



31 October 2024

[Redacted]

Dear [Redacted]

Thank you for your request made under the Official Information Act 1982 (OIA), received on 8 October 2024. You requested the following:

*copies of:*

- *the Charities and not-for-profits tax briefing for Minister Upson given by the IRD on the 15/08/2024; and*
- *any other briefings, memos, notes, reports, or any other advice given by the IRD to the Minister of Revenue or the Minister for the Community and Voluntary Sector, concerning the Charities and not-for-profits sector since the start of the current parliamentary term.*

**Information being released**

Please find enclosed, as **Appendix A**, four documents in scope of your request. I have decided to release the relevant parts of the documents in scope, subject to information being withheld under the following sections of the OIA, as applicable:

- 9(2)(a) – to protect the privacy of natural persons, and
- 9(2)(f)(iv) – to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials.

The table below outlines my decisions on the release of those documents.

Item	Date	Document	Decision
1.	25/01/2024	Excerpt from Weekly Status Report to the Minister of Revenue	Released in full
2.	20/03/2024	IR2024/110: Charities and not-for-profits overview	Released with redactions under section 9(2)(a) and 9(2)(f)(iv)
3.	15/08/2024	IR2024/328: Charities and not-for-profits tax briefing for Minister Upston	Released with redactions under section 9(2)(a) and 9(2)(f)(iv)

Item	Date	Document	Decision
4.	27/08/2024	BN2024/347: Public guidance – Interpretation Statement – Charities business income exemption	Released with redactions under section 9(2)(a)

### Information withheld

Three further documents in scope of your request, and their titles, are withheld in full under section 9(2)(f)(iv) of the OIA.

### Public interest consideration

As required by section 9(1) of the OIA, I have considered whether the grounds for withholding information is outweighed by the public interest. In this instance, I do not consider that to be the case.

### Right of review

If you disagree with my decision on your OIA request, you can ask an Inland Revenue review officer to review my decision. To ask for an internal review, please email the Commissioner of Inland Revenue at: [commissionerscorrespondence@ird.govt.nz](mailto:commissionerscorrespondence@ird.govt.nz).

Alternatively, under section 28(3) of the OIA, you have the right to ask the Ombudsman to investigate and review my decision. You can contact the office of the Ombudsman by email at: [info@ombudsman.parliament.nz](mailto:info@ombudsman.parliament.nz).

If you choose to have an internal review, you can still ask the Ombudsman for a review.

### Publishing of OIA response

We intend to publish our response to your request on Inland Revenue's website ([ird.govt.nz](http://ird.govt.nz)) as this information may be of interest to other members of the public. This letter, with your personal details removed, may be published in its entirety. Publishing responses increases the availability of information to the public and is consistent with the OIA's purpose of enabling more effective participation in the making and administration of laws and policies and promoting the accountability of officials.

Thank you again for your request.

Yours sincerely



Peter Frawley

**Policy Lead, Policy & Regulatory Stewardship**

## **Appendix A**

### **25 January 2024 Excerpt from Weekly Status Report**

*PUB00465 Charities – Business income exemption*

*Inland Revenue will release for consultation draft public guidance on the application of the charitable exemption for business income in the week commencing 5 February.*

*The Income Tax Act 2007 provides an exemption for income derived by a registered charity from a business carried out exclusively for charitable purposes, subject to the following two restrictions:*

- If a registered charity carries out its charitable purposes in New Zealand and overseas it must apportion the business income it derives between those purposes in and outside New Zealand. Only the part apportioned to the charitable purposes in New Zealand is exempt.*
- Business income is not exempt if a person with some control over the business is able to direct or divert money away from the charity.*

*The items follow an Issues Paper released in December 2022 that sought feedback on the correct approach to the law on technical issues that have caused uncertainty for the sector.*

**POLICY AND REGULATORY STEWARDSHIP**

**Tax policy report: Charities and not-for-profits overview**

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<b>Date:</b>	20 March 2024	<b>Priority:</b>	Low
<b>Security level:</b>	In Confidence	<b>Report number:</b>	IR2024/110

**Action sought**

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	<b>Action sought</b>	<b>Deadline</b>
Minister of Revenue	<b>Note</b> the contents of this report <b>Refer</b> a copy of this report	19 April 2024

**Contact for telephone discussion (if required)**

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<b>Name</b>	<b>Position</b>	<b>Telephone</b>
Stewart Donaldson	Principal Policy Advisor	s 9(2)(a) [Redacted]
Samantha Putt	Policy Advisor	s 9(2)(a) [Redacted]

20 March 2024

Minister of Revenue

## **Charities and not-for-profits overview**

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### **Purpose**

1. This report provides you with an overview of the charities and not-for-profits (NFPs) sector and related tax policy matters. This context may be useful for future tax policy reports and for matters that may be raised with you by stakeholders and other Ministers.
2. This report does not purport to contain a detailed analysis and description of each matter. Rather, it seeks to inform you of the potential range of matters and makes some comment on their attributes so that you can discuss which matters you want to further consider. The appendix contains a summary of these items.
3. We recommend you note this report and invite you to meet with officials to discuss the contents.

### **Background**

#### ***Charities and NFPs framework***

4. Charities and NFPs make important contributions to the wellbeing of New Zealanders. The sector supports efforts to bolster our social, human, and natural capital. The economic activities of the sector also affect the accumulation of physical and financial capital in the New Zealand economy. These factors form the basis for the tax exemptions and deduction frameworks provided to charities and NFP organisations.
5. The broad policy setting for this sector is that the Government supports charities and NFPs by providing targeted tax concessions. Inland Revenue administers charitable tax exemptions from income tax, fringe benefit tax, goods and services tax and resident withholding tax. We also approve donee status, which gives tax benefits to people donating to these organisations. NFPs that benefit from the widest range of tax concessions will be registered charities that are well regulated, publicly transparent and provide public benefit. Donation tax incentives have the objective of reinforcing and encouraging giving to approved donee organisations. Income tax and donation benefits for charities with charitable purposes outside New Zealand are restricted.
6. Some of the policy options for this sector will need to be considered in the context of broader objectives the Government has for the sector.

#### ***Charities and NFPs statistics on Inland Revenue systems***

7. There are approximately 90,000 NFPs on Inland Revenue's system. These include:
  - 7.1 29,000 tax-exempt charities. Based on accounts filed on the public charities register for 2022–23, tax-exempt charities control \$81 billion of assets, employ 138,000 people full time (5% of the New Zealand workforce), benefit from 170,000 volunteers each week and contribute about 5% of GDP.

- 7.2 20,000 tax-exempt amateur sports bodies.
- 7.3 1,000 tax-exempt local and regional promotion bodies (beautification societies).
- 7.4 28,000 NFPs that are not tax exempt. About 24,000 of these have net income below a \$1,000 deduction threshold available for NFPs, so they do not file income tax returns or pay income tax. About 4,000 file income tax returns and report a taxable income, taxable loss or zero net income.

### ***Recent legislative and regulatory change for the sector***

- 8. This sector has been subject to legislative and regulatory change over recent years. Significant changes include:
  - 8.1 The Incorporated Societies Act 2022, which requires approximately 23,000 incorporated societies to re-register by April 2026 and annually report using the same accounting standards as registered charities.
  - 8.2 The Charities Amendment Act 2023, which introduced a number of changes for 29,000 registered charities. The changes include a new requirement for large charities to report the reasons why they are accumulating funds.
  - 8.3 The External Reporting Board (XRB) has introduced changes to the threshold size of some reporting tiers for registered charities, incorporated societies and other public benefit entities. The focus has been to make it easier for small charities to apply the standards and for larger charities to adopt new service performance reporting standards.

### **Current policy work**

- 9. There are three projects involving this sector that our policy staff are currently involved with.

### ***Disposals of trading stock at below market value***

- 10. In January 2024, you agreed to progress work related to disposals of trading stock at below market value. Cabinet agreed to the changes on 26 February 2024. These changes will benefit donee organisations because businesses will be able to donate trading stock to them and claim tax deductions on an ongoing basis. These changes are being progressed in an Amendment Paper to the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Bill.

### ***Requests for overseas donee status***

- 11. Every year there are requests from New Zealand charities with overseas purposes to be granted overseas donee status. Overseas donee status is an exception to the current law that restricts tax benefits for donations to charities with New Zealand purposes. Decisions to give overseas donee status that meet certain Cabinet criteria, such as the relief of poverty, sickness, or the ravages of war or natural disaster, or other overseas development aid objectives, require legislative change.
- 12. We plan to report to you in April 2024 about the next tranche of requests for overseas donee status for inclusion in the next taxation Bill, scheduled for introduction in August 2024. s 9(2)(f)(iv)

## **Regulatory stewardship**

13. Later this year Inland Revenue will complete a regulatory stewardship report on donation tax credits. While this report is not primarily policy-related, it may contain policy recommendations that you decide to include on a future Tax and Social Policy Work Programme.

## **Future policy work**

14. A range of potential tax policy matters affecting this sector are identified in the Appendix. Two of these matters will be reported to you shortly and are summarised below.

s 9(2)(f)(iv)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

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[Redacted]

[Redacted]

[Redacted]

[Redacted]

22. s 9(2)(f)(iv)

23. s 9(2)(f)(iv)

### **Next steps**

24. s 9(2)(f)(iv)

25. We would welcome the opportunity to discuss any other matters raised in this report with you.

26. We are aware that Minister Louise Upston may write to you on certain tax matters and both she and Minister Nicola Willis have an interest in this sector. We recommend you share this paper with them, so that they are kept informed of this context.

