

Taxation and the Not-for-Profit Sector
David Carrigan
C/- Deputy Commissioner, Policy
Inland Revenue Department
PO Box 2198 Wellington 6140



27 March 2025

Dear David,

RE: Taxation and the Not-for-Profit Sector Issues Paper

Thank you for the opportunity to provide feedback on the Taxation and the Not-for-Profit (NFP) Sector issues paper. While we support a fair and transparent taxation system which operates as a 'level playing field', we remain concerned that the paper itself fails to outline what problem the department is trying to fix or the scope and scale of this problem.

If indeed there are issues with certain charitable entities and the businesses they operate, we believe there are already tailored options available to the department and we make suggestions around these in our responses below.

Overall, we are of the view that much of what is suggested in the paper will do little in the way of raising revenue but would rather significantly increase and shift the compliance burden on to charities, the majority of which run leanly and incredibly efficiently. The result being reduced funds for charitable purposes. We would also note on the macro level this Government created the Ministry of Regulation to ensure unnecessary red tape was removed. Increased, and we would argue unnecessary compliance costs for charities, seems to contradict the current coalition government's desire to reduce red tape and remove costs from the system.

Prior to any changes in the advice provided by the Commissioner we suggest a comprehensive review which clearly identifies the scope and scale of any perceived issues. Any paper could then look at differing methodologies to resolve these issues. Ones which are tailored and provide precision solutions, thereby reducing the risk of significant unintended consequences which lead to a decline in purposeful use of fundraised revenue for those most in need of charitable services.

Once again thank you for the opportunity to respond to this paper.

Yours Sincerely

A handwritten signature in blue ink, appearing to read "Monica Briggs".

Monica Briggs MNZM
Chief Executive Officer,
Child Cancer Foundation

Submission to the Inland Revenue Department on the "Taxation and the Not-for-Profit Sector" Issues Paper from the Child Cancer Foundation

March 2025

1. Introduction

- 1.1 The Child Cancer Foundation ('the Foundation') is a tier two charitable membership organisation which provides support to families and children experiencing a childhood cancer diagnosis. Our vision is to walk alongside and support all children and their families on their cancer journey and advocate improvements to child cancer care. In the 2023/2024-year CCF supported 309 families undertaking this journey from Te Kao in the north to Invercargill in the south, and more broadly provided peer support services to 1,254 families. The Foundation has been operating for nearly 50 years, having been Incorporated in May of 1978. The Foundation receives no government funding.
- 1.2 The Foundation appreciates the opportunity to provide feedback on the 'Taxation and the Not-for-Profit (NFP) Sector' issues paper. As a registered charity, we are concerned about the proposed changes, particularly the taxation of indirect income by a charity and the compliance burden of any changes to Fringe Benefit Tax (FBT) collection could create. We are also concerned that the paper while clearly setting out the principles of a fair taxation system, does not quantify the problem any changes to the existing tax regime is seeking to correct. Indeed, we would suggest changes to the current taxation system could lead to a range of significant unintended consequences detrimentally impacting beneficiaries of charities while not materially impacting the crown accounts. Given this lack of problem definition, we are of the view that the proposals to change the tax system as suggested in the issues paper are best described as blunt instruments to fix unidentified problems where targeted or precision solutions (such as charity registration and de-registration processes) would reduce the risk of significant unintended consequences to potentially a large cohort of well-run charities.
- 1.3 Finally, this paper should be read in conjunction with the officials' issues paper "Taxation and the Not-for-Profit Sector" issued 24th February 2025.

2 Response to Discussion Questions

- 2.1 Question One: 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?

We believe that income generated by charities should remain tax-exempt. While we acknowledge that some organisations may be using charitable status in a way that provides them with an unfair competitive advantage, we believe this issue is best addressed through tax avoidance provisions and stricter enforcement of charitable status rather than taxing charity income.

- 2.2 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?

If the tax exemption for unrelated business income were removed, compliance costs would increase, forcing charities to:

- Explore alternative ways to generate income that would not be subject to tax.
- Increase fundraising costs to generate additional fundraised revenue to fill gaps in an increasingly competitive charitable funding environment.
- Ultimately limit services commensurate with the increased tax burden.
- Overall, a potential reduction in the efficiency of some service provision as the crown may need to take over some provision of services from comparatively low cost-efficient charitable providers if this change makes them unsustainable.

This means that any intended increase in government revenue may not be realised. Indeed, changes may see higher costs to the crown, as pressure increases on health and social services. Ultimately, we would be concerned for the negative impacts to child morbidity and mortality in Aotearoa/New Zealand. We also note that the Ministry of Regulations was created to ensure unnecessary red tape was removed increasing compliance costs for charities seems to contradict the current coalition government's desire to reduce regulation which exponentially increase the compliance burden on, in this case the charity sector.

2.3 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?

Our response reflects our perspective rather than any entire sector view. Any criteria for defining unrelated business income should consider:

- Fundraising activities specifically aimed at supporting the purpose of the organisation
- Property rental income: any income derived from renting excess accommodation where the income is reinvested in respite, holiday (for charity beneficiaries) or housing support provided free of charge to service users should also avoid taxation.

Perhaps of equal importance alongside the criteria itself, is where the burden of proof sits with regards to who determines what qualifies as related or unrelated charity business income and the consequent liabilities this creates for charities. Will charities have to retain reserves against an adverse tax finding from IRD with regards to different interpretations of the criteria?

2.4 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?

