Inland Revenue
Te Tari Taake

23 May 2022

[redacted]

Dear [redacted]

Thank you for your request made under the Official Information Act 1982 (OIA), received 21 April 2022. You requested:

> *Briefings, advice, correspondence and/or meeting minutes with the current Minister of Revenue David Parker, and former Minister of Revenue Stuart Nash in regards to the charitable and/or tax exempt status of organisations. (In reference to page 19 of Inland Revenue's Briefing to the Incoming Minister 2020: "Charities and not-for-profits receive a range of tax concessions. These tax concessions are being reviewed to ensure they operate coherently and fairly, and to ensure the integrity of the tax system is protected. We are planning to report to you in the new year outlining options for potential public consultation.")*

On 6 May 2022 we transferred part of your request for *briefings, advice, correspondence, and/or meeting minutes with the current Minister of Revenue in regard to the charitable and/or tax-exempt status of organisations* to the Minister of Revenue.

The remaining information held by Inland Revenue is attached. Where some information is withheld, the relevant withholding ground of the OIA is specified in the document. They are as follows:

- Section 9(2)(a) - to protect the privacy of natural persons.
- Section 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.

Item	Document Date	Document Title	Decision
1.	9 March 2020	IR2020/030: Charities and not-for-profits update	Released with redactions under sections 9(2)(a) and 9(2)(f)(iv)
2.	August 2019 – November 2020	Hon Stuart Nash: Ministerial Correspondence	Released with redactions under section 9(2)(a)

No public interest in releasing the withheld information has been identified that would be sufficient to outweigh the reasons for withholding.

The information you have requested also included some content outside the scope of your request. Where this is the case, the relevant sections have been marked as 'not in scope'.

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.

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.

Publishing of OIA response

Please note that Inland Revenue regularly publishes responses to requests that may be of interest to the wider public on its website. We consider this response is of public interest so will publish this response in due course. Your personal details or any information that would identify you will be removed prior to it being published.

Thank you for your request.

Yours sincerely

Stewart Donaldson
Policy Lead (Acting), Legislative Drafting & Business

Inland Revenue
Te Tari Taake

POLICY AND STRATEGY

Tax policy report: Charities and not-for-profits update

Date:	9 March 2020	**Priority:**	Medium
Security level:	In Confidence	**Report number:**	IR2020/030

Action sought

	Action sought	Deadline
Minister of Revenue	**Note** the contents of this report and discuss with officials	None

Contact for telephone discussion (if required)

Name	Position	Telephone
Peter Frawley	Policy Lead	s9(2)(a)
Stewart Donaldson	Principal Policy Advisor	

Not in scope

9 March 2020

Minister of Revenue

Charities and not-for-profits update

Executive summary

1. This report provides you with initial advice on potential changes to policy settings for charities and not-for-profits, to help inform your thinking on matters which could be progressed for public consultation. The potential changes are grouped around donations, businesses, the not-for-profit sector, and miscellaneous matters. The current tax policy work programme published in August 2019 includes certain items referred to in this report.

2. s9(2)(f)(iv)

3. This report does not purport to contain 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.

4. Appendix 1 contains a table which summarises all items. Should you require, officials can report to you in more detail on these matters.

5. We recommend you meet with officials to discuss the contents of this report once you have had time to consider it.

Recommended action

6. We recommend that you **note** this report and discuss it with officials.

Noted

Stewart Donaldson
Principal Policy Advisor
Policy and Strategy
Inland Revenue

Hon Stuart Nash
Minister of Revenue
/ /2020

Background

1. In December 2017 officials provided you with an overview of tax and not-for-profits (IR2017/670). This report updates that overview. We note that Inland Revenue's most recent figures indicate that the cost of donation concessions for the year-ended 31 March 2018 exceeded $300 million for the first time. Our estimate of income tax foregone as a result of the charitable tax exemptions (BN2019/502) is approximately $300 million per annum. The combined cost of all tax concessions (including the value of goods and services tax and fringe benefit tax concessions) remains unable to be accurately quantified.