### **Consultation with the Treasury**

27. The Treasury was informed about this report.



## **Recommended action**

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We recommend that you:

28. **note** the contents of this report, and  
Noted
29. **refer** a copy of this report to the Minister of Finance for their information, and  
Referred/Not referred
30. **refer** a copy of this report to the Minister of Community and Voluntary Sector for their information.  
Referred/Not referred

s 9(2)(a)



**Stewart Donaldson**  
Principal Policy Advisor  
Policy and Regulatory Stewardship

**Hon Simon Watts**  
Minister of Revenue  
/ /2024

s 9(2)(f)(iv)

s 9(2)(f)(iv)

## Briefing note

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Reference: BN2024/328

Date: 15 August 2024

To: Revenue Advisor, Minister of Revenue – Angela Graham  
Private Secretary, Minister of Revenue – Helen Kuy

From: Stewart Donaldson

Subject: **Charities and not-for-profits tax briefing for Minister Upston**

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### Purpose

1. The purpose of this briefing note is to inform Minister Watts of charity and not-for-profit tax matters officials will discuss with Minister Upston on Thursday 22 August.

### Background

2. Earlier this year, officials offered to brief the Minister for the Community and Voluntary Sector, Hon Louise Upston, about the tax rules which affect charities and not-for-profit organisations. Minister Upston accepted this offer and a meeting is scheduled on Thursday 22 August.


### Briefing content

3. Minister Watts has referred three charity / not-for-profit tax reports to Minister Upston so far this year and he has corresponded with her about volunteers and honoraria (IR2024/110, IR2024/161, IR2024/237 and IR2024/238 refers).
4. This tax briefing will allow Minister Upston to clarify tax rules and policy settings for the sector.
5. A powerpoint that will be provided to Minister Upston is attached to this briefing note. The material is consistent with information already provided to Minister Watts in past reports. However, it contains more detailed or up-to-date information in respect of:
  - Donation tax concession rules and related tax statistics
  - The donation tax credit regulatory stewardship review
  - The 2024 Australian Productivity Commission Inquiry Report "Future Foundations for Giving".

## Next steps

6. If the briefing with Minister Upston raises new matters that Minister Watts will need to consider or be aware of, we will provide him with a post-briefing update.

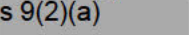
s 9(2)(a)



Stewart Donaldson

**Principal Policy Advisor**

Mobile: s 9(2)(a)





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# Tax, charities and philanthropy

**Briefing for Hon Louise Upston  
Minister for the Community and Voluntary Sector**

Stewart Donaldson  
Principal Policy Advisor  
22 August 2024

**Policy Taukaea**  
[taxpolicy.ird.govt.nz](http://taxpolicy.ird.govt.nz)

# OVERVIEW

1. Tax policy framework / principles
2. Tax concessions
3. Snapshot of the not-for-profit sector
4. Donation tax concessions
5. Donation Tax Credit Regulatory Stewardship Review
6. Donation policy advice
7. Donation tax statistics
8. Highlights from the Australian Productivity Commission report "Future foundations for giving" (May 2024)
9. Future tax policy considerations for charities and not-for-profits

# 1. TAX POLICY FRAMEWORK / PRINCIPLES

1. Charities and not-for-profits make important contributions to the wellbeing of New Zealanders.
2. One of the ways the Government supports charities and not-for-profits is by providing favourable tax treatment. *For context, the value of tax concessions is about 10% of government grants paid directly to charities and not-for-profits.*
3. Registered charities generally receive the most tax benefits, in recognition of the public benefits they provide and their public accountability requirements.
4. Tax benefits for charities with charitable purposes outside New Zealand are restricted.
5. Donations tax incentives are aimed at **reinforcing and encouraging giving** to support the charitable, community and voluntary sectors. They empower the community to decide funding priorities.
6. Tax expenditures should be subject to continual monitoring and review to determine their effectiveness, both in meeting objectives, and relative to alternative methods of providing assistance.

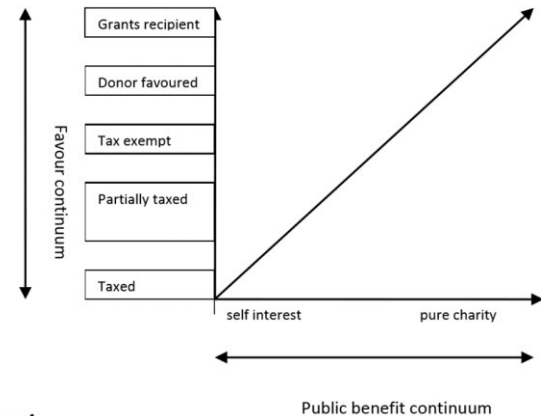


Figure 1

## 2. TAX CONCESSIONS

Favourable tax treatment mainly comes in the form of:

- Income tax exemptions
- Income tax deductions
- Tax concessions for donations
- Fringe benefit tax exemptions
- GST concessions

All tax expenditures are subject to continual monitoring and review to determine their effectiveness

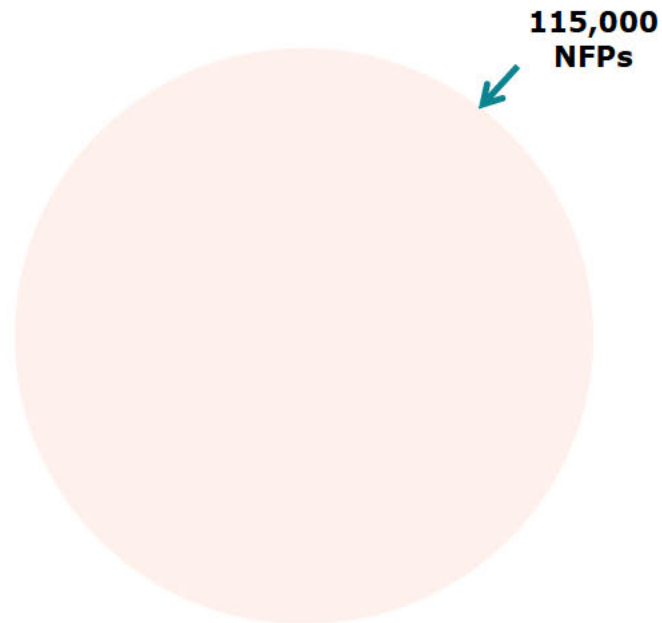


### 3. SNAPSHOT – INLAND REVENUE DATA

There are about 115,000 entities coded as NFPs on Inland Revenue's records\*

All NFPs are entitled to an income tax deduction of up to \$1,000 and qualify for GST concessions **if they have a taxable activity**

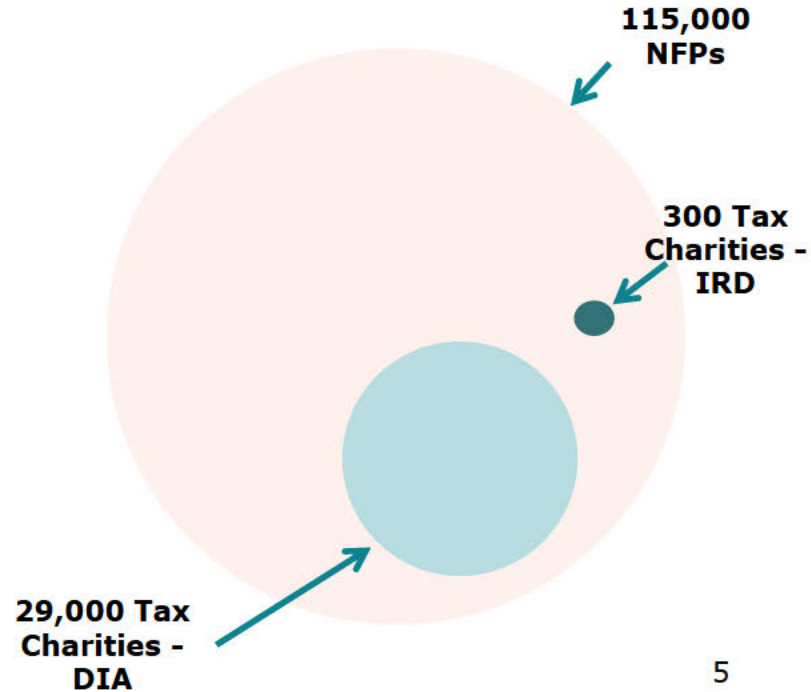
\*If miscoding and non-existent NFPs were removed, this could reduce to as low as 90,000.



### 3. SNAPSHOT – INLAND REVENUE DATA

About 29,000 NFPs are “tax charities” registered with Charities Services. There are also about 300 non-resident tax charities registered with IRD

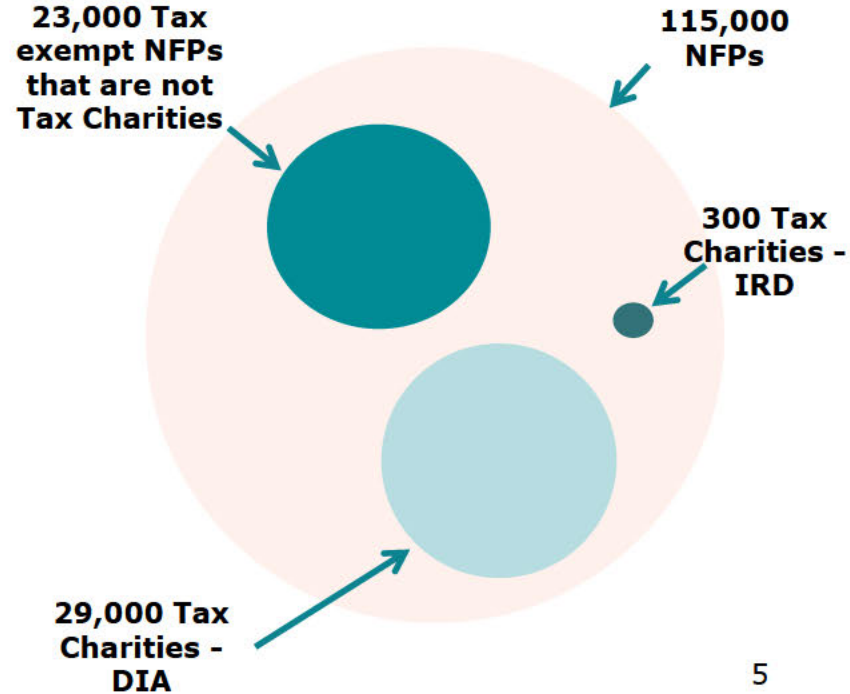
Tax charities are generally income tax exempt (unless they have business income **and** charitable purposes outside NZ)



### 3. SNAPSHOT – INLAND REVENUE DATA

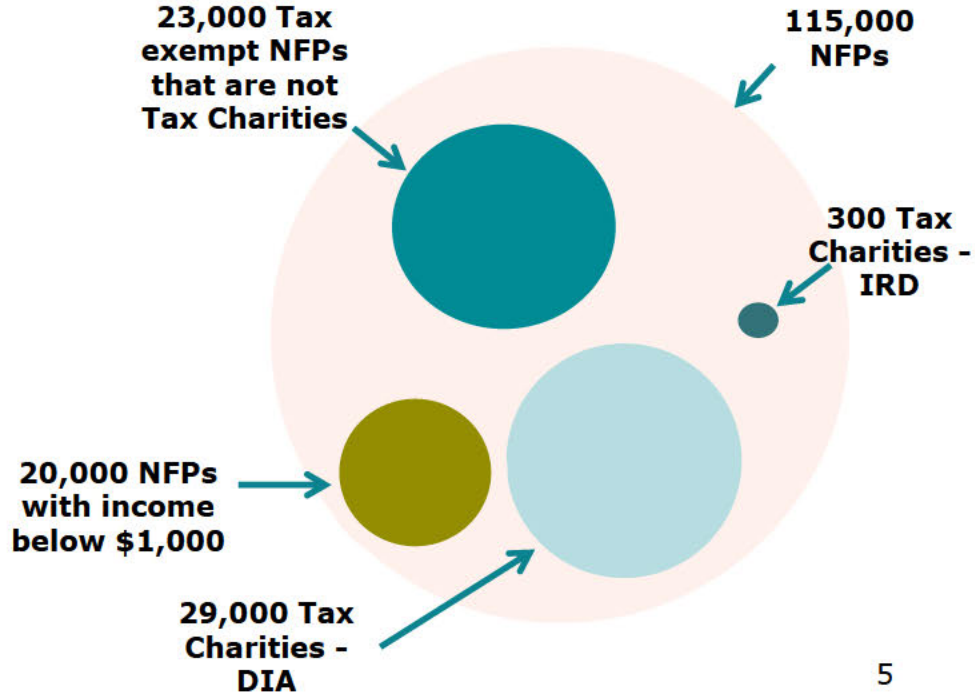
About 23,000 NFPs qualify for specific income tax exemptions:

- Local & regional promotional bodies (1,000)
- Bodies promoting amateur games and sports (21,000)
- Bodies promoting scientific or industrial research (100)
- Veterinary services bodies (60)
- Herd improvement bodies (80)



### 3. SNAPSHOT – INLAND REVENUE DATA

About 20,000 NFPS have net income below \$1,000 and do not file income tax returns

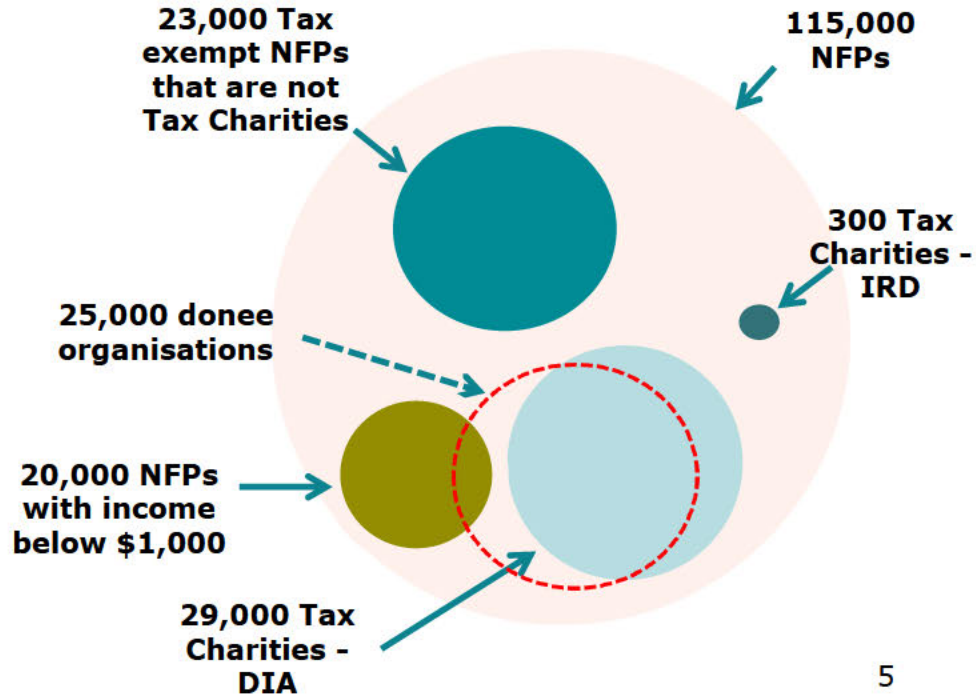


### 3. SNAPSHOT – INLAND REVENUE DATA

About 25,000 NFPs are donee organisations

20,000 are tax charities; most of the remainder are schools

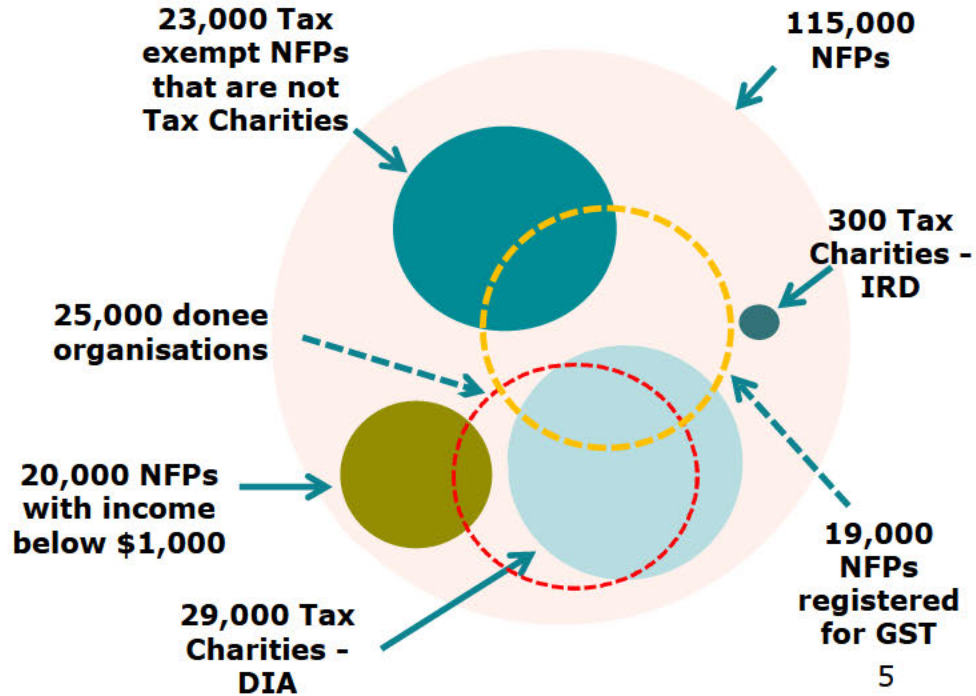
Most donee organisations can qualify for FBT exemption



### 3. SNAPSHOT – INLAND REVENUE DATA

About 19,000 NFPs are GST registered (including 13,000 registered charities)

Donated goods & services are not subject to GST; NFPs **with a taxable activity** can deduct input tax on all goods & services other than those used to make exempt supplies



## 4. DONATION TAX CONCESSIONS

**Timeline 1962-2024:** Donation tax concessions were introduced in 1962 for individuals, 1972 for corporates and extended for Māori authorities in 2003-04. The maximum claims were increased significantly in 2008-09 (individual caps increased from a \$630 tax credit to 1/3 of taxable income; corporate and Māori authority caps increased from 5% to total net income). Payroll giving was introduced in 2010.

**There are about 25,000 donee organisations** (recipients of donations that qualify for donation tax credits): To qualify, organisations must apply funds for charitable, benevolent, philanthropic or cultural purposes *wholly or mainly\** within NZ. Most registered charities and education providers qualify as donee organisations.

### **The NZ concessions are generous compared to international benchmarks:**


- They are payable as a refundable tax credit at a high rate of 33 1/3% (Australia has an income tax deduction so donors with income below their \$18,200 tax-free threshold (including many pensioners) do not benefit)
- They have a high maximum claim (cap), and
- The list of eligible donee organisations is relatively large (Australia does not allow claims for donations to religious organisations or schools; in NZ these make up over 70% of claims).
- **But** concessions are limited to gifts of money (not gifts in kind) and do not include debt forgiveness or bequests.

### **Recent tax changes to make concessions more generous:**

- From 1 April 2024 businesses can donate trading stock to donee organisations and claim a deduction (there is no maximum cap for trading stock donations)
- From 1 April 2019 donors have been able to upload receipts into MyIR during the tax year and many receive automatic refunds after the end of the tax year
- From 1 April 2019 IR relaxed its interpretation of 'wholly or mainly' from a 1 year to 3 year test so more charities with overseas purposes qualify as donee organisations.


\*Wholly or mainly: At least 75% of funds must be applied in NZ over a three-year period; The amount applied in NZ in any one year cannot fall below 50%. A number of organisations which do not meet this criteria still qualify as donee organisations if they are specifically listed in Schedule 32 of the Income Tax Act 2007.

s 9(2)(f)(iv)






s 9(2)(f)(iv)

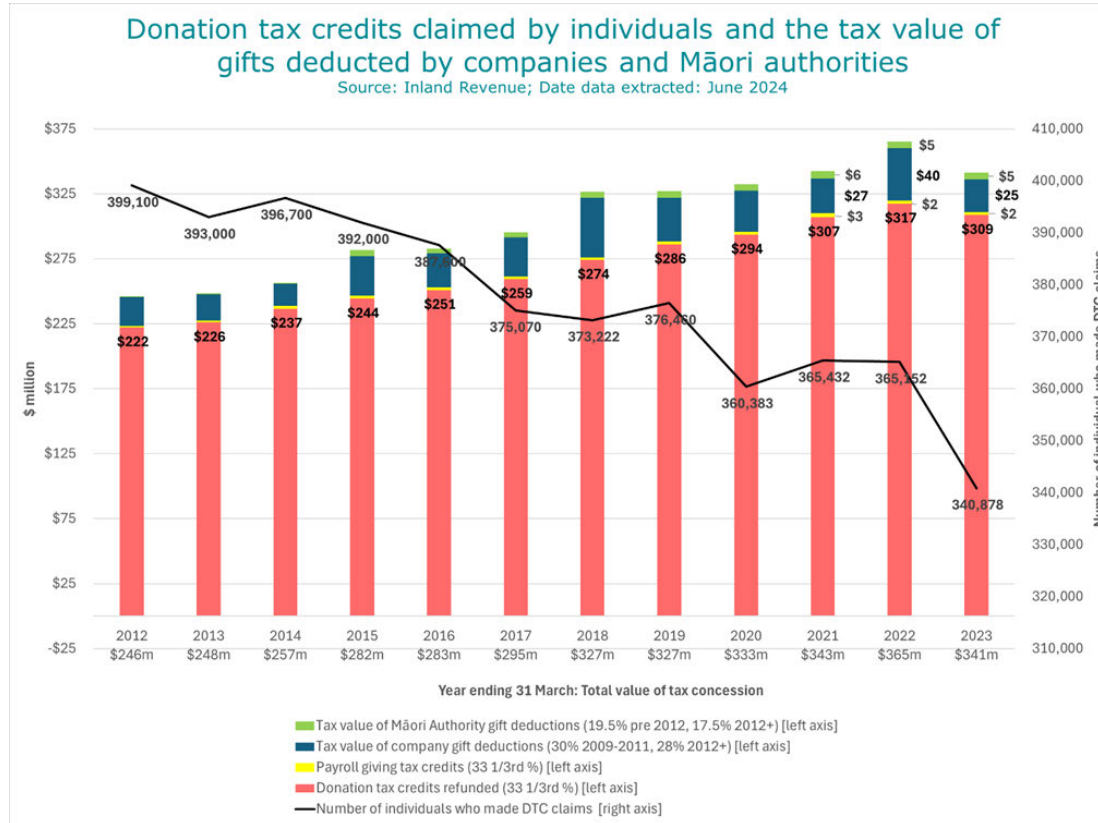


s 9(2)(f)(iv)



