregistration tax charge under section HR 12 of the Act for either Tātaki Auckland Unlimited Trust or the Auckland Zoo Charitable Trust. Such a charge, if triggered, is estimated to be significant given the current market value of net assets owned by these organisations.

Further, we agree that further consideration should be given to the current deregistration rules if there is a change to the taxation of charities. Specifically, organisations may choose to deregister to reduce overall compliance costs (especially if the tax exemption is significantly limited), the current deregistration rules would likely result in further tax costs should this occur.

### **4. The Act should clearly define the meaning of “*mutual association*”**

The mutuality principle has a place in tax law which should be respected to guard against significant compliance burden for limited additional tax revenue.

If this review concludes that the mutuality principle is not applicable in tax law, a de-minimis threshold should be introduced in respect of member transactions.

The discussion document refers (at pages 17-18) to the mutuality principle and notes that an unreleased draft operational statement has been prepared setting out the Commissioner’s updated views on these rules. In summary, the discussion document indicates that the Commissioner’s updated view is that the application of the mutuality principle is limited by the mutual association rules in the Act such that trading income, including income from member transactions, should be treated as taxable income, and that most not-for-profits are unable to qualify for mutual treatment given that they are usually prohibited from distributing surpluses to members including on a winding up.

The Commissioner’s updated draft view gives rise to several concerns.

The mutuality principle is derived from the common law principle that a person cannot derive a profit from trading with themselves. It extends to groups of persons who “*have joined together not for trade or profit but to achieve through their mutual contributions a common end or benefit in which all members participate or are entitled to participate*”.<sup>1</sup> As a general proposition, the mutuality principle holds that where a person contributes to a common fund established with other persons for an agreed purpose, the return of that fund to the contributors is not income provided that the persons contributing to the fund and receiving the return of the fund are the same; and the fund could only ever be expended or returned to the contributors. The fundamental basis for this principle is that the common fund remains in substance the property of the contributors, and so the returning of funds to a contributor is simply returning to contributors what was already theirs.<sup>2</sup>

On their terms, current tax law pertaining to mutual associations (in subpart HE and sections CB33, CB34 and DV19 of the Act) overrides the application of the mutuality principle for specified member transactions. However, the Act does not currently include a clear definition of “*mutual association*”, it simply states broadly that an “*an association in [the mutual association rules] means a body or association of persons, whether incorporated or not*”. As such, it is not immediately clear whether a group pursuing a shared goal should be regarded as a mutual association and so be precluded from applying the mutuality principle, or whether it should instead be regarded as an unincorporated joint venture, or some other undefined body, group or council. The definition in the Act should be clear and easy to apply.

No other tax law provisions currently override the application of the mutuality principle. Seeking to tax transactions with members in accordance with the Commissioner’s updated draft view (beyond mutual associations) is likely to cause a significant increase in compliance costs but result in limited additional taxable income. The alternative to coming together as a mutual association would be for members to pursue the shared vision independently of each other which makes achieving a positive outcome distinctly more challenging, if not impossible, or alternatively, would require greater administration to enable liaison across independent persons.

We submit that the mutuality principle has a place in tax law and should be respected to guard against significant compliance burden for limited additional tax revenue.

If this review concludes that the mutuality principle is not applicable in tax law, a meaningful de-minimis threshold should be introduced in respect of member transactions.

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<sup>1</sup> Commissioner of Taxation v Music Traders Association [1990] 90 ATC 4536.

<sup>2</sup> New York Life Insurance Co v Styles (1889) 14 AC 381 (HL), per Lord McNaughten.

## **5. The FBT exemption for charities should not be removed**

In 2022, Inland Revenue undertook a regulatory stewardship review of the FBT regime. Findings of that review reported that FBT was complex with a high administrative and compliance burden relative to the tax at stake; and that there is perceived non-compliance with the FBT rules.

Against that backdrop, we submit that the policy rationale that the exemption alleviates compliance costs still stands and that FBT exemption for charities should not be removed absent further holistic policy work across FBT.

## **6. A local government sector wide exclusion should be considered**

To the extent changes are to be made to the tax treatment of not-for-profits, consideration should be given to providing a local government sector wide exclusion from the impact of any changes undertaken by this review which would otherwise lead to increased tax and/or compliance costs for not-for-profit activities supported by local government organisations. As noted above, Councils and their CCOs exist purely to serve communities. Any increase in compliance cost or tax raises questions about where additional funding will come from and the continuance of much needed not-for-profit activities; activities which can only be provided with input from local authority groups, or which are often not the focus of private sector or other not-for-profit organisations from a competition perspective.

AC has a low tax risk appetite. It takes its tax obligations seriously and is committed to conducting its tax affairs in a manner that is fully compliant, respectful of regulators and protective of its reputation. As such, AC does not take tax positions which are contrary to tax law, or which challenge boundaries. A local government sector wide exclusion would help to ensure that AC is not inadvertently captured by tax law changes intended to target non-compliance and mischief across the not-for-profit sector.

Yours faithfully,

Barry Davis  
Team Leader Taxation

s 9(2)(a)

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s 9(2)(a)



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

31 March 2025

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

("Taxation and the not-for-profit sector" in the subject line)

Taxation and the not-for-profit sector

C/- Deputy Commissioner, Policy

Inland Revenue Department

PO Box 2198

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## Introduction

This submission is made on behalf of the Pathway Charitable Group in response to the Officials' Issues Paper "Taxation and the not-for-profit sector" dated 24 February 2025. Our submission focuses on two key areas of the consultation document:

1. The Charity Business Income Tax Exemption (Chapter 2)
2. The FBT Exemption for charitable organisations (Chapter 4, Section 4.25-4.29)

Pathway Charitable Group is a significant provider of social services in the Canterbury region, operating for over 27 years with a focus on prisoner reintegration, affordable housing, and breaking cycles of poverty and violence. From humble beginnings, our social enterprise model has enabled us to grow into a circa \$15 million operation today, without relying on government funding. This growth and sustainability would not have been possible without the current tax settings that enable charities to operate business activities and reinvest the returns into charitable work.

Our operations include:

- The Pathway Trust (our primary charitable entity)
- Two social enterprises operated through Pathway Engineering Ltd:
  - Alloyfold (commercial furniture business)
  - Oak Tree Devanning (labour hire business)
- Pathway Affordable Housing (CHRA registered social housing provider)
- The Navigate Initiative (prisoner reintegration programme in partnership with the Department of Corrections)

Our business model is founded on the principle of using social enterprise to fund charitable activities, with approximately half of our funding derived from our business operations. This enables us to maintain independence from government funding and creates a sustainable model for delivering community services. Social enterprise is not merely a supplementary funding source for us—it is the cornerstone of our sustainability, impact, and ability to innovate in addressing complex social challenges.

## **Response to Chapter 2: Charity Business Income Tax Exemption**

The Issues Paper appears to view social enterprise profits with unwarranted suspicion. This overlooks several critical realities about how charitable organisations operate:

1. **Tax Contribution Already Exists:** While charity business income may be exempt from income tax, all staff employed by these organisations pay PAYE like anyone else. NFP salaries are typically lower than private sector equivalents, meaning our staff already make financial sacrifices to support charitable work.
2. **Volunteer Governance Creates Value:** Governance of charitable organisations is performed by volunteers who contribute substantial time and expertise without remuneration - a significant value-add that for-profit businesses simply don't have.
3. **Effective Regulation Already in Place:** No individuals can benefit personally from charity income without the charity losing its charitable status. The Charities Commission routinely deregisters organisations that misuse their status. This targeted approach to non-compliance is far more effective than imposing blanket taxation on all social enterprises.

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

We submit that there are compelling reasons to maintain the current tax exemption for charity business income:

1. **Social Enterprise Funding Model:** The current tax settings enable organisations like Pathway to create sustainable funding models through social enterprise. This reduces reliance on government funding and donations while creating a more resilient and independent charitable sector.
2. **Double Social Impact:** Our businesses create dual social impact - through the employment opportunities they provide (particularly for vulnerable populations) and

through the funds they generate for charitable purposes.

3. **Long-term Investment in Community:** The ability to accumulate tax-free income through business operations enables charities to make strategic long-term investments in community infrastructure and services that would otherwise not be possible.
4. **International Competitive Disadvantage:** While New Zealand may be an "outlier" in its tax treatment of charity business income, this can be seen as a competitive advantage in the global context, enabling New Zealand charities to innovate and develop sustainable models that are less dependent on government funding.

### **Addressing Paragraph 2.6: Accumulation of Funds**

We challenge the claim in paragraph 2.6 of the Issues Paper that suggests charities are "accumulating funds tax free for many years before the public receives any benefit." While this may be theoretically possible, our experience demonstrates a different reality. Social enterprises linked to charities are typically providing immediate and ongoing public benefit through their charitable activities. The Pathway Group, for example, was thoroughly audited by the Charities Commission specifically to verify that we were actively carrying out our charitable purposes rather than simply accumulating funds.

If concerns about accumulation exist, a more targeted approach would be to introduce reasonable restrictions around accumulation without charitable expenditure, rather than imposing blanket taxation on all social enterprises that are demonstrably fulfilling their charitable purposes.

### **Addressing Paragraphs 2.13 and 2.14: Competitive Advantage**

The factors described in 2.13 and 2.14 of the Issues Paper do not warrant taxing charity business income for the following reasons:

- **Compliance Costs:** While tax-exempt entities may have lower compliance costs related to taxation, these are more than offset by additional compliance costs associated with maintaining charitable status. Charities are subject to strict auditing requirements that taxed businesses do not face, representing a significant expense. Furthermore, our financial statements are made public, placing us at a competitive disadvantage compared to commercial competitors who are not subject to such transparency requirements. These substantial compliance and transparency obligations should be recognised as a counterbalance to any perceived advantage in tax compliance costs.

- **Non-refundability of Losses:** This is a broader issue within the tax system and should be addressed through comprehensive tax reform rather than by removing charitable exemptions.
- **Capital Raising:** Charitable organisations face significant restrictions in raising capital compared to for-profit entities, making accumulated funds crucial for growth and development.

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

The removal of this exemption would have several significant implications for Pathway and similar organisations:

1. **Reduction in Charitable Services:** Taxing business income would directly reduce the funds available for charitable purposes, resulting in reduced service delivery to vulnerable communities.
2. **Impediment to Growth and Innovation:** The ability to reinvest business profits for growth would be hampered, limiting the development of new initiatives and responses to community needs.
3. **Increased Dependency on Government and Donors:** A reduction in self-generated funding would increase reliance on government contracts and donor funding, which can be unpredictable and subject to changing priorities.
4. **Administrative Burden:** The costs of compliance with new tax obligations would divert resources away from charitable activities.
5. **Definitional Challenges:** The distinction between "related" and "unrelated" business would create significant uncertainty and potential for dispute.

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

If changes are to be made, we recommend the following criteria for defining "related" business activities:

1. **Employment Integration:** Businesses that provide employment opportunities for beneficiaries of the charity's services should be considered "related" regardless of

the nature of the business. For example, Oak Tree Devanning employs former prisoners, directly supporting our reintegration mission.

2. **Purpose Connection:** Businesses that directly support or enable the charitable purpose, even if the activity itself is commercial in nature, should be considered "related." A prime example is Alloyfold, which serves as the largest donor to our Navigate Initiative (NI) - our groundbreaking prison reintegration programme that costs approximately \$500,000 annually to operate. Alloyfold contributes more than \$100,000 per year as the largest impact investor, while the government provides no direct cash funding to this programme. The NI has demonstrated remarkable success, with only 6.2% of released NI participants being resentenced after 12 months, compared to the national average of 57% returning to prison within 24 months.

This is a clear example of how social enterprise can partner with government to produce better outcomes for New Zealand without requiring direct government funding. It is entirely reasonable, therefore, that the income generated to support this charitable work be tax exempt. Without Alloyfold's financial contribution, this life-changing initiative that helps break the intergenerational cycle of imprisonment would be significantly diminished or potentially unsustainable.

3. **Knowledge and Expertise:** Businesses that utilise the charity's knowledge, expertise, or assets developed through its charitable activities should be considered "related."
4. **Financial Sustainability:** Businesses established primarily to provide sustainable funding for charitable activities should have a pathway to being considered "related," particularly where there is transparency in how funds are used.

**Question 4: If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what would be an appropriate threshold to continue to provide an exemption for small-scale business activities?**

We believe that a threshold based on the charity's overall annual expenses, as per the financial reporting tier system, would be appropriate. We submit that:

1. The threshold should be set at Tier 2 level (\$5 million in annual expenses), ensuring that medium to large charities with significant social impact can continue to operate effective business models.



2. This would focus any tax changes on the largest organisations while protecting smaller and medium-sized charities from additional compliance costs and reduced funding.
3. The threshold should be indexed to inflation to ensure it remains relevant over time.

**Question 5: If the tax exemption is removed for charity business income that is unrelated to charitable purposes, do you agree that charity business income distributed for charitable purposes should remain tax exempt?**

We strongly agree that charity business income distributed for charitable purposes should remain tax exempt. This aligns with the "destination of income" principle and ensures that funds ultimately used for public benefit are not taxed.

The most effective way to achieve this would be through:

1. A deduction for distributions (donations or dividends) paid to a parent charity, as suggested in the paper.
2. A memorandum account system that allows tax paid on accumulated income to be refunded when that income is eventually distributed for charitable purposes.
3. A time-based system that allows charities to accumulate income tax-free for a reasonable period (e.g., 3-5 years) to enable strategic planning and investment.

**Question 6: If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what policy settings or issues not already mentioned in this paper do you think should be considered?**

Several additional considerations should be addressed:

1. **Transition Period:** A substantial transition period (minimum 3-5 years) should be provided to allow charities to adapt their business models and governance structures.
2. **Social Enterprise Recognition:** A formal recognition of social enterprise within the tax system could provide a middle ground, acknowledging businesses that combine profit with social purpose. Pathway participated in discussions with government in 2018, facilitated by the Ākina Foundation, regarding the significant gap in available social enterprise entity types. Currently, no appropriate legal structure exists for social enterprises in New Zealand, as is the case in other countries such as the UK,

forcing organisations like ours to operate as limited liability companies with charitable status. Despite these discussions, no visible progress has been made, and this remains a significant issue. Any tax changes should be postponed until this fundamental structural issue is addressed.

3. **Alternative Support Mechanisms:** If tax exemptions are removed, alternative support mechanisms should be considered, such as enhanced donation tax credits or matching grants.
4. **Impact Assessment:** A comprehensive impact assessment should be conducted, considering the broader economic and social implications of any changes.
5. **Investment in Growth and Sustainability:** We strongly reject the premise that charities accumulating funds for future use in their charitable work, or simply to sustain themselves, is somehow unworthy of a tax exemption. The charitable sector is squeezed more than ever, competing for an ever-decreasing pool of funding. This makes organisations perpetually vulnerable to changing funding criteria and is precisely why many charities do not survive long-term.

Our social enterprise model is the only reason Pathway has been able to grow from a startup 27 years ago to a circa \$15 million operation today. Rather than being penalised, social enterprise should be actively fostered by government because a healthier, more sustainable charitable sector benefits all New Zealanders and relieves pressure on government funding. The ability to accumulate and reinvest surplus funds is essential for innovation, growth, and long-term planning—especially for capital-intensive initiatives like affordable housing development or expanding reintegration services.

## **Response to Chapter 4: FBT Exemption for Charities (Section 4.25-4.29)**

**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?**

The removal or reduction of the FBT exemption for charities would have several significant implications:

1. **Increased Employment Costs:** Charities operate in a competitive employment market and often use non-cash benefits to attract and retain quality staff while managing limited budgets. Removing the FBT exemption would increase

employment costs, potentially reducing service delivery capacity.

2. **Inequitable Impact:** The impact would be particularly felt by charities that rely heavily on professional staff where market salary expectations are high. This could disproportionately affect charities delivering complex social services that require qualified professionals.
3. **Administrative Burden:** Even with simplified FBT settings, there would still be additional administrative requirements that would divert resources from charitable activities.
4. **Market Distortion:** The current exemption recognises the unique position of charities that must compete for skilled staff while delivering public benefit. Removing it would create market distortions by treating charities the same as profit-driven entities despite their fundamentally different purposes.

We submit that the FBT exemption should be retained. The IRD's own rationale outlined in paragraph 4.26 of the Issues Paper states: "The rationale for introducing and maintaining this exemption was to support the charitable sector. Specific reasons included enabling charities to offer more competitive salary packages at a lower cost to the charity (thereby increasing funds available for charitable purposes) and reducing compliance costs."

This rationale holds 100% true today. The charitable sector continues to face the same challenges in attracting and retaining quality staff while maximizing resources available for charitable purposes. It is also important to note that the current FBT exemption already includes appropriate limitations – it does not apply to staff involved in unrelated business activities. This existing limitation provides a targeted approach that prevents any potential misuse while supporting core charitable functions.

Specifically:

1. **Public Benefit:** The exemption ultimately increases the resources available for public benefit by reducing employment costs for charitable organisations.
2. **Sector Sustainability:** The charitable sector provides essential services that would otherwise need to be provided by government at potentially greater cost.
3. **Reasonable Compensation:** The ability to provide non-cash benefits enables charities to reasonably compensate staff despite budget constraints.

If changes to the FBT exemption are deemed necessary, we recommend:

1. **Targeted Approach:** Any changes should be targeted rather than blanket removal, perhaps focusing on specific types of benefits or setting caps.
2. **Extended Transition Period:** A significant transition period (3-5 years) would be necessary to allow charities to adjust their employment arrangements.
3. **Offsetting Support:** Any removal of the exemption should be accompanied by offsetting support, such as increased funding or other tax concessions.

## Conclusion

We appreciate the opportunity to submit on these important issues. The Pathway Charitable Group has demonstrated over 24 years that the social enterprise model enabled by current tax settings creates significant and sustainable community benefit.

We strongly encourage officials to consider the broader social and economic impacts of the proposed changes, beyond the immediate fiscal considerations. The charitable sector, particularly organisations using social enterprise models, provides essential services that create long-term social and economic benefits for New Zealand.

We would welcome the opportunity to discuss these matters further with officials.

Yours sincerely,

Murray Kennedy  
Chief Executive Officer  
Pathway Charitable Group

### Contact details:

Email: s 9(2)(a)

## Christian Savings - Submission to IRD "Taxation and the not-for-profit sector" Issues Paper

### Summary:

1. **Christian Savings is New Zealand's only charitable deposit-taker licensed by the Reserve Bank** and is the leading specialist lender to churches and Christian charities. With over six decades of experience and a loan book of over \$270 million, our lending extends to churches, community housing providers, schools, retirement villages and social service providers. We often provide finance when no one else will, enabling charities to outwork their charitable purposes and grow their impact.
2. **We welcome the Issues Paper** for an opportunity to highlight the value of the charitable sector we serve, and commend IR for the goals of "simplifying tax rules, reducing compliance costs, and addressing integrity risks." To meet these goals, alongside maintaining the vitality of the sector, we have outlined our concerns and recommendations below – primarily relating to Q1 and 2 in the Paper.

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

3. **The charitable sector makes an invaluable contribution to our nation.** We are champions of the sector, we exist to see them, and the communities they serve, thrive. The churches and charities we finance make positive contributions like running budgeting courses for people struggling in debt, operating foodbanks, equipping new parents, and building safe and secure housing for people currently living in tents and overcrowded garages. A good example of this is our client Habitat for Humanity (a Tier 2 charity), who not only build social housing but also have repair programmes that deploy volunteer labour to fix damp and mouldy homes. This helps to reduce respiratory health issues and lessens the burden on our national healthcare system. Charities like this are good at what they do too, tending to be closer to their communities and more efficient and effective than government provision of services. The needs of our whānau and vulnerable New Zealanders are only growing, and we need a thriving sector to meet them.
4. **Taxing charity business income would reduce innovation, resilience, and ultimately the future of the sector.** This is our biggest concern. Underlying the move to remove the exemption for unrelated business income is the logic that charities should remain dependent—cap-in-hand—to donors and government funding, rather than innovating through diversified income streams. While funding through donors, philanthropic grants, and government contracts remains important, business operations are the only way charities can leverage their assets, develop direct control and a gain sense of self-sufficiency. Not to mention resilience—we believe innovation and enterprise are at the heart of the long-term sustainability of the sector. Following the example above, Habitat for Humanity run op-shops (potentially 'unrelated business income') to cross-subsidise their housing operations. We support this endeavour as it is an efficient mechanism to build resilience, mitigate their exposure to donations and government contracts, and expand their impact. We should be encouraging charities to start businesses rather than tying their hands with tax rules.
5. **Income destination should remain our guiding principle.** The assumption that tax concessions reduce government revenue is contestable. Tax concessions for charities that run businesses make sense because it's about where the money goes—the "destination of income" as outlined in the policy framework (2.5). If the charities were receiving private pecuniary profits, then an exemption would plainly reduce government revenue, but as it stands, the funds are destined to serve communities.
6. **Competitive advantage should not be a concern.** The Issues Paper notes that while there may be tax advantages, there is "no competitive advantage" for charitable businesses. Charities operate in fundamentally different ways and for different motivation than for-profit businesses. The exemption helps offset the disadvantages charities have when raising capital. Due to the "non-distribution constraint," 'profits' are reinvested in our communities according to charitable purpose, rather than distributed to shareholders for private benefit. In our case, our shareholders are charities as well. Incentives are powerful, and if there was a distinct commercial advantage to charitable businesses, we would see a lot more businesses restructuring as charities. This is clearly not the case.



7. **The rationale and evidence around the changes are insufficient.** There's a lot at stake here, which is why these need to be more compelling. The reason (2.15) around "fiscal cost" of tax concessions shifting the burden to taxpayers is only one side of the story. The significant public benefits that churches and charities deliver to our communities needs to be part of the equation (including the estimated \$4B of annual volunteer labour). Because charities tend to deliver impact at a lower cost than government, the status quo of enabling them through tax concessions ultimately reduces the tax burden of taxpayers. The evidence needs development as well, there is simply not enough data or analysis around the scale and scope of both the problem (the cost) and the benefits of the proposed changes to warrant change.

**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?**

8. **There are likely unintended consequences,** and the real costs would be borne by communities. Charities are already heavily regulated with higher levels of public transparency required than businesses and squeezed by other rising costs like insurance. Removing tax exemptions would mean charities would rationally cut back or even stop their business activities, possibly redirecting resources to a non-taxable activity. This would leave fewer or no business activities left to tax, clearly a lose-lose outcome. Furthermore, with reduced resources for charitable purposes, there would likely be increased pressure for government to step in to address the shortfall in delivery of services. If charities are left weakened and less sustainable, how much additional funds will the government need to deliver services to meet the needs? Again, likely a lose-lose.
9. **This is a solution seeking a problem.** Current charities law and registration process are robust and fit-for-purpose, especially with the New Zealand Charities Act 2005 having just been reviewed and amended in 2023 (although limited in scope). Take the concern raised around accumulation of funds. The annual disclosure for charities to outline reasons why they are accumulating funds allows Charities Services to monitor and ensure that there is a plan for the funds to be used for charitable purposes. There are good reasons too. At Christian Savings we pay 55% in dividends but need to retain 45% of capital to meet RBNZ capital adequacy requirements, for example.
10. **The right tool for the job already exists.** If there is evidence of charities genuinely in breach of their fiduciary duties through accumulating funds, this already constitutes a "serious wrongdoing" in the Charities Act 2005, possibly leading to deregistration. If abuse by a small number of charities is the problem, then ensuring that existing regulators responsible for monitoring, investigation and enforcement are sufficiently resourced would be a better response. Instead, the changes would impose sector-wide compliance costs, disincentives for innovation, and likely unintended consequences on many charities, all for questionable gains in revenue.

**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?**

11. **The definition and boundary of unrelated business income is problematic.** Drawing a line isn't straightforward, necessarily requiring trade-offs on competing values. The cost of on-going legal debates around what constitutes related or unrelated business would likely lead to further increased compliance costs not only for charities, but for IR and DIA as well. There is also a further concern here, should the scope include all charity business income including passive unrelated income like interest from investments? An example of 'passive' income could include market rental income received by community housing operators and/or charitable developers. This market rental is often required to subsidise the below-market rentals that are available for people on the social housing register. What is often referred to as 'unrelated business income' is directly related to the charitable purposes as it makes up the core financial strategy of achieving such outcomes. Why include active but not passive? Why not related? The logic needs to be consistent.
12. **We support the de minimis threshold to reduce compliance costs,** and believe an exemption for Tiers 3 and 4 charities makes sense should the exemption be removed. Because charities already report on these Tiers, it makes sense to align any thresholds with them.

**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?**

13. **Removing or reducing FBT exemption will further impact the sustainability of the sector.** Because of the inherent challenges raising funds, charities struggle to compete with the for-profit sector for hiring and retaining staff. The FBT exemption, most often for a charity-owned vehicle, helps them offer more competitive remuneration packages. Removing or reducing this, while more logically defensible than removing the tax exemption, would further increase this challenge, alongside any further compliance required for the change. This is a case where it “depends on the level of support that the government wants to provide to charities.”

**Summary:**

14. Overall, we believe the costs of the proposed changes around taxing unrelated business income in particular would leave an already under-appreciated and under-resourced sector decidedly worse off. Reducing support for charities would not only box them into an outdated funding model, but also introduce unintended consequences that would likely eat away at any “revenue” gains from the changes—the government likely footing the bill to meet the (growing) needs. These changes are short-sighted, increasing complexity and compliance while decreasing integrity of the sector—clearly not aligning with the goals of the review. The charities we work with are doing amazing work, let’s not make it any harder than it already is, for them, and for the sake of the communities they serve.

**We thank Inland Revenue for the opportunity to make a submission to this Consultation. We also give permission for officials from Inland Revenue to contact us to discuss the points raised.**



**SUBMISSION OF TE RŪNANGA O NGĀTI RUANUI TRUST**

**to**

**Deputy Commissioner, Policy**  
**Inland Revenue Department**

**on the**

**Taxation and the Not-For-Profit Sector Consultation Paper**

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## **Ngāti Ruanui**

Te Rūnanga o Ngāti Ruanui Trust (Ngāti Ruanui) is the mandated voice of the 16 hapū of the Iwi, with more than 12,000 registered descendants. The takiwā of Ngāti Ruanui is bounded by the Whenuakura River in the south, the Waingongoro River in the north, the moana (including the coastal marine area) between the two rivers to the west, and the Matemateonga Ranges to the east.

As tangata whenua, Ngāti Ruanui is intimately related to the taiao – whenua, wai māori, moana, takutai moana – in a manner that is expressed through a range of cultural, social, economic and historical associations. We regard land, soil and water as taonga which provide unity and identity to us. These taonga are also a source of sustenance and enjoyment as well as economic development and employment.

Ngāti Ruanui is the kaitiaki of these taonga and is acknowledged as having mana whenua in its takiwā through te Tiriti o Waitangi, the Ngāti Ruanui Deed of Settlement 2003 (the Deed) and the Ngāti Ruanui Claims Settlement Act 2003 (the Ruanui Settlement Act).

Ngāti Ruanui welcomes the opportunity to submit our feedback on the proposed changes to the taxation of charities, not-for-profits, and voluntary organisations in New Zealand.

We acknowledge and support issues and discussion relating to tax obligations where they can be simplified, and compliance costs minimised.

However, the proposal outlined in the discussion paper have wide reaching implications for Ngāti Ruanui.

### **Overarching Concerns**

Ngāti Ruanui is seriously concerned about the lack of engagement with Iwi and Māori entities, many who hold charitable status. Any changes to the tax regime will have significant impact upon our entities and ultimately on our people. The consultation period has lacked any face-to-face engagement with us. This looks like a paper-based exercise without providing the opportunity for meaningful dialogue that should be led by the community who will be affected the most.

We are further concerned that the discussion paper make no specific reference to Iwi entities. We are unique in the way charitable benefits are derived for our people including the management of Crown negotiated settlements. Potentially any change to our status is a breach of our Settlement Legislation.

Ngāti Ruanui is concerned that any tax changes will divert the funding we provide to support our people which has clearly been aligned to the core foundations of charitable purposes. Our people face significant equity issues which are critical in respect of health and education. We are overrepresented generally in key indicators relating to poverty. The purpose and the benefits we provide is all about lifting our people out of poverty which has largely been caused by the actions of the Crown over generations.

The proposed tax settings could reduce our funding for services that directly benefit our Iwi and hapu communities. There could be unintended consequences of the reduction in our activities

which in turn places pressure upon other community and government services. We are more likely to be more efficient than the infrastructure of government, so taxing us will likely prove to be an own goal if the government must step in and provide these services at a higher cost.

### **Statistics and Data**

Ngāti Ruanui is concerned that there is a lack of clear definitions for “related” vs. “unrelated” activities which makes it difficult to reliably categorise income derived by charities. Evidence must be provided by government. Undefined terminology goes to the heart of the poor consultation and engagement to date.

We note comments made that the charity business income exemption gives charities an unfair competitive advantage. This notion is refuted by officials in the paper who state that “although the exemption does provide a tax advantage it does not provide a competitive advantage”. This conclusion is supported by previous reviews of the taxation of charities and not-for-profits in New Zealand (notably in the Tax Working Group’s report and the 2001 tax review of Tax and Charities in New Zealand).

We believe there is no evidence or data presented which justifies any tax changes, but rather a ideological approach and backdoor scheme for government to generate more tax income.

### **Our Settlement & Subsidiary Asset Holding Companies**

Our Tiriti settlement assets on behalf of our people are specifically linked to the specific charitable purposes of all our Asset-Holding Companies. It would be wrong to suggest the income derived from those assets is “unrelated” to our charitable purposes. For example, the Māori Fisheries Settlement was on behalf of all Māori, and the quota held which generates annual catch entitlements, is for the benefit of our iwi members and future descendants.

Any reform to the taxation of charities that distinguishes between ‘business’ income and ‘passive’ income should come with clear guidance as to what constitutes business income. We note that there are already provisions in the tax legislation that specifically refer to assets held pursuant to the Māori Fisheries Act 2004, and so there is precedent for specifically referring to these assets that could be used in the context of an exclusion from any new taxing provision.

The overall management of our funds are based on long term horizons. We have clear strategies for accumulating funds and spending funds on charitable purposes. Transparency and meaningful reporting are important to our people as this builds trust and confidence in our charitable focus.

The government needs to also consider what it would cost to overhaul the current tax rules when it comes to charities. Administrative costs for everyone could end up being greater than the revenue gained.

Further Ngāti Ruanui believes that the dividends we receive and the revenues we receive ought to be characterised as passive income (as opposed to business income) given the nature of our Tiriti settlements.



## **Conclusion**

The charitable sector tax exemptions are currently justified by social outcomes especially in the case of Iwi and Māori bodies. We provide significant social benefits to our people.

Before any changes are considered to tax exemption status rules it is important that the settings are right and fit for purpose. Not getting it right means the government faces a challenge in targeting specific issues which could negatively impact well-functioning charities.

Officials have noted in the paper that New Zealand's current income tax exemption framework for registered charities takes a destination of income approach, in that it treats all income earned by a registered charity as tax exempt because it will ultimately be destined for a charitable purpose. Ngāti Ruanui supports this position and therefore recommends no change to tax exemption rules given that our income is for the benefit of our iwi members and future descendants.

Ngāti Ruanui urges further discussion in partnership with us to determine what are the right tax settings going forward.

### **The contact person for this submission is:**

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Strategy and Policy Team  
Te Rūnanga o Ngāti Ruanui Trust  
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Hawera 4640

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Phone: 06 278 0148

**To:** policy.webmaster@ird.govt.nz

**Subject:** Submission – Taxation and the Not-for-Profit Sector

28 March 2025

**Kia Ora**

My name is June Sunkel and I have worked for The Salvation Army for 40 years, and in retirement have volunteered for over 12 years. I worship at the Hamilton City corps and retired from 12 years volunteering in mid 2024. I'm writing to share my thoughts on the proposed tax changes affecting charities and not-for-profits.

In Hamilton we have a Community Ministries operating where members of the public can receive free food, free financial mentoring and general support. For those with families we have group and individual work and opportunity, every morning of the week to just come in, have a coffee and talk to someone with a friendly face. A lot of this work is supported by the income we receive through our Family Store or fundraising.

One day while I was on lunch time reception duty, covering for an employed staff member, a woman came in very upset and crying and when I asked how I could help she turned and literally ran from the building. I signalled for an at lunch staff member to cover for me and went after her. Outside the door she had collapsed and was incoherent. When calmed down she came back inside with me and I was able to explain what we could help her with and introduced her to one of our social workers. She was helped with food, school uniforms, entered on the MSD register as homeless and attended our life skills course. For some three months she was a frequent visitor until she moved to an area of Hamilton which made it difficult for her to come in. She was linked with another support agency in her area. Most of this work was funded by income derived from the Family Store and individual donations.

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, a number of government contracts were not renewed this year resulting in staff being made redundant and our open hours being cut— we don't want to spend more of what we have got 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.

Nga mihi

June Sunkel

Retired Salvation Army Officer and Volunteer

email s 9(2)(a)

Phone s 9(2)(a)

**From:** Janice Trevena s 9(2)(a)  
**Sent:** Friday, 28 March 2025 9:13 pm  
**To:** Policy Webmaster  
**Subject:** Taxation and the not-for-profit sector

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

My name is Janice Trevena

I currently work in an alcohol and drug respite residential home (the only one of its kind in NZ and we need more).

I work for Ember Korowai Takatini who run this respite in conjunction with the Salvation Army.

I see lives transformed in this service that I work for. One of our primary roles is providing additional respite and support to addicts who have just come out of medical detox/social in the city (Known as Home Ground). We support people by setting them up with other AOD services, support workers out in the community, 2 daily recovery groups and a lot of encouragement alongside staff sharing their own lived experiences in addiction.

Should a non-profit organisation such as The Salvation Army have to start paying taxes, then they would have significantly reduced funds, and would not be able to provide the services they do, meaning the people we serve would suffer.

Puna Whakataa is one of its kind and the work that is done here is highly respected by the people who so desperately need support to move forward in their lives and learn new skills to manage a healthy, productive sober life.

Please don't tax our non-profit organisations. Lives are literally saved here and our programme works.

Thank you

Janice Trevena

PSW Ember Korowai Takanini

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March 2025

## **Wellington Free Ambulance: Submission on taxation and the Not-for-Profit Sector consultation.**

Wellington Free is opposed to taxing business income of charities. This would be fundamentally detrimental to charities serving their vision and purpose. Ultimately, it stifles our ability to maintain financial reserves for essential and much-needed projects, it creates challenges in honouring donor wishes for significant gifts, and it limits future income opportunities for charities outside of traditional fundraising methods. At a time when our communities are feeling financial pressure, Wellington Free is concerned this will only contribute further to struggles the charity sector is already facing.

Wellington Free Ambulance is the emergency ambulance service supporting Greater Wellington and Wairarapa. As well as providing emergency paramedicine to the community Wellington Free also operates one of the three clinical communications centres that support all calls to ambulance 111, operates a patient transfer service that takes people to and from vital healthcare appointments and treatments, supports a large range of community events with our event medical services team and trains more than 7000 people each year in vital lifesaving CPR and how to use an AED skills.

Wellington Free Ambulance covers a region of approximately 500,000 people with a team of dedicated staff in a range of roles including 220 frontline paramedics.

As an essential health service Wellington Free Ambulance receives around 82% of funding from Government, the remainder required to keep services free of charge is fundraised from the community. Each year more than \$8 million is required from fundraising to bridge the gap between Government funding and cost of service, last year we raised over \$12 million which still left an operating deficit. Wellington Free also must fundraise for all infrastructure and capital expenditure such as ambulances stations, ambulance vehicles and other emergency vehicles. Each ambulance once fully kitted with the latest technology and lifesaving equipment costs \$300,000. Approaching our 100<sup>th</sup> year of service to the community in 2027 Wellington Free Ambulance is fiercely proud of continuing to honour the founding value of free and accessible healthcare to all. The ongoing positive and mutually beneficial relationship between community and Wellington Free Ambulance fundraising is essential.

### **Key points for Wellington Free Ambulance:**

- **Changes to fringe benefit tax** – as a not-for-profit organisation being able to offer incentives to staff that are in addition to salary allows us to attract and retain a higher calibre of workforce. Any changes in this area could have a detrimental effect on workforce now and in the future.
- **Increases in compliance** – as a not-for-profit organisation any increase in compliance and regulation will require additional resourcing to ensure reporting is completed. This could divert resources away from the essential mahi of Wellington Free.
- **Tax on accumulated funds** – any surplus that is incurred by Wellington Free Ambulance due to large bequests or successful fundraising activities is diverted to reserves. It is a standard and accepted practice to hold reserves especially given the limited funding that is available for specific projects – such as a building or upgrading ambulance stations. Taxing surplus funds would have a detrimental impact on Wellington Free's ability to continue to reserve funds for specific current and future purposes. For example, most recently we urgently needed some reserve funds to kick start a public fundraising campaign to build a brand new IL4 rated ambulance station in our Wairarapa region. The community then supported by donating more than 50% of the total costs allowing our government funding to be delivered to our core operational expenses.

Reserve funds are also essential in safeguarding continued delivery of our services and renumeration of our staff during unpredicted times of significant costs increase for example a severe event in our region.

- **Taxing accumulated funds** – would also have a negative impact on Wellington Free when large bequests are received for specific purposes and need to be ring fenced for particular expenditure, donor wishes must be upheld and obligations of an estate must be met.
- **Taxing secondary/related income** – this change could have a detrimental impact on our ability to be innovative and find new ways of securing income such as having a charity retail business or selling merchandise. This would discourage innovation to achieve sustainability and limit Wellington Free to traditional donation taking in a competitive fundraising landscape when the continued increases in cost of living is putting pressure on communities.
- **Identifying abuse of charitable status** – this responsibility should sit with The Charity Services rather than Inland Revenue. Charity Services should be resourced and empowered to increase monitoring and identifying charities that might be operating outside of expectations.

Claire Carruthers  
General Manager Funding and Communications  
[www.wfa.org.nz](http://www.wfa.org.nz)





**From:** Ken & Gilly Bateman s 9(2)(a)  
**Sent:** Saturday, 29 March 2025 8:40 am  
**To:** Policy Webmaster  
**Subject:** Taxation and the not-for-profit sector

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

I'm against the charities being required to pay more tax. Their work is valuable and much more expensive if the government has to do this work. Please refer to the years of studies mentioned in the Waikato Times article "Why an atheist changed her mind on churches tax status". [https://www.waikatotimes.co.nz/nz-news/360623004/why-atheist-academic-changed-her-mind-churches-tax-status?sfnsn=mo&fbclid=IwY2xjawJR-h5leHRuA2FlbQIxMQABHW0AUEjCWQwpQfi-hwuW31eJJ\\_jHCOmDhqIHSSADA8kCc5cWlzDQBmT0ng\\_aem\\_jRcfo4579kYeY7vCTOCYDg](https://www.waikatotimes.co.nz/nz-news/360623004/why-atheist-academic-changed-her-mind-churches-tax-status?sfnsn=mo&fbclid=IwY2xjawJR-h5leHRuA2FlbQIxMQABHW0AUEjCWQwpQfi-hwuW31eJJ_jHCOmDhqIHSSADA8kCc5cWlzDQBmT0ng_aem_jRcfo4579kYeY7vCTOCYDg)

This article says charities like churches contribute \$6.1 billion per year in benefits to our nation.

*"Our research is hoping to change that, and I can share that we recently found religious charities—the vast majority of which are churches and/or christian organisations—contributed an enormous \$6.1 billion to New Zealand in 2018 alone. That's worth more to GDP than entire industries such as commercial fishing and forestry combined—and this excludes numerous indirect benefits and flow-on effects across health and wellbeing, life-expectancy, employment, finances, education, social cohesion and pro-social behaviour."*

This article also says:

*"the public benefit they provide reduces the burden on the government. Simply put, without charities, our taxes go up, and disproportionately. This is especially the case with churches, because churches help people in far greater ways than the Government could for a lot less money."*

Please do not make churches pay more tax. You will regret it dearly in the long term.

Churches encourage voluntary care for our neighbors and community. Without this character in our people, our nation will become a very undesirable place to live. You cannot ask a government to step up when this charity work is removed as the Nation cannot afford to replace volunteer work done by charities, especially Christian charities. Taxing charities is a big mistake.

But taxes for sports charities, this is not so clear as many encourage drinking alcohol which is bad for society. So if a charity runs a bar or purchases alcohol, they should pay tax on their activities. If they also run sports groups, then these must be organized as different entities separate from the alcohol/bar activities, they cannot be combined. Sports charities can remain tax exempt, but the bar and alcohol activities should be taxed higher than they are at present.

Alcohol is one of the causes for lots of health and social cost, lots of harm to families and society. We don't need alcohol to have fun or relax. It's a blight on society and should be taxed higher like cigarettes. This would help the government by preventing expenses pain and damage, and increase their revenue.

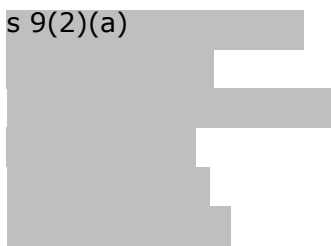
Please do not tax churches. Especially The Salvation Army, and Presbyterian Support. They both do lots of good work to help people and this proposed change to taxation would hurt this greatly.

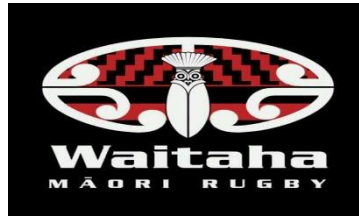
Consider the long term character of people in our Country. If these Christian charities get smaller and less effective then there will be fewer people with this "love your neighbor" attitude in future New Zealand; less people involved in volunteer and paid charity work; less people receiving help from these charities - and where will these needy people go? To our already overburdened hospitals and other underfunded government agencies.

Please leave Christian charities alone and do not increase their tax burden. There are many other more effective beneficial ways to increase government income.

Love  
Ken Bateman

s 9(2)(a)





28 March 2025

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

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

Dear Mr Carrigan,

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

CANTERBURY MĀORI RUGBY COUNCIL "WAITAHA" has been a cornerstone of the Māori rugby community for 72 years, delivering not only rugby but also social, cultural and community development. Our mission extends beyond the rugby field. We enrich lives, promote cultural 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 Whanau**

Rugby is not just a sport in New Zealand – it is part of our national identity/whakapapa and contributes significantly to the economy and social fabric of our communities and whanau. As one of the more than 470 grassroots rugby clubs in New Zealand, we play a crucial role in fostering community wellness, social cohesion, and cultural development of individuals and whanau.

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

Beyond playing rugby, we facilitate rangatahi and rangatira wananga which connects whanau to their whakapapa and heritage; teach waiata, haka and karakia; assist whanau members to connecting with their whakapapa/genealogy; provide opportunity for players, coaches, managers and administrators to achieve their representative potential, and provide opportunities for employment and

furtherance of scholastic achievements through mentoring. These activities bring communities together and generate economic activity for local businesses throughout the year, not just on game day. Further, these activities thrive to address important societal issues in our communities.

### **The Importance of Retaining the Income Tax Exemption for Amateur Sport**

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

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

Preserving the current income tax exemptions is essential for sustaining the economic, cultural and social benefits they provide. CANTERBURY MĀORI RUGBY COUNCIL “WAITAHA” 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, cultural and economic fabric, and its contribution must be recognised and protected in any tax policy changes.

Yours sincerely,

Richie Milner  
Tiamana  
CANTERBURY MĀORI RUGBY COUNCIL “WAITAHA”  
waitaharugby@gmail.com

## **Elim Church Christchurch Submission on Charities and tax consultation**

### **Summary**

We are a church and everything we do supports our charitable purpose, including some activities like having residential and commercial tenancies.

The questions asked in this consultation cannot be answered directly because they do not appropriately conceptualise the role and function of our trusts for our community at all.

**Business undertaken by charities:** We do not support changes to these tax regulations because:

- It would create financial and administrative burdens with the consequence of barriers to freedom of religious expression for our community
- It could lead to poor quality stewardship of our community resources to avoid the administrative burden.
- Charities registration is sufficient regulation of the sector, and this should be accepted by Inland Revenue without additional regulations.
- We do not believe there are any criteria or thresholds that would make this work. It is a floodgate with massive long term unintended consequences.

**Volunteering:** We are concerned for our sense of community if more volunteering is treated the same way as FENZ and conceptualised as being a transactional service between an individual and a trust or related to income. The nuance of language is critical to the religious freedom of our community and the gifts of ministry.

**Donation Tax Concessions:** We support making the donation rebates easier and quicker for everyone. Any change must continue to support anonymous donations to charities, as anonymous donations are a part of the Christian faith. These are donations where only God would know the donation had been made.

### **Full Submission**

Elim Church Christchurch has three trusts which steward resources for our Christian community. We are one church with three locations across Christchurch: Belfast, Burnside and in the City.

Our Trusts are registered Charities and align with the charitable purpose of advancing/promoting religion.

Our shared vision is “Connect, Equip, Influence”

Our priority is to connect to God in worship, to connect within our church community, and to connect with people who are far away from God. To fully equip ourselves by the Holy Spirit in the Word of God so that by faith we can use our gifts, talents, and resources to be great ambassadors of Jesus Christ. Ultimately, we desire to influence our communities, our city, our nation, and the nations of the world, believing that there is hope for all in the transforming power of God’s love.

We are here to

- help people know God and find their place in His family.
- raise up Bible-based, faith-filled disciples of Jesus.

- make a difference globally, nationally and locally.

We undertake this with the values of faith, hope, and love.

Our community worships on a Sunday, meets in homes during the week, has Baptisms, Baby Dedications, Weddings, Funerals and looks to provide Christian Ministry opportunities.

We also support Christian Missions in the Philippines, Uganda, Thailand, Papa New Guinea and Japan.

The decisions for our trusts are all based on our charitable purpose. We would only undertake trade and exchange activities if they support our charitable purpose. We do not believe any of our trade and exchange activities should be considered as “business”.

Unlike businesses where the strategic drivers of change are:

- Rivalry among existing competitors
- Risks of new entrants or substitute products and services in the market
- Bargaining power of suppliers
- Bargaining power of consumers

Our strategic drivers of change are the complete opposite:

- Collaboration with existing charities with a similar purpose
- Celebrating others who have new ways of achieving the same goals
- Being loving and generous to any suppliers
- Non-transactional relationships with the people who are part of the community our trusts serve.

Given our membership and the potential resources we could access, if we were undertaking any trade and exchange duties based on a competitive business model and making choices that press our advantages, the church would look completely different!

An example of this is the tenancies in our central city location. The church owns a multimillion dollar building about 100m from the new stadium in Christchurch. We have been in this location for 25 years. We use the vast majority of this building for church purposes on a day-to-day basis. There are some spaces that we currently lease, and it contributes to 30% of our total revenue. As the church size has breathed in and out over the years, as a living community does, and as members change, the proportion of revenue has changed as spaces have sometimes been used for various ministries.

The governance view is that the full property is for church purposes, and we would have no hesitation making decisions that used the full footprint of the property for the church if we needed to, for our charitable purposes. As a church, nothing we undertake is purely trade and exchange. If it was, as stewards of resources dedicated to spreading the Word of God, we should be questioning that.

If we governed/managed our building as a commercial property unrelated to our charitable purpose, we would be doing something like redeveloping the building for solely commercial purposes that align with the incoming Stadium, and pushing the church services out of the city as the church use of the building creates the least commercial value from an inner-city site.



If the tax regulations were changed so that these leases were considered a business unrelated to our charitable purpose, our city campus may not be viable. This would mean 250 people who choose to worship the Lord on a Sunday at Elim would be without a central city location. A central city campus offers something different to a suburban campus. There are members of our community who travel from the suburbs to the central city to worship because of that difference. The taxation would become a barrier to freedom of religious expression for our community. We could lose the religious means of centralised worship that Elim Christchurch has spent decades keeping in place.

The current tax regulations acknowledge this nuance and does not create additional administrative burdens of proving the “business” we undertake supports our charitable purpose. If the regulations are increased, the administrative burden may become prohibitive to achieving our charitable purpose. There is no documentation that can prove to Inland Revenue the charitable attitude that underpins the decision making of our leadership, beyond the efforts of Department of Internal Affairs to understand our entity when we registered, and considering these legal entities as being charitable under the Charities Act. That should be sufficient evidence. It is not the role of Inland Revenue to determine what activity is charitable, but to provide the tax exemption to it.

Charitable trusts that support Christian communities are already struggling with Health & Safety admin, Vulnerable Children’s Act admin, Employment admin, none of which truly considers the impact of this regulatory burden on trusts that support a group of Christians to live in community with each other and share resources to outwork our faith. We are not running an entity that develops and delivers “products and services” even if someone external to our community thinks they can conceptualise or treat celebrating a baptism or collective worship as a “service” provided by a Trust. This is a fundamental difference for our trusts that act as stewards of resources for a community.

We do not support any change to the current tax regulations regarding business undertaken by a charity as we see the consequences of the changes as leading to a financial and administrative burden on our community and creates a barrier to freedom of our religious expression. Any changes to the current regulatory system could have unintended consequences us.

The idea that the legal entities that are charitable and support Christian communities are the same as an entity that undertakes trade and exchange is completely inappropriate to apply to tax regulations. The language and questions asked in this consultation cannot be answered because they do not conceptualise the role and function of our trusts for our community appropriately at all.

It could also lead to poor quality stewardship of our community resources as we would need to use structures to easily prove our charitable intent via documentation, rather than using structure that create good governance and management. For example, we have been discussing restructuring, so the operational expenses are governed separately from the property management to ease the governance burden and to have the right skill sets around the table to govern the range of properties. Some properties may be residential and commercial tenancies now but are either adjacent or part of the church property and we see them as being for the expansion of the church when required. If we had to try to prove to a reviewer that all our property “profit” was for charitable purposes, it would be easier to leave it consolidated with the operational costs. Then our leaders would be free to focus on implementing our charitable purpose and not tied up in jumping annual tax administrative regulatory hoops created by

government. If the government would like better stewardship of finances for charitable purposes, the level of regulation of the charitable sector needs to make good governance and management of those finances easier, not harder.

### **Volunteering**

The people who do things in our community may be considered volunteers for tax purposes, but for our community this is an outworking of faith and a ministry. Any payments, finances, or gifts they receive should never be thought of as a salary or wage, or transactional in any nature. These are organic and dynamic relationships with our communities, and we may choose to support people financially to acknowledge costs or show gratitude. Any insinuation or jargon from government agencies that may lead the organic and relational gifts of time in our community to be associated with work, income, payment, exchange or transaction between the trusts and the individual must be avoided to preserve the role of the trust in stewarding resources for a community and upholding the concept of Christian ministry within the community.

FENZ is in a different position, and their work should be conceptualised quite differently to leadership and ministry in a Christian community. People choose to be part of a Christian community that naturally involves leadership roles and giving of self to others. Honoraria, stipends, and gifts to people who fulfil these roles in our community should never be considered or treated as transactional or related to income. The extra efficiency gained by Inland Revenue would be lost in reduced volunteering, reduced sense of community and reduced community cohesion. There is more at stake for charities that support communities in New Zealand from this approach to regulation than the purported benefit of government collecting more tax.

We acknowledge that it may work for charities that provide products and services. Our core vision involves connection. The regulation must allow trusts that are designed to support community connection to be different, and the current setting do that. However, to try and change this creates a paradox as the very act of proving that we don't provide services but provide community in a regulatory sense would be administratively burdensome on the trust and undermine what we are trying to achieve. Therefore, we do not think this can be a condition or exception or tried to be identified through regulation.

### **Donation Tax Concessions**

We support making the donations rebates easier and more timely for New Zealanders and reducing the administrative workload for donors and the organisations that receive donations.

We always make people aware of the opportunity to have their donations accounted for and have many members who claim their rebates. For Christian households who tithe a full 10% of their gross income as well as additional offerings, the rebate can be substantial and having the options available of rebates returned throughout the year, closer to the time of donating, would benefit these households.

Any change should support anonymous donations, as anonymous donations are a part of the Christian faith (Matthew 6:1-4). If the donations system was changed so that no donations in New Zealand could be anonymous e.g. every charity had to attribute the donation to a legal entity, it would be a barrier to our faith and encroach on our freedom of religion.

31 March 2025

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

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

Dear Sir/Madam

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

Thank you for the opportunity to provide feedback on Inland Revenue's paper on taxation and the not-for-profit ("NFP") sector ("the Issues Paper"). Ashton Wheelans Limited and Clubs New Zealand Inc are supportive of changes being made to simplify taxation of the NFP sector and ensure there is greater understanding and compliance.

Clubs New Zealand and Ashton Wheelans are providing a joint submission on the Issues Paper. Clubs New Zealand is the leading association for clubs in New Zealand representing more than 300 clubs around the country including chartered clubs, community clubs, cosmopolitan clubs, workingmen's clubs, sports clubs and RSAs. Ashton Wheelans is an advisor to Clubs New Zealand, and accountant and advisor to a number of clubs across New Zealand.

This joint submission largely focuses on Chapter 4 of the Issues Paper, which concerns proposed integrity and simplification measures, as this chapter is the most relevant to New Zealand clubs.

In summary, our view is as follows:

- The taxation of clubs should be aligned between different legal structures (friendly societies and incorporated societies).
- The majority of clubs are not generating commercial profits so many will not be impacted by any change.
- A simplified system where there is less ability for misunderstanding should be adopted.
- Our view is that taxing clubs will impact on the financial viability of NFPs and community organisations, making it unaffordable to continue to operate clubs from a tax and compliance cost perspective.
- If a change is implemented, we consider a de-minimis threshold or tiered system should be applied for smaller clubs that is more relevant to the current economic trading levels (higher than the current \$1k deduction that currently applies to some clubs).

## **Integrity & Simplification – Policy Framework**

As noted in the Issues Paper, many NFPs are mutual associations or bodies acting together to further an objective, which often provides benefits to members. However, in addition to their members they often support their community and provide a sense of belonging to that community through charitable causes. Clubs are often structured as Incorporated Societies, or sometimes Friendly Societies, and the tax legislation is not well understood by their governing bodies and often their advisors. Many identify as just being a club and are not aware that the way in which they are structured impacts on their tax obligations.

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The mutuality principle is often misinterpreted in that trading with members is sometimes not considered to be subject to income tax, in addition to the membership fees, partly due to treasurers not being aware of the change in Inland Revenue's interpretation of the mutuality principle. It also appears that some accounting practitioners are not aware that the mutuality principle does not apply to trading receipts and are incorrectly treating clubs as exempt from income tax.

Whilst we believe many clubs are misapplying the mutuality principle, we doubt that applying a correct approach would result in collection of much additional tax revenue, as many clubs run at a loss and have done so for many years from trading activities. We also believe that many clubs would not have accounted for the losses that they have incurred over these years on the basis that they considered this was exempt income as "member activities". Addressing past non-compliance may result in little or no additional tax revenue and would only result in the establishment of the historical loss position for some clubs (which would be carried forward to offset future income) but would result in clubs incurring substantial compliance costs.

We believe that the simplification of the mutuality rules would ensure more compliance and understanding, whether from business activities or membership.

We agree that the \$1,000 deduction for NFPs is too low to be relevant to clubs and, in any event, clubs will not be entitled to that deduction if their rules permit distributions to members on winding up. We propose that clubs should not be subject to income tax at all, especially given that many clubs are sports clubs by nature (to which a separate income tax exemption applies), often servicing a number of sporting sectors and providing social activities promoting community participation.

Most clubs do not operate under a commercial regime or discipline; they are run by volunteers who support a shared common interest. Their intent is sustainability of that community of interest, rather than a "profit motive" and we believe removal of the existing tax exemptions will be of serious detriment to the survival of such groups, and in a tax system sense, simply add compliance costs beyond any revenue source for the country.

However, we do note that some clubs have commercial operations (trading outside of the membership) for which we agree that if taxed a de-minimis threshold should be applied to allow them to make some non-taxable gain to provide for the community aspect of their purpose. Either way, all clubs should be taxed in the same way, whether they are structured as Incorporated Societies or Friendly Societies.

Alternatively, if Government does not agree to a de-minimis threshold, we agree that a tiered approach for taxing only those clubs that are of a significant size would also achieve a similar result. That is, organisations with a similar turnover to tier three and tier four charities would not be required to file income tax returns, and organisations with turnover equivalent to tier two charities would be required to file income tax returns but be exempt on, say, their first \$100k of net income (this would be similar to membership fees of those organisations being exempt from income tax).

We agree that this income tax exemption would only be available to clubs that are not able to distribute surpluses to members, including on winding up. To that end, we note that clubs incorporated under the Incorporated Societies Act 2022 are not permitted to make distributions to members (including winding up) in any event.

### **Affordability of Tax**

A large section of the clubs' industry is financially fragile at present. This is based on a number of factors which have changed their operating environment in recent years including drink driving legislation, gaming legislation, aging membership and large buildings which incur high operational costs and are not fit for other purposes.

We understand the perception that clubs that do not pay income tax have an unfair advantage over commercial entities, as clubs can provide goods and services at a lower price. However, our experience is that clubs have significantly higher operating costs than commercial entities due to the breadth of services and offerings made available to members.

Many smaller clubs struggle to survive at present and complying with tax, gaming and other legislation is a significant cost for them. Many of these smaller clubs will struggle to survive if they were required to pay income tax on all of their revenue streams (albeit that membership fees is a small component of clubs' revenue).

The clubs' industry is largely surviving because many have accumulated assets (such as clubrooms) in the past, and not through trading or membership fee-related profits. The industry is asset rich, but cash poor, and a number of clubs have been selling off their assets to assist in funding operations (which is not sustainable), especially after closures during COVID impacted their ability to trade and used up much of their reserves to keep staff employed,

with no funding from Government to assist.

We see little value in taxing the sector on its activities, as there is little tax revenue to be gained, but also feel that the industry has sufficient challenges without having to deal with further tax obligations and compliance costs. We do however agree that there is value in tightening and simplifying the associated legislation.

### **Depreciation on Commercial Buildings**

As mentioned above, many clubs own and operate from large old buildings. These clubs need to make a sustainable profit to allow them to maintain and redevelop their premises for future generations of members. At present many clubs do not have funds to do this post-COVID and have large old buildings which are expensive to maintain. They therefore need to start making trading profits to fund future assets. As noted, as NFPs, clubs are unable to distribute funds to their members, and so reinvestment of profits back into the club is critical for their future. Being taxed on the required future profits which are then reinvested back into the club for buildings which are no longer depreciable is inequitable and should be a consideration in deciding whether or how to tax clubs.

A club needs to generate a profit to allow it to redevelop, otherwise it loses its ability to provide a service, atmosphere and culture that attracts members, and therefore ultimately will result in closure. Consideration should be given to providing tax relief (in the form of a deduction) for profit reinvested in community assets, such as maintaining or developing clubrooms.

### **Competitive Industry – Clubs vs Commercial Entities**

We agree with the need to balance competitiveness between clubs and commercial entities but note that many commercial entities do not bear the same costs as clubs for compliance, and do not provide the community benefits.

Clubs also do not have the same ability to raise funds and capital, and as member-driven organisations, there is more cost in operating such organisations.

The clubs' industry has been in decline for many years, and it is becoming increasingly more difficult to ensure sustainability. We enclose in Appendix A a list of clubs closed in recent years due to their inability to continue operating sustainability. We fear that this trend will continue due to the cost of operations and compliance being unsustainable.


### **Integrity & Simplification – Volunteers**

We agree that it is necessary to simplify the taxation of honoraria payments. Volunteers are an important part of clubs and their communities. We appreciate the need for tax to apply due to the payments being income in nature but agree that being processed via a payroll and PAYE system makes significantly more sense than via schedular payments.

We would be happy to discuss our submission with you further. Please contact the writers should you wish to discuss further.

Yours faithfully

s 9(2)(a)



Andrew Keys  
**Partner**  
**Ashton Wheelans Limited**

Lucy Waterreus  
**Chief Executive Officer**  
**Clubs New Zealand INC**

## **Appendix A : Clubs closed in recent years**

- Nelson Suburban Club
- St George Bowls & Sports Club
- Dunedin Metropolitan Club
- Naenae Memorial RSA
- Geraldine Town & Country Club
- Rangitaiki Cosmopolitan Club
- Workingmen's Bowling Club
- Hamilton Combined Returned Services Club
- Greater Green Island Town & Country Club
- Club Katikati
- Ohaupo Bowling & Associated Club
- Ohakune Club
- Te Aroha RSA
- Tamaki Naval & Ex Naval Club
- Pukekohe RSA
- Stratford & Districts RSA
- Taumarunui Club
- Hoon Hay Working Men's Club
- Riccarton Working Men's Club
- Christchurch Working Men's Club
- St Albans Shirley Club
- Clubs of Marlborough / Blenheim Working Men's Club



**From:** Sarah Doherty s 9(2)(a)  
**Sent:** Saturday, 29 March 2025 11:54 am  
**To:** Policy Webmaster  
**Subject:** Taxation and the not-for profit sector

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

Submission from Kapiti Impact Trust

Kia ora,

We are a small not-for-profit entity that sits within a group of entities that include a small community church, based in Paraparaumu.

We run a small enterprise, leasing office space and workshop venues to community organisations and generate a modest income that we apply directly to social and community work initiatives.

We are opposed to the introduction of any taxation on community organisations, churches or charities.

We have no competitive advantage; we offer a unique supportive service and any surplus is directly used for further charitable purposes.

Removing some of our income through taxation would reduce the support we can offer to community organisations and to vulnerable people in our community.

The current economic environment is more challenging than it has been in past decades. Government contracts are moving to larger entities. As a result of lost contracts, more community service providers are turning to grant funders such as Lotteries, where in the past those funds would be available to smaller entities such as ourselves.

Philanthropic and grant funders are tightening their granting, in response to using funds during Covid years and the reduction in returns they receive on their investments.

Increased competition for funds means that enterprises such as ours are even more necessary for the community and charitable sector to undertake our essential work.

We strongly recommend that the government does not proceed with introducing taxation of charities.

The larger players are few and far between, compared to the overall charitable sector. Introducing taxation on income will have a disproportionate negative impact on the majority of the charitable sector (Tier 3 and Tier 4 smaller charities).

Charities should continue to be able to accumulate funds, there are many documented good reasons. Not least of all, reserves enable organisations to continue to operate and provide services when the country is in a recession, or available grant and philanthropic funding is significantly reduced, or when government contracts are centralised to a few big players and many local grass roots service providers are hard hit. Exactly the situation we are in right now.

Our response to some of the questions asked in the discussion paper:

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

The paper seems to be missing the entire point: the income earned and funds accumulated do not profit any individual. They go to the charitable works that have wide public benefit across our whole community

2.13 and 2.14 do not warrant taxing charity business income.

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

Removing some of our income through taxation would reduce the support we can offer to community organisations and to vulnerable people in our community.

Additional compliance costs would be added to smaller charities to prove their income is being used for charitable purposes.

People may be reluctant to take on a voluntary trustee role for a small charity because of the increased risk of meeting yet another compliance burden.

Smaller charities could inadvertently be taxed because they do not have the financial means to engage the same tax advice as large charities do.

How does IRD expect "business income unrelated to charitable purpose" be identified and proved?

It's important that Government / IRD understand fully the scale of the problem. Exactly how many charities do abuse the tax system? How large is this issue in reality?

Deal with wrong doing, through the Charities regulator, without impacting all charities.

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

What is a meaningful definition of unrelated? In our situation, we operate a facility that provides offices and meeting spaces. We see a direct link because we provide these services to community organisations.  
Related? Unrelated?

Who decides? How definite is the division? What if some of our tenants and users are more closely related to our charitable purposes than others?

Asking and answering the unrelated/related question increases the burden of cost for government and for us.

How many charities run unrelated businesses? How do you know that their accumulated assets are not used for charitable purposes? How much tax would be gathered? At what cost to the stability of the charitable sector and the ongoing good works which are becoming increasingly necessary in the current economic climate.

The onus of proving unrelated business income should rest with IRD rather than burdening small legitimate charities with increased compliance costs to prove they are using the funds for charitable purposes.

Making the change to current tax exempt status appears to be focusing on the 1% that may be abusing their charitable status and crippling the 99% that are doing great work whose resources are already stretched.

**Q 4. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what would be an appropriate threshold to continue to provide an exemption for small-scale business activities?**

At the very least, do not remove the tax exemption for Tier 3 and Tier 4 charities.

You would be unduly impacting Tier 3 and Tier 4 charities.

It is clear from the breakdown of charities that reported business income, that smaller charities have to look to business activity to fund their work. Only 1% of Tier 1 charities reported business income, compared with Tier 3 45%, and Tier 4 43%.

More tax income would be generated from taxing super wealthy New Zealanders rather than small charities.

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

Charity business income should remain tax exempt. Preventing charities from re-investing in charitable businesses is foolish. Surely a thriving business is good for the product or service it provides, the employment and other benefits in the community it provides, and the funding of charitable works.

The best way to achieve not wrongly taxing charities is to not impose the taxation in the first place.

We are pleased to have been able to contribute our thinking in response to the discussion paper.

As issues and definitions are worked through, we strongly advise a longer consultation period with the charitable sector so that any changes in regulations have minimal unintended consequences.

For and on behalf of the Trustees of Kapiti Impact Trust

Ngā mihi  
Sarah



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## **Submission to Inland Revenue Department (IRD) – Review of Not-for-Profit Taxation**

Submitted by: Gerald Pinckney

Date: 29<sup>th</sup> March 2025

Subject: Response to IRD Consultation – Veterinary Service Body Income Tax Exemption

### **Response to Question 12 – Implications of Removing the Veterinary Service Body Income Tax Exemption**

This document presents a strong case for removing tax-exempt status from Veterinary Clubs Practices operating as commercial entities, ensuring financial transparency.

- The role of and requirement of Income Tax exempt Veterinary Club Practices has outlived its very admirable original purpose – that of ensuring adequate geographical (local) provision of Veterinary Service to the burgeoning NZ agricultural sector after World War II.
- There is widespread provision of Private Veterinary Practice currently servicing the NZ agricultural industry, with significant competition ensuring the cost of that service is kept real.
- Continuing existence of Veterinary Clubs utilizing their tax exemption allowed under CW 50 of the Income Tax Act 2007 is not only not necessary, but the intention of the Act is being abused i.e. funds being used for private pecuniary profit members, proprietors, shareholders and associates. Companion Animal (non-member) veterinary service provision being provided under the same umbrella etc.

#### **1. Addressing Competitive Disparities in the Veterinary Sector**

Veterinary Clubs Practices were initially designed to provide rural veterinary services but have evolved into fully operational commercial businesses. Many now operate tax-free while competing with private veterinary businesses that must pay full corporate tax.

#### **Market Distortions Created by the Tax Exemption**

- Veterinary Clubs Practices can set prices lower than private businesses due to their tax-exempt status.
- Financial reserves of tax-free vet clubs grow at a faster rate, leading to market expansion at the expense of tax-paying entities.
- New veterinary clinics established by vet clubs operate without tax constraints, creating unfair advantages over independent veterinary practices.

#### **2. Strengthening the Viability of Rural Veterinary Clinics**

The financial sustainability of private veterinary practices, especially in rural areas, is at risk due to the competitive advantage tax-exempt vet clubs enjoy. Private clinics struggle with

recruitment and retention, particularly when competing against businesses that do not bear tax burdens.

### **Negative Effects of the Current Tax Exemption**

- The exemption suppresses wages within the veterinary sector, limiting growth and career opportunities.
- Many tax-exempt vet clubs extend services beyond their original rural scope, competing with established veterinary businesses.
- If private veterinary practices continue to decline, access to veterinary services in rural areas could be significantly impacted.

### **3. Aligning Tax Policy with Modern Veterinary Industry Conditions**

The veterinary industry has evolved significantly since the tax exemption was introduced in 1955. The original purpose of supporting access to veterinary care is now outdated, as veterinary services are widely available.

### **4. Enhancing Governance and Financial Transparency**

- Some tax-exempt Veterinary Club Practices have evolved into profit-driven organizations, raising concerns about financial transparency.
- Many Veterinary Club Practices offer services to non-members, contradicting the original intent of their tax-exempt status.
- Ensuring tax compliance for all veterinary providers would help maintain fairness and accountability.

### **5. Ensuring Minimal Impact on Genuine Non-Profit Veterinary Organisations**

- Vet Associations and Societies that engage in charitable work can transition into Charitable or Incorporated Society status to maintain tax benefits.
- Existing tax laws already provide appropriate exemptions for legitimate non-profit activities related to animal health research and education.

### **6. Reinvesting Tax Revenue for Veterinary Industry Support**

- Redirecting tax revenue from previously exempt vet clubs could fund workforce training and rural veterinary support programs.

### **Conclusion & Recommendations**

The removal of the veterinary service body income tax exemption is necessary to ensure financial sustainability, competitive fairness, and transparency within the sector.

We recommend:

1. Repealing CW 50 of the Income Tax Act 2007 to ensure all veterinary providers operate under equal taxation.
2. Establishing clear guidelines for non-profit veterinary organizations to transition into appropriate charitable entities.
3. Strengthening IRD enforcement to ensure no misuse of tax exemptions for commercial

gain.

By implementing these measures, the veterinary industry in New Zealand can operate in a more equitable and transparent manner.



Policy  
Inland Revenue  
PO Box 2195  
Wellington 6140

29 March 2025

**Reference: Taxation and the not-for-profit sector**

Dear Sir/Madam

The Chartered Governance Institute New Zealand (CGI NZ) was formed in 1937 and is a member of the Chartered Governance Institute headquartered in London. We represent hundreds of members in New Zealand who work as board secretaries and advisors, both in for-profit and for-purpose entities. CGI NZ is committed to providing training and education within the governance sector and offers both the Chartered Secretary and Chartered Governance Professional qualifications. Specifically, many of our members work in the not-for-profit sector in voluntary and paid role.

We have pleasure in submitting a response to your recent officials' paper on taxation and the not-for-profit sector.

CGI NZ believes that the current regime for not-for-profit organisations is robust and does not require change. The existing structure offers a reliable and clear foundation for charitable organisations' functioning, allowing them to fulfil their goals while receiving tax benefits.

The Income Tax Act 2007's description of "charitable purpose" is thorough, covering poverty alleviation, educational or religious advancement, and other community-serving initiatives, which corresponds with global benchmarks and methods. This inclusive description enables adaptability to society's changing demands.

The regulatory structure, including the Charities Act 2005, establishes strong systems for charity registration, disclosure, and supervision, ensuring openness and responsibility. Charities Services, operating under the Department of Internal Affairs, maintains a publicly accessible charity register, which strengthens public confidence in the sector.

Additionally, the present tax benefits, such as income tax exemptions and donation credits, are appropriately designed to assist the charitable sector without creating excessive compliance requirements. The current system achieves equilibrium between promoting charitable activities and sustaining tax system integrity.

To summarise, the existing charity regulations effectively support the sector's expansion and societal impact. Any adjustments to the current framework should be considered carefully to prevent unnecessary disruption and maintain the advantages currently available to the charitable sector.

We have endeavoured to answer the specific questions outlined in the officials' paper in the addendum to this letter. We would welcome any questions you may have and invite you to contact us should you have any queries.

Yours faithfully

s 9(2)(a)

Angus Ogilvie FCGNZ

**President**

e s 9(2)(a)  
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## Addendum

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

Only a minority of charities operate commercial ventures, sparking debates about fairness with for-profit entities. Yet a growing number of charities depend on business earnings to offset shrinking funds, particularly donations in a cost-of-living crisis.

Arguments for taxing include:

1. **Market Equity:** Imposing taxes could balance competition, as untaxed charities might outprice businesses that are currently taxed. However, evidence of this problem in New Zealand is scarce.
2. **Fiscal Boost:** Taxing this income could increase government revenue, supporting public initiatives and offsetting forgone revenue.

Arguments against taxing include:

1. **Social Good Focus:** The Income Tax Act 2007 grants tax relief for income serving community welfare, ensuring only true charities benefit.
2. **Fostering Charity Work:** Tax breaks enable reinvestment of earnings, strengthening community aid efforts.

CGI NZ supports maintaining the present approach and is not supportive of any reform.

### 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?

Eliminating this tax relief might:

1. **Heighten Compliance:** Charities would need meticulous tracking to split income sources, escalating compliance.
2. **Strain Finances:** Taxed earnings could shrink resources for charity programs, particularly for those leaning on business revenue.
3. **Bolster Governance Revenue:** Taxes could enhance government income, though the effect hinges on the extent of commercial operations and should be tempered with additional costs that may be transferred to government if the charity could no longer operate.

Overall, we believe any change will increase compliance and curtail charitable outreach.

### 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?

Setting a definition for "unrelated business" poses significant issues:

1. **Vagueness and Confusion:** Any definition will create uncertainty and will necessarily introduce subjectivity. This in turn will almost certainly result in charities resorting to the courts to seek clarity.
2. **Clarity vs. Adaptability:** The definition must be precise yet versatile enough for varied charity operations.

CGI NZ strongly recommends excluding investment profits from this category. Charities with significant reserves invest those funds to ensure continuity and sustainability. We believe that this is best practice and should be encouraged. Any investment income should not be taxed.

**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?**

CGI NZ doubts the value of change but proposes exempting Tier 3 and 4 charities because:

1. **Limited Means:** Smaller groups lack resources to handle intricate tax compliance.
2. **Equity in Scale:** Sparing smaller charities avoids overburdening modest operations.

If the government determines that they want to introduce changes to the sector, a de minimis must be considered for these smaller charities.

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

Earnings used for charity goals should stay untaxed since:

1. **Core Aim of Relief:** Tax breaks aim to aid societal benefits, as per sections CW 41 and CW 42 of the Income Tax Act 2007.
2. **Policy Goal:** Taxing this income may dilute funds currently employed for the public good.

This upholds legislative aims and boosts charity impact.

**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?**

Key points to ponder:

1. **Income Division:** Clear rules for splitting funds under section CW 42 could ease confusion.
2. **Effect on Viability:** Evaluate risks to charitable programme delivery from reduced resources.

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

CGI NZ rejects this separation because:

1. **Complexity:** It would complicate taxes for charities and regulators alike.
2. **Current Protections:** Registration and disclosure rules already curb misuse.

**Q8. Should investment restrictions be introduced for donor-controlled charities for tax purposes, to address the risk of tax abuse? If so, what restrictions would be appropriate? If not, why not?**

CGI NZ opposes such limits since:

1. **Built-in Checks:** Section CW 42 prevents misuse of earnings for non-charitable purposes.
2. **Investment Freedom:** Restrictions might hinder revenue generation.

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

CGI NZ prefers no change because:

1. **Requirement for Flexibility:** Charities need room to save for future initiatives, retain flexibility and to ensure viability.
2. **Compliance:** Any additional mandates will increase the compliance burden.

**Q10. What policy changes, if any, should be considered to reduce the impact of the Commissioner's updated view on NFPs, particularly smaller NFPs?**

Options include:

1. **Raising the \$1,000 Limit:** A higher cutoff could spare small NFPs from tax compliance.
2. **Easing Filing Rules:** Lighten demands on smaller organisations.

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

Ending relief might:

1. **Threaten Operations:** Fewer providers could weaken competition, choice and service offerings.
2. **Lift Compliance Demands:** New tax rules would challenge smaller groups.

CGI NZ backs keeping things as they are and sees no need for reform.

**Q12. What are the likely implications if the following exemptions are removed or significantly reduced:**

- **Local and regional promotional body income tax exemption:** Might dampen efforts to boost tourism.
- **Herd improvement bodies income tax exemption:** Could weaken dairy sector quality.

**Overall impact to all sectors**

1. **Higher Tax Burden:** Less money for primary goals.
2. **Clerical Costs:** Greater compliance efforts.

**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?**

Possible outcomes:

1. **Tax Burden:** Fewer resources will impact resources earmarked for charity work.
2. **Programme Cuts:** Reduced service capacity.

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

We support extending this simplification to all not-for-profits.

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

The review's emphasis on valuation and global examples is promising and we support further discussion on adopting global best practices to improve incentives for both private individuals, trusts and corporates donating to charities.



# **Feedback on Officials Issues Paper consultation - Taxation and the not-for-profit sector – February 2025**

**Submission from Rotorua Keswick Convention Incorporated - CC21331**

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

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## **1. Introduction to Rotorua Keswick Convention**

### ***About Keswick***

Rotorua Keswick Convention (Keswick) is an incorporated society and registered charity with religious purposes. It goes back to the 1920s in New Zealand.

Keswick purchased property in Holdens Bay Rotorua in 1962, to hold its own annual Christian convention/summer camp. To hold this annual convention was the reason Keswick was established. Over time Keswick developed a vision for the wider use of the property and over following decades the property was developed, largely through the use of volunteer labour. We now have a property with facilities that are used by a wide range of individuals and organisations, for religious and non-religious purposes, some use for charitable purpose and others not. Being able to have this revenue stream allows Keswick to upkeep the property and continue to develop for the benefit of Keswick's charitable purpose and for other users.

Keswick receives a very small portion of revenue through donations, 2.3% (Year ended June 2024). Most of its funding is from revenue earned from the use of the property.

### ***Who uses our property***

As well as holding its annual convention/ summer camp which is attended by people from across the North Island, Keswick allows the following types of groups to use its facilities (not an exhaustive list): school and sports camps, church, youth, music, craft and scout camps to name a few. We also make the property available for conferences and other events as the property has a large auditorium, in addition to dining and accommodation facilities. It is a popular facility being situated in the middle of the North Island and near a tourist centre.

The property is used by other charities, including the charity Christians Against Poverty who bring clients to the site for respite – for many of their clients the stay at Keswick is the first holiday they have been able to have with their family. CAP is able to bring it clients to Keswick as we are able to charge them a very reasonable, if not low costs to come and this is part of our charitable purpose. It is also available to individuals for family reunions, weddings and funerals all at reasonable cost.

We have a small number of paid staff on the property and they provide all meals and other services users of the property may need. Many users of the property contribute in some way to keeping costs low for their camp – helping with washing dishes etc as that saves on staff numbers. For many of our staff, working at Keswick is more than a job, it is a way to contribute to the community and to be of service to others, aligning with their own personal religious beliefs.

Keswick keeps its charges as low as possible so that individuals and organisations can afford to come and use our property, and enjoy all it has to offer. We want people/families to be able to afford to come to our property to have a break from day-to-day life and to be restored and refreshed. We can only do this if we can retain our tax exempt status in relation to all revenue earned, all of which goes back to keeping our property usable.

***Using our assets to be financially sustainable and not require government support***

Being able to use the property for camps and other events over the course of the year makes best use of the assets that we are the stewards or kaitiaki of. As mentioned, all income earned is used by Keswick to upkeep or develop the property. Over the COVID period the property was not used for a long period and it has taken a while for us to see usage increase and the last few years have been financially challenging too with the cost-of-living crisis. With our tax concessions and careful financial management and the commitment of our staff we have been able to manage through these times.

We have some land that is part of our property and excess to our current needs. It was compulsorily acquired from us in the 1970s/80s and relatively recently offered back to us for purchase, which we were able to do with it being offered back at 1980 prices. The land was undeveloped. In time we would like to do more with this land, however for the present and being financially responsible, Keswick has leased some of that excess land to enable a Kura to operate until such time as it finds a permanent location elsewhere in Rotorua.

The Board of Keswick felt that leasing to a Kura was a use that was similar in nature and intent to our charitable purpose and a good thing to do for the benefit of Rotorua and the local community. It offers us some secure revenue for a period, as camping can be an up and down business, and with security we can plan further development of the property to put us into a sounder financial position for the future. Knowing this revenue stream is in place for a period provides us with security. All of this revenue is put to use in connection with our property and to have some of taken back in tax would lessen that security.

In the past we have leased land, at low cost to other charities, such as, riding for the disabled. In doing this we were endeavouring to be financially responsible by receiving some (very modest) income from this land, while helping another charity to operate. In all of these endeavours we are attempting to achieve long-term self driven, financial stability.

Taxing business revenue with threatened the future security of many charities and is not acceptable given the contribution they make to New Zealanders.

## **2. General concerns with the proposals in the officials' issues paper**

### ***Importance of charities to New Zealand New Zealanders***

1. The approach in the official's paper seems to be focussed on achieving an overall reduction in support for the charitable sector. Given the amount of services delivered by the charitable sector and the importance of charities to New Zealanders it would be preferable for the Government to develop proposals to support the sector.
2. New Zealand has more charities per head of population than most countries. This demonstrates the strong level of societal ownership of charities. Charities have been supported by successive Governments by taxation concessions because they are valuable and valued by the country and it would be best for this support to continue.
3. 4% of New Zealanders are employed by charities and 1.4 million hours are given by volunteers every week. If charitable tax status changes and some charities can no longer operate, which is entirely possible, those volunteer hours the country benefits from will be lost. New Zealanders value and support their charities and have confidence in them.
4. Charities provide broad public benefit and broad public impact. The 0% marginal tax rate on income currently reflects this at the rate is similar to that for other public benefit entities such as local government. Given this benefit and impact tax exempt status for charities should remain and they should not be singled out for lesser treatment.
5. Charities are usually highly efficient deliverers of services, close to their communities and due to limited resources are often incredibly efficient. They are generally much more cost-effective service providers than the Government, this cost doesn't seem to have been considered in these proposals.

### **The sector is financially fragile**

6. Many in the charitable sector operate on modest resources. There are only five main ways that a charity can raise funds or earn income to support its work and charitable purposes. These are:
  - Donations from individuals
  - Donations from Trusts and Foundations or other philanthropic entities
  - Government (or private) contracts for charitable service provision
  - Income from passive investment into term deposits, shares, and bonds (if the charity has any funds to invest)
  - Business operations.

Only the last method, business operations, provides a charity with a high degree of self-driven financial sustainability and that should be allowed to remain.

### ***The absence of services by charities will require Government to do more***

7. If charities are forced to cease operating due to these proposals and no longer provide their services which are addressing needs, then the Government will have to step in and provide those services, as need with not simply go away. This will have a direct cost

implication for Government and likely considerably more than the cost of their support of the charitable sector via tax concessions.

### ***Volunteer labour in charities***

8. Many charities operate with the benefit of considerable volunteer labour and for some they also receive the benefit of free goods and services. In addition there are people willing to work in the charitable sector for less than standard commercial rates due to their personal commitment to the charitable purposes of their employer.

Donated goods and services are commonly either not reflected in financial statements or not at market values and many leases provided at discounted rates to charities.

### ***Abuse in the sector***

9. The proposals suggest there is abuse in the sector and that there is considerable revenue lost to the Crown and taxpayers from charities being exempt from paying tax. We question whether this is truly so, as there appears to be a lack of analysis in the Official's issues paper supporting this view. Further work including a cost benefit analysis is needed to understand if this is the true situation. It is unfair to remove a concession from all charities due to the behaviour of a few and seems to be against good public policy and regulation.

If the issue is more about certain charities abusing their tax concessions, then the first steps should be to:

- Understand clearly the size of the issue – How many entities? How much in cost?
- Is this an issue that requires a blanket approach over the whole sector, or is it better addressed via very targeted intervention of those suspected to be abusing the concessions?

### ***Charities transparency and legal obligations***

10. Our legislation allows a wide variety of charities to be established and officially registered for the benefit of New Zealanders. Registered charities have mandatory obligations they must meet with respect to how they are run and also concerning transparency, via the Charities Register. This includes financial reporting and service performance reporting. This level of public transparency comes at a compliance cost for charities and is at the level of reporting that Government departments and Crown entities have to comply with. Generally charities have significantly greater transparency requirements than for-profit entities in New Zealand, most of which have no legislated obligations and this is unfair, placing quite a compliance burden on the charitable sector.

### ***Simplicity of tax systems***

11. When it comes to tax systems, simplicity is always best for taxpayer compliance and tax department monitoring. Our simple tax system is a strength and adding complexity for

what is likely to be for little benefit would not be good for the country. Our relatively simple system improves tax payer understanding of their obligations and so encourages/supports tax payer compliance. It helps to improve cost and efficiency. Exceptions often create complication, more cost, and unintended consequences and that is likely to be the case if these some of these proposals are introduced.

12. The consultation proposals will require many new definitions to be determine, such as 'related/unrelated income', all of which will require more consultation and debate. Detailed guidance will need to be prepared for change could be implemented before and even then there is likely to be misinterpretation and litigation for clarification.

### **Unintended consequences from the proposals if implemented**

13. The proposals do not address some of the unintended consequences or longer term likely impacts of the proposals.
  - The proposals will make it harder for charities to achieve financial self-sustainability if they are not allowed to have tax concession related to business income. It will reduce innovation in developing new revenue sources.
  - How much revenue will be gained by the Government from the proposals as against the additional services the Government will need to fund if charities are less sustainable and have to reduce services or even have to stop operating? Our charities play a critical role in service delivery that the Government would be hard place to meet if charities had to give up operating.
  - It may be that for larger charities in particular these proposed changes may result in charities considering other structures to maintain tax exempt status and complicating the wider charities and tax environment.
14. These proposals appear to really be targeted at managing a few charities that the IRD believes are not operating fairly under our present legislation. It is fair for IRD to be concerned with this, however taking a blanket approach to removing tax concessions is likely to cause more damage to the majority of charities not abusing the system than improving the overall tax system in regards to those charities abusing the system. Changing a system due to the actions of a few is not helpful, on balance.

### **3. Keswick's main concern with the proposals in the officials' issues consultation paper**

Our main concern with the proposals in the officials' issues consultation paper is the *charity business income tax exemption*, as well as the underlying view of the paper that charities are an unfair drain on crown revenue and shift the burden of tax revenue on to taxpayers. We are not sure that this has been proven to be the case. We believe that Keswick provides great benefit to New Zealand which outweighs any tax we pay.

We believe that even if there is a shift in burden to the taxpayer that shift is minimal and non-existent when balanced against the significant benefits charities bring to New Zealanders and at little cost for the Government. Charities contribution to New Zealand for their broad public benefit/impact greatly outweighs any cost in lost tax revenue.

Our feedback on each question raised in chapter 2 of the consultation paper in relation to removal of the business income tax exemption is shown in the table on the next page below.

#### **4. Final submissions**

**If the abuse of tax concessions is the primary issue of concern** to the IRD and the Government, then would it not be preferable to think about resourcing the regulator, Charities Services, sufficiently to investigate and be able to take appropriate action as required.

**Please ensure the correct tool is used to address any concerns with the charitable sector.** Provisions/amendments to the Charities Act is the most appropriate approach to maintain public confidence in the Charitable sector and to ensure that obligations are met. An entity should be assessed as charitable or not using the Charities Act and the common law rather than using the Income Tax Act and tax rule changes as a proxy for whether an entity is a Charity or not.

A review of the Charities Act with the full input of the charitable sector could be helpful to lead to strengthening the sector and increasing its integrity. A review would also be helpful to provide a more balanced approach to the evaluation of the sector, rather than this evaluation which only considers the Charitable sector's income tax contribution, i.e. only considering the tax take cost to Government.

This approach is not balanced nor evidence-based and is inconsistent with the Government's Statement On Regulation where the benefits of the preferred option must not only exceed the costs of taking into account all relevant considerations but must deliver the highest level of net benefit of the practical regulatory options available.

There is no information in the submission that we consider needs to be withheld on the ground of privacy, other than the personal contact details shown below.

This submission is forwarded on behalf of Keswick by:

Adrienne Martin

**Council Member**

**Rotorua Keswick Convention Incorporated**

**Contact details –** s 9(2)(a) **email:** s 9(2)(a)



Chapter 2: Charities business income tax exemption	Rotorua Keswick Convention Inc – specific responses to questions
<p>Q1. What are the most compelling reasons to tax, or not to tax, charity business income? Do the factors described in 2.13 and 2.14 warrant taxing charity business income?</p>	<ul style="list-style-type: none"> <li>• We do not run a separate business entity, but do have some non-charitable business revenue streams (e.g. leasing land, hiring facilities those not included in our charitable purpose – schools, sports campset). Income from leasing makes a big difference for us in terms of Keswick being financially sustainable in the long term, as we are not a charity that receives much revenue by way of donations. The people we lease to are parts of the local community and organisations that are worthwhile supporting – other charities and public schools. Tax changes to us would disadvantage them too.</li> <li>• Taxing charity business income would discourage us from being able to support the more worth while community related organisation near us and who can't afford high costs to use our facilities. To have enough income to keep our property and activities going we would be forced to seek to lease to more profitable commercial undertakings and increase hireage fees. We prefer to support our local community and make revenue that helps us be sustainable, these proposals move us from focussing on helping others and to maximising profit to continue to operate.</li> <li>• Taxing charities will increase compliance costs for charities and not actually increase Crown revenue by that much. Having to account for related and unrelated income will increase our compliance costs. We run on minimum numbers of staff and staff who need to be able to undertake a few roles. This move would increase our need for more and possibly more highly trained and costly accounting staff.</li> <li>• It perpetuates an old fashioned view of charity where donations are the only form of income and charities are always fund raising without really returning a benefit to many New Zealanders. This is not the case, most charities want to be financially self sufficient with a wide ranging interesting set of secure revenue streams and often revenue streams that help others in the process e.g. leasing property to schools and other charities. We know how hard it is to operate a Charity and if we can help any other Charity while carrying out our charitable purpose then that is a bonus and we want to continue to be able to do that.</li> </ul>

<p>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?</p>	<ul style="list-style-type: none"> <li>• How to define what is “unrelated” is challenging. Is our rental income unrelated, is income from a school camp unrelated but from a church camp is related. If income is from a church school what will that be? This will be very confusing for our staff to administer.</li> <li>• In the response to the questions above we have outlined the main implication will be on our staffing and compliance and it will come at a cost for a lean organisation.</li> <li>• If accounting for different income gets too complicated it may reduce our ability to offer our property for use by anyone except religious organisations – that would be a pity and reduce our revenue base to potentially unsustainable levels.</li> </ul>
<p>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?</p>	<ul style="list-style-type: none"> <li>• Make sure it is truly unrelated – clear definitions and sensible approach would help.</li> <li>• How will a meaningful definition be made of non-business vs. business income (for example, what about passive investments) and also related and unrelated business?</li> </ul>
<p>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?</p>	<ul style="list-style-type: none"> <li>• Consider your context and how this line might be drawn.</li> <li>• You could exempt small charities and capture Tier 3 and 4 however that seems inequitable in that this will potentially penalise charities due to their size. We are a small charity however we expect these proposals will have significant implications for larger charities e.g. the Salvation Army and the Anglican Church. Would it perhaps force them to change charitable structure to remove this inequitable penalty. That would be unfair and unfortunate.</li> </ul>
<p>Q5. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, do you agree that charity business income distributed for charitable purposes should remain tax exempt? If so, what is the most effective way to achieve this? If not, why not?</p>	<ul style="list-style-type: none"> <li>• This will introduce complexity into the simple tax situation for charities at the present. It is more favourable than other suggestions but overall why make these distinctions and upset a largely workable system at present? We think it would introduce complexity for us, it would have the same issues for staffing as note for Q1 above – there would be little gain and the IRD would also spend more time on trying to monitor compliance.</li> <li>• This approach feels like it is solution to a largely non-existent problem when there is a much better solution – leave the system as it presently but do some work and empower the Charities regulator to tackle abusers leaving other charities to fulfil their purposes.</li> </ul>

<p>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?</p>	<ul style="list-style-type: none"> <li>• The overall cost of the suggestions and the pain they will bring to the charitable sector for little, if any benefit must be considered. New Zealand relies on the charitable sector to deliver services to New Zealanders, services that the Government does not have to provide because charities do, services that people will miss out on if the charitable sector does not provide them, as the government will not pick all services if charities cease to deliver them.</li> <li>• The valuation of volunteer services as input expenses is also to be considered. Currently many in the charitable sector receive some volunteer to pro bono labour – Keswick runs its annual convention/summer camp using a large amount of volunteer labour we could not run it if this was not the case. For camps on the property we require campers to do some of the work as to pay staff to do it would make cost prohibitive. All of the earlier development of our property was done by voluntary labour – we could not have done it without this.</li> <li>• If tax exempt status is removed it would be important for charities to be able to claim the true cost of their business in any income tax return. This raises the question for IRD as to what the appropriate fair labour costs should be.</li> <li>• Currently there is not a level playing field as regards transparency of reporting between charities and for-profit businesses, i.e. charities have to currently meet a higher level of public transparency. Failure to address this issue results in charities being at an unfair competitive disadvantage with for-profit businesses.</li> </ul>
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**From:** Cam Brinsdon s 9(2)(a)  
**Sent:** Saturday, 29 March 2025 1:55 pm  
**To:** Policy Webmaster  
**Cc:** enquiries@xrb.govt.nz  
**Subject:** Taxation and the not-for-profit sector

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

C/- Deputy Commissioner, Policy  
Inland Revenue Department  
cc XRB (no response required or expected)

Tēnā koutou,

I've assisted hundreds of charity trustees and CEOs through board workshops and coaching. However, I haven't seen much evidence that my own clients are exploiting the 'loophole' you're hopefully addressing.

**I agree with removing the charity business income exemption** when the subsidiary or business operations of a charity operates commercially. This creates a much fairer business 'playing field.'

**If this exemption isn't removed**, at least the minimum requirements in annual reporting to the Charities Register should be improved. There should be greater detail and transparency, to adequately disclose whether the tax portion being 'saved' from these business operations is being diverted to executive remuneration and/or director fees that are higher than is justifiable. Transparency compliance could be assured through sampling reviews/audits by IRD, Strategic Pay, and/or Statistics NZ, and based on asking XRB to enhance not-for-profit accounting standards.

Ngā mihi nui / Kind regards, Cam  
Cam Brinsdon  
Board Clarity Limited  
+64 s 9(2)(a)



19<sup>th</sup> March 2025

Taxation and the not-for-profit sector  
C/- Deputy Commissioner, Policy  
Inland Revenue Department

Ngā mihi ki a koe

Ngāti Kahungunu ki Wairarapa Tāmaki-nui-a-Rua Settlement Trust provide the following submission on the Officials Issues Paper - Taxation and the not-for-profit sector.

### **The Ngāti Kahungunu ki Wairarapa Tāmaki-nui-a-Rua Context**

Ngāti Kahungunu ki Wairarapa Tāmaki-nui-a-Rua Settlement Trust are the entity that represent the interests of and hold redress on behalf of all marae, hapū, whānau and uri of Ngāti Kahungunu from Tāmaki-nui-a-Rua (Dannevirke) to Tūrakirae (Southern Wairarapa Coast) for the purposes of the settlement of the historical Treaty grievances related to those marae, hapū, whānau and uri.

Ngāti Kahungunu signed a Deed of Settlement (Deed) with the Crown in 2021 for the settlement of historical Treaty grievances experienced by Ngāti Kahungunu. In 2022, legislation was enacted to finalise this process, to give effect to the Deed. We note that section 5 of the Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Claims Settlement Act 2022 (Act) provides that the Crown is bound by the provisions of the Act, our submission makes references to this Act.

This was the end of a settlement process that began with a Tribunal inquiry in 2003-2011, and more generally with the first Treaty breaches by the Crown that took place in 1800s in Wairarapa. Ngāti Kahungunu were and are still hopeful to forge a strong partnership with the Crown into the future as was envisioned by our ancestors in 1840 and reinforced by our tīpuna during the Māori Parliament movement during the 1890s in Wairarapa.



Our uri descend from the waka of Tākitimu, we also acknowledge our whanaunga north of Tāmaki-nui-a-Rua to Paritū (Hawkes Bay) who share common whakapapa to our eponymous ancestor, Kahungunu.

In the Tāmaki-nui-a-Rua and Wairarapa regions our uri have dual whakapapa to two iwi separate but connected iwi identities, Rangitāne and Kahungunu. Therefore, we also acknowledge our Rangitāne identity and support all recommendations made on behalf of that side of our whakapapa in relation to matter. Uri who have whakapapa to Wairarapa descend from Tara (Taraika), Iratūroto, Kupe, Māui, Kahungunu and Rangitāne, but primarily associate ourselves contemporarily as Rangitāne and Kahungunu.

Following 1840, and the signing of Te Tiriti by Tutepākihirangi (Ngāti Kahungunu ki Wairarapa), our people suffered significant harm as a result of Treaty breaches by the Crown facilitated through the Native Land Court, land confiscations, cultural assimilation, forced land sales and lease-hold enabled land loss. The loss of our language, land, degradation of our waterways and destruction of our social structures to name a few.

Ngāti Kahungunu ki Wairarapa Tāmaki-nui-a-Rua Settlement Trust make this submission as a representative body of the Crowns Treaty partners (hapū) in Wairarapa and Tāmaki-nui-a-Rua.

We are the Crowns Treaty partner, and we recently concluded our Treaty Settlement process. Our submission will be similar to other Māori representative entities across Aotearoa, however our comments will also touch on the specific commitments of the Crown made to our uri of Tāmaki-nui-a-Rua and Wairarapa.

In preparation for the conclusion of the settlement the Settlement Trust was established and created it's structure it knew was required to meet the needs and aspirations of the uri of Tāmaki-nui-a-Rua and Wairarapa.

The Crown's apology to the uri of Tāmaki-nui-a-Rua and Wairarapa acknowledged the impact of colonisation, the material and non-material hardships, inequity and disadvantage placed on our people.

The Settlement Trust was established to implement the Treaty Settlement agreed with the Crown, including pūtea, received as recognition of past injustices placed upon the uri by the actions of the Crown.

Leading into the completion of Treaty Settlement negotiations the Settlement Trust held wananga with uri to understand and capture their aspirations for themselves, their future generations and their Taiao.





These aspirations included:

- Restore, grow and normalise te reo Māori within our whānau.
- Manage our assets to establish a strong economic foundation for future generations
- Enhance our natural resources through conservation and preservation of our eco-systems to ensure it is sustainable for future generations.
- Support the education, health and wellbeing of our whanau to thrive and succeed in their daily lives.

The Settlement Trust established charitable entities to enable these aspirations to be met over time.

The charities include:

1. An Investment Trust to protect and grow the pūtea received from the Crown as part of the Settlement. The pūtea received must meet the aspirations for many generations to come therefore any revenue generated by this subsidiaries investments are either re-invested to ensure pūtea is available for future generations or provided as funding to initiatives or programmes to improve social outcomes for uri.
2. Iwi Development Trusts whose role is to deliver initiatives and programme to realise the uri's aspirations detailed previously. Any revenue these Trusts received are from funding agreements, often with the Crown to deliver mahi that the Crown cannot, or funding received from the Investment or Settlement Trust to operate.

The officials issues paper asks several questions of submitters, the Settlement Trust provides it's responses as follows:

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

The Settlement Trust strongly opposes the imposition of incomes tax on unrelated business income for charitable entities.

Imposing income tax on Māori charitable entities will erode their ability to materially improve the outcome of its people. This would also erode the ability for the charitable entities to deliver services on behalf of the Crown, which the Crown has a duty to perform to those persons who need it the most.

The Settlement Trust believes existing settings within the Charities regime provide sufficient safeguards, such as:

- a) the prohibition of private profit;
- b) the requirement to only distribute funds for charitable purposes

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

The Settlement Trust believes that taxing unrelated business income is not practical, is likely to be expensive, and increase compliance costs for IRD and the charities affected. The Issues Paper lacks any analysis on revenue generation if unrelated business income is to be taxed.

An assessment of business income, and whether it is unrelated or related would be difficult to apply, and would likely require specialist taxation advice, each year. Presumably an assessment of expenditure would also need to be undertaken. This would result in an increase of costs, resulting in less funds available for the Iwi Development Trusts to carry out its charitable purpose.

Other practical impacts are that the changes would:

- Result in economic growth slowing down due to the reduction in regional economic activity. This will result in the opposite effect to the intended economic growth agenda of the Crown.
- Result in it being more difficult for charitable trading entities to raise funds through borrowing due to the impact of both tax and distribution requirements reducing the amount of annual profit and retained earnings available to support borrowing and result in higher borrowing costs.
- Result in significant impacts on existing banking arrangements due to tax impacts on equity and making it harder to obtain funds for investment.

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

A broad approach should be allowable. Anything that touches on our purposes, should be considered related. For example: if the Investment Trust purchases a commercial venture, the fact that there are employment and training opportunities should mean the income is related. It is also important to note that the Investment Trust is charged with funding the Iwi Development Trusts' work so any revenue generated is related income. The point that investments are for intergenerational purposes is reinforced.

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

If there is to be an imposition of income tax for unrelated business income, we consider that all Tier 2, 3 and 4 charities are excluded. The Tier 2 category captures a significant range (between \$5m and \$33m), and will impact the smaller Tier 2 charities in a significant way.

Further, we consider that marae and urupā charities must be exempt, regardless of the tier.

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

The charitable subsidiaries of the Settlement Trusts have a unique obligation and must take an intergenerational approach when deciding on the distribution of income. They are required to carefully and intentionally balance the needs and aspirations of uri today with the needs and aspirations of the next generation, and every generation thereafter. Therefore, income tax should not be imposed on retained income for the charitable subsidiaries of the Settlement Trust.

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

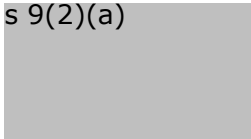
The Settlement Trust notes the following for consideration:

- I. The unique drivers and features of Māori charities, particularly those that are in receipt of settlement assets, i.e. Treaty settlement assets, or fisheries assets.
- II. The social good that charities contribute to Aotearoa, and in particular the work that is undertaken by Māori charities in Aotearoa.
- III. Analysis of the underlying drivers for the proposals – the Issues Paper assumes that charities have a competitive advantage without testing that driver. In particular, it fails to acknowledge the strict rules around distribution and reporting that do not apply to for-profit entities.
- IV. Thought around if a business income tax was imposed, whether a charity could then be relieved from its charitable obligations in relation to that portion of income. It appears
- V. the proposal is seeking to tax charities, but at the same time maintain the same strict rules around distribution and reporting.

The Settlement Trust of Ngāti Kahungunu requests that IRD consider carefully the potential impact of changes to taxation for Māori entities, reflect on their purpose as charities and if taxation changes are made to Charities that Treaty Settlement Charitable entities are exempt from any changes.

ngā mihi

s 9(2)(a)



Raymond Hall

Group Chief Executive

Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Settlement Trust