2. The December 2017 report grouped tax issues under two main themes, the first being remedial matters. Almost all issues under that theme have now been addressed by legislation enacted in March 2019. The second theme concerned issues that will involve changes to current policy settings. These issues were subsequently reported by officials to the Tax Working Group (TWG) in 2018 and the TWG made specific recommendations in their final report in February 2019.

3. The current tax policy work programme published in August 2019 includes the policy items identified by the TWG as well as other charity and not-for-profit matters viewed as a priority.

4. This report provides you with an up-to-date summary of potential policy setting changes which could be subject to public consultation or further review by officials. It takes into account previous advice, recommendations by the TWG, current data and trends, the Department of Internal Affairs (DIA) modernisation review of the Charities Act 2012, and suggestions made by the sector and officials over the last two years.

Charity and not-for-profit policy setting changes

5. The broad policy setting for this sector is that the Government supports charities and not-for-profits by providing targeted tax concessions. Not-for-profits that benefit from the widest range of tax concessions will be registered charities which are well regulated, publicly transparent and provide public benefit. Donation tax incentives will continue in some form with the objective of reinforcing and encouraging giving to approved donee organisations. Income tax and donation benefits for charities with charitable purposes outside New Zealand will continue to be restricted.

6. The table in Appendix 1 provides a summary of specific policy setting changes that have been identified by tax policy officials that could make tax concessions more effective. The specific policy setting changes are as follows:

Donation changes

7. There have been a number of ideas raised with policy officials to potentially help make donation tax concessions more effective. This report summarises four donations-related items.

s9(2)(f)(iv) [redacted]

s9(2)(f)(iv)

[redacted]

Business income changes

8. There are four business-related items which are important from a revenue, coherency and a fairness perspective.

s9(2)(f)(iv)

[redacted]

Changes for the not-for-profit sector

9. There are three items which affect the wider not-for-profit sector. This sector, which includes charities, comprises all organisations which do not have the purpose of making a profit for an owner or member and which are prohibited from making a distribution to an owner or member.

s9(2)(f)(iv)

[redacted]

Other changes

10. For completeness we have outlined other matters raised with policy officials that have merit from an efficiency, fairness or compliance/administrative costs perspective.

Relationship with the Charities Act modernisation review

11. Hon Poto Williams, Minister for the Community and Voluntary Sector, instructed DIA policy officials to explore two topics from Modernising the Charities Act this term: reporting requirements for small charities, and charities' accumulation of funds and business activities. DIA policy officials are working towards Minister Williams taking a paper on this work to Cabinet in June 2020.

12. In respect of charities running businesses and charities accumulating funds, DIA policy officials are likely to explore how increased disclosure requirements for higher-risk entities could lift transparency and accountability, and therefore support public trust and confidence. They may consider opportunities to address charities' (and officers') behaviour by clearly requiring them to act in the best interests of their charitable purpose. These policy options are designed to maintain trust and confidence, which DIA policy officials believe could be reduced if the public cannot see charities using their resources for public benefit. At the same time, DIA policy officials received a clear message from the charitable sector during their public consultation that business activities and accumulation are necessary for many charities' independence and sustainability. With that in mind, DIA policy officials will explore options to maintain public trust and confidence while broadly maintaining charities' independence to make business and accumulation decisions.

Next steps

13. Officials would welcome the opportunity to discuss these matters with you to determine which, if any, you would like further information and advice on, and whether any measures should be progressed to public consultation in the future.