# 7. DONATION TAX STATISTICS

## (2023 will increase slightly as late claims are filed)




## 7. DONATION TAX STATISTICS

- 1. Totals:** The value of total donations subject to tax claims for the 2022-23 year was **\$1.05b**. The tax value was **\$341m**.
- 2. Value of donation claims by individuals:** **\$926m** was donated by **341,000** individuals. The tax value was **\$309m**.
- 3. Payroll giving:** Total donations made by individuals through payroll giving was **\$6.8m** donated by **14,000** employees through **1,800** employers. The tax value was **\$2.2m**.
- 4. Recipients of donations:** **63%** of the value of donations went to religious organisations, **8%** went to schools and **29%** went to other organisations.
- 5. Corporate gift deductions:** **\$89m** was gifted by **5,200** companies. The tax value, at 28%, was **\$25m**.
- 6. Compliance activity:** For the year ending 30 June 2024, IR identified donation tax credit claims worth **\$31m** (**\$93m donations**) that were either ineligible or fraudulent.

## 8. THE 2024 AUSTRALIAN PRODUCTIVITY COMMISSION INQUIRY REPORT "*FUTURE FOUNDATIONS FOR GIVING*"

- **Private and Public giving funds (ancillary funds):** Set a minimum distribution rate between 5-8% of net assets (currently 4-5%) to increase the amount charities receive today.
- **Tax concessions:** There is no case to change the income tax exemption or GST concessions, however FBT concessions confer a competitive advantage and should be removed. Tax incentives for volunteering should not be adopted.

s 9(2)(f)(iv)



## Briefing note

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Reference: **BN2024/347**

Date: 27 August 2024

To: Revenue Advisor, Minister of Revenue – Angela Graham  
Private Secretary, Minister of Revenue – Helen Kuy

From: Ed Oosterwijk (Group Leader, Tax Counsel Office)

Subject: **Public guidance – Interpretation Statement – Charities business income exemption**

### Release of public guidance

1. The Tax Counsel Office is preparing to release an Interpretation Statement in early September about the application of the current charitable exemption for business income. The statement's aim is to provide clarity on how the existing law applies to charities registered as a charitable entity under the Charities Act 2005 that derive business income and carry out charitable purposes in and outside New Zealand. The release is relevant for the Minister because of the level of public interest in the tax rules for charities business income as well as recent statements made by the Prime Minister and Minister of Finance about the tax rules for charities with commercial activities.

### Background

2. Subject to the following restrictions, broadly the Act provides an exemption for business income derived by an entity registered as a charitable entity under the Charities Act 2005.
  - If a registered charity carries out its charitable purposes in New Zealand and overseas it must apportion the business income it derives between those purposes in and outside New Zealand. Only the part apportioned to the charitable purposes in New Zealand is exempt.
  - Business income is not exempt if a person with some control over the business is able to direct or divert money away from the charity.
3. The business income exemption can be contrasted with the exemption for non-business income. Non-business income derived by a registered charity is not subject to the restrictions described in [2] above.
4. The charitable exemption for business income has been in place for a long time but uncertainty exists about how the exemption operates. We have raised this uncertainty with you previously (IR2024/237 para 39 refers).

### The income tax issues

5. Inland Revenue (IR) is aware that there is some uncertainty about how the law applies. This uncertainty includes what income is included in the charities business

income exemption (and therefore subject to the restrictions described in [2]) and how a tax charity with New Zealand and overseas charitable purposes apportions its business income between its charitable purposes in and outside New Zealand.

6. In December 2022, IR released an Issues Paper explaining the competing views on how the charitable exemption for business income applies and proposing an approach to how the law applies. The responses received from interested persons to this Issues Paper and the draft version of the statement that we are about to publish, helped form our view of the correct approach.
7. The statement provides guidance on what amounts are income from a business, the requirements that must be satisfied for business income to be exempt and guidance on how a charity with charitable purposes in and outside New Zealand should apportion its business income between those purposes.

### **Industry response.**

8. We do not anticipate the statement being relevant to a significant number of charities. The charities register shows about 18,000 charities reported business income / loss in 2022. The statement will be relevant to about 2,500 (14%) of these, being charities that reported carrying out a charitable purpose overseas.
9. Some charities may have interpreted the section differently to the interpretation taken in the statement. However, we expect that the number of charities in this position is low.
10. A number of interested persons who commented on the Issues Paper and draft item expressed concern regarding the complexity of the business income exemption and cost of compliance for smaller charities relative to the amount of business income derived. Providing relief for small charities, for example, by way of a de minimis, would require a legislative change and the relevant submissions have been referred to Policy for consideration. In the meantime, the statement clarifies that IR does not require a charity's apportionment of business income between charitable purposes in and outside New Zealand to be exact to the last dollar but rather reflect what is objectively reasonable in the circumstances.

### **Other**

11. Policy have reviewed the item and are supportive of it being published.

s 9(2)(a)

Ed Oosterwijk  
**Group Leader, Tax Counsel Office**

DDI: s 9(2)(a)