As a Tier 2 charity, we are unable to comment on an appropriate threshold, noting that those charities that do have business trading activity tend to be larger charities. It therefore can be argued that larger charities have created scale due to their trading income and financial sustainability, that are of benefit to society. We would also argue that while not directly related to the question, the crown has previously encouraged NFPs to develop social enterprises to limit the costs on government and to make the sector more sustainable. Removing tax exemptions for revenue generated to support charitable activities seems punitive and counterproductive.

2.5 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?

Yes, we strongly believe that income from charity-run businesses, when distributed for charitable purposes, should remain tax-exempt enabling the full value of funds raised or income earned to be dispersed for the reasons for which it is collected. With specific regards to note 2.31 and 2.32 of the consultation paper we would like to reiterate that accumulated funds are both necessary and prudent given a boards fiduciary responsibility. As an organisation we have a policy of holding two years' worth of operating expenditure to ensure continuity of service to children and families. We have also had to call on these reserves in recent times as Covid 19 greatly impacted our and other charity's ability to generate funds. We relied on reserves through three years of deficit during and after the Covid years. The suggestion of taxing surpluses and then only providing tax relief when it was distributed seems punitive, would increase charity compliance costs considerably and would seem to run counter to good governance models.

While we are of the view that the increased compliance costs system wide would mitigate any benefits, we question whether the crown would return funds via new investment to cover system gaps. For example, the Child Cancer Foundation fills a critical gap in funding for families dealing with a childhood cancer diagnosis. We provide a range of initiatives to support all families to fully engage in the national treatment model irrespective of family situation or geographic location where the 'system' does not fully meet these needs. For example, we provide flights for all (nuclear) family members to reach treatment centres in Auckland and Christchurch, where New Zealand's specialist child oncology hospitals are located. This contributes to evidence informed best practice, where research indicates that engagement in the care of children with a cancer diagnosis by not only parents, but also siblings, improves outcomes for both siblings and the child with a childhood cancer. This is not something currently provided for by government via the National Travel Assistance programme (NTA). Efforts to improve the NTA through advocacy, which does not fully cover costs and can be difficult to access has had limited results, the Foundation however can respond efficiently and with agility.

2.6 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 (note this question relates to territorial restrictions and/or limited partnerships?)

We cannot provide detailed comment on other consideration as per note 2.36 of the discussion document paper as we would not be impacted by the territorial rule, nor do we engage in limited partnerships— all our support is provided to families within New Zealand. We do not have any special structures and have no intention of deregistering.

2.7 Questions Seven to Twelve.

We have no comment on these questions as we are not a donor-controlled charity, a category three or four not for profit (NFP) or a friendly society and therefore we do not believe we are qualified to provide a perspective on these specific issues, but we note this could impact the amount of philanthropic funds in the wider charity sector and impact grants received from funder charities that may be impacted by any proposed changes.

2.8 Question Thirteen: If the compliance costs are reduced following the current review of Fringe Benefit Tax (FBT) settings, what are the likely implications of removing or reducing the exemption for charities?

We understand the importance of simplifying FBT. This is an area where we would be significantly impacted if changes were to be made. The paper and the question assume a reduction in compliance costs, but there is a threshold below which this is not the case and in fact the inverse is true. As a general principle, we as a charitable entity do not provide benefits that would be considered taxable under fringe benefit tax laws. While total remuneration in the charity sector is generally already low when compared with the private or government sectors, we do not divert charitable funds to provide benefits to employees, although historically we have, in one or two cases where a vehicle was deemed industry standard. We are of the view that donors would not be particularly receptive to this type of expenditure.

Notwithstanding this we estimate that FBT 'compliance costs' alone would be \$14,000 per year, in terms of compliance for us, our resources are limited—we have only one accounts person for a charity of our size. The cost of compliance would, we estimate only generate an additional possible FBT liability of up to \$4,200, bringing the potential total cost to \$18,200 annually. Put another way we would be required to spend \$14,000 to generate revenue for the crown accounts of \$4,200. From a cost benefit perspective this does not seem sensible and places the burden on already stretched and stressed charities. We have calculated this given the high level of compliance we would need to implement for our fleet which are pooled and part of our tools of trade.

To mitigate this, we would need to reduce our FBT liability; while doing little to reduce compliance costs it would reduce our liability as a crown revenue source. While the discussion provides no evidence that charities are misusing FBT or structuring benefits for personal gain, as a general principle we believe if a charity or any entity engages in abuse or avoidance of FBT that this should be addressed through tax avoidance provisions rather than blanket changes that increase the compliance burden and regulations on all other entities.

3 Summary of Key Points and Recommendations

The Child Cancer Foundation supports the Government's efforts to ensure a fair and effective tax system. However, the proposed changes could have unintended consequences that hinder charities' ability to operate efficiently and serve their communities. We recommend:

1. Clearly defining unrelated business income and thereby eliminating definitional uncertainty and potential liability and thereby ensure charitable activities are not unfairly taxed and that new structures or approaches do not come into play to compensate for any change.
2. Retaining a simple tax system for charities across New Zealand which has been a strength and create systems to identify any who operate outside of the parameters already defined in legislation. This also ensures sustainability for many charities and ensures charities can continue to meet social needs.
3. Retain the current FBT rules to avoid excessive compliance costs that divert funds from charitable purposes.
4. Support donation tax concession suggested changes as they could help increase donations.

We appreciate the opportunity to contribute to this consultation and welcome further discussions on these matters. Please do not hesitate to contact us if clarification or additional information is required.