Appendix 1 – Summary of potential policy setting changes for charities and not-for-profits

	ITEM	FISCALS / WHO IS AFFECTED?
1	**DONATIONS**	
1a	s9(2)(f)(iv) [redacted] ***Current policy setting*** Donation tax incentives are aimed at reinforcing and encouraging giving. Qualifying donations, which are restricted to money and exclude in-kind donations, are eligible for donation tax credits (DTCs) and gift deductions. DTCs are 33 1/3% of the amount donated. Since 2008-09 the amount of the qualifying donation has been capped at the total value of the donor's taxable income in the year the donations are made. For example, if a person earning $20,000 taxable income in 2018-19 donates $20,000, they would pay tax of $2,520 and receive a donation tax credit of $6,666.66 ($20,000 x 33 1/3%). Prior to 2008-09 there was a $630 maximum DTC limit ($1,890 donation limit) for individuals and a 5 percent deduction limit on donations made by companies and Māori authorities. s9(2)(f)(iv) [redacted]	s9(2)(f)(iv) [redacted]

	• s9(2)(f)(iv) [redacted]	[redacted]
[redacted]	[redacted]	[redacted]

	s9(2)(f)(iv) [redacted]	[redacted]
1c	**RULES FOR DONATING TRADING STOCK** ***Current policy setting*** The donation tax credit and gift deduction rules generally do not allow donations in kind, such as trading stock, to be eligible for a credit or deduction. The policy reason for this is to avoid abuse and error through overvaluation of goods that could be subject to a gift deduction.	

Problem / opportunity

In general, businesses (including social enterprises) which donate trading stock do not receive a deduction for the cost or fair value of that trading stock. Instead they must return as taxable income the full market value of that donated trading stock. This rule is in place to prevent manipulation by businesses disposing of trading stock below market value generally. Our data suggests there is widespread non-compliance and differing treatments in respect of donated goods.

There are two limited legislative exceptions to this general rule:
- Trading stock deductions are available when donated to a person not associated with the donor for the use in a farming, agricultural or fishing business that is affected by a self-assessed adverse event.
- A temporary provision was introduced for the Canterbury earthquakes. Trading stock donated to a person not associated with the donor for the purpose of relief from the adverse effects of the earthquakes qualified for a deduction for the 18-month period September 2010 to March 2012.

We note that in Australia, businesses which donate trading stock can claim a tax deduction if it is donated outside the ordinary course of business.

Policy options

A permanent provision could be introduced extending the concessionary rules for donating trading stock to all future adverse events. This would provide greater certainty to businesses and ensure a more efficient response to adverse events than the existing practice of extending concessionary treatment for donating trading stock on a case-by-case basis.

The rules for gifting trading stock could also be reviewed more broadly. This could involve consultation with a view to either confirming the current policy that businesses report as income the market value of donated trading stock, or amend the rules to allow deductions for donated trading stock in a wider range of circumstances than adverse events.

1d SMALL SIMPLIFICATIONS TO REINFORCE AND ENCOURAGE GIVING

Simplifications to the rules for donation tax credits could reinforce and encourage charitable giving, give the rules more integrity, and reduce compliance and administrative costs. The following four simplifications have been raised with officials.

s9(2)(f)(iv) [redacted]

[redacted]

	s9(2)(f)(iv) [redacted]	[redacted]
	[redacted]	[redacted]
	[redacted]	[redacted]
	[redacted]	[redacted]

	ITEM	FISCALS / WHO IS AFFECTED?
2	**BUSINESS-RELATED CHANGES**	
2a	**BUSINESS ACTIVITY AND ACCUMULATION FOR SIGNIFICANT CHARITIES** ***Current policy setting*** The current policy setting exempts charities registered under the Charities Act 2005 from income tax on all non-business income, as well as business income to the extent that charitable purposes are carried out in New Zealand. Registered charities receive an income tax exemption on the basis that they are not-for-profit, operate for the public benefit, and are subject to regulation and reporting obligations under the Charities Act. The reason for the distinction between non-business and business income is that business income is derived in active competition with taxpaying businesses. Tax exemption means these businesses are advantaged over competitors. Allowing this advantage is appropriate only if the charity deriving the business income has charitable purposes within New Zealand. s9(2)(f)(iv) [redacted]	s9(2)(f)(iv) [redacted]

	s9(2)(f)(iv) [redacted] [redacted] [redacted] [redacted] [redacