

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

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 sustainably. 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



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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