

31 March 2025

Deputy Commissioner, Policy
Inland Revenue Department
By email: policy.webmaster@ird.govt.nz

Subject: Response to Consultation on Taxation and the Not-for-Profit Sector

Kia ora Deputy Commissioner,

Thank you for the opportunity to submit feedback on the Inland Revenue Department's (IRD) consultation on taxation and the not-for-profit sector.

Trust Democracy (TD) was established as a non-profit incorporated society in 2019 and seeks to foster democratic innovation for a fair, just and inclusive society. TD is not a registered charity.

In 2019, TD, in collaboration with Sue Barker Charities Law, helped facilitate the engagement of the not-for-profit sector in a Department of Internal Affairs review of the Charities Act. This included a survey completed by over 650 respondents, two issues papers and a presentation that was delivered to more than 1,200 people at 30 events.¹

TD welcomes discussions on ensuring a robust and principled framework for the charitable sector. However, we have serious concerns about the premise of the current consultation and strongly urge a first-principles review of the Charities Act before any tax changes are made.

A First-Principles Review is Necessary Before Any Tax Changes

The IRD's consultation appears to assume that the taxation of charities is a question of government revenue and fiscal policy rather than one of ensuring a strong, independent, and effective charitable sector. We contend that the fundamental issue is not whether charities should be taxed, but rather that there is an urgent need to clarify what constitutes a charity in the 21st century. The definition of charitable purpose has not kept pace with societal changes, and any review of tax exemptions must be considered within this broader context.

Three Key Reasons Charities Should Not Be Taxed

1. Charities Provide Public Benefit Beyond Direct Recipients (Positive Externalities)

Charities deliver substantial benefits to society that extend beyond their immediate activities. The charitable sector contributes significantly to social capital, community resilience, and democratic participation. Governments recognize these contributions as justification for tax exemptions because charities create positive externalities that reduce the need for direct state intervention. Removing or altering these tax exemptions risks undermining the very institutions that help build a fair, just, and inclusive society.

2. Existing Legal Frameworks Provide Oversight and Accountability

New Zealand already has one of the most transparent regulatory environments for charities in the world. The financial reporting obligations under the Charities Act provide robust

¹ See <https://trustdemocracy.nz/charities-act-review/>

mechanisms for oversight, ensuring that charitable funds are used appropriately. If concerns exist about the accumulation of funds or governance practices, these should be addressed through the monitoring and enforcement of existing fiduciary duties rather than by imposing new tax burdens that could stifle the sector.

3. **The Business Income Tax Exemption Does Not Provide a Competitive Advantage**

The assertion that charities running businesses have an unfair advantage over for-profit enterprises does not hold up to scrutiny. Comparative analysis from jurisdictions such as Australia shows that for-profit companies have advantages in terms of access to capital, ability to pay dividends, and structural flexibility. Charities face significant barriers in raising capital, and their ability to accumulate tax-free revenue is a necessary mechanism to ensure long-term sustainability. If a for-profit business wishes to benefit from the same tax status, it is free to restructure as a charity—but this would require it to forgo private pecuniary gain and commit to charitable purposes permanently. This fundamental distinction invalidates claims of unfair competition.

Conclusion: Tax Exemptions Are an Investment in a Thriving Democracy

The tax settings for charities should not be viewed as government subsidies but as an investment in a system that fosters civic engagement, social cohesion, and public trust. The current approach in the IRD's consultation risks weakening the charitable sector by focusing on taxation before addressing the fundamental legal and definitional issues underpinning it.

TD urges the IRD to recommend that any changes to the taxation of charities be deferred until a full, independent, first-principles review of the Charities Act is undertaken. Only with a clear, modern definition of charitable purpose can any meaningful discussion on tax policy take place.

We appreciate your consideration of our submission and welcome further discussion on this critical issue.

Ngā mihi, nā

A handwritten signature in black ink, appearing to read "Simon Wright", with a horizontal line underneath.

Simon Wright
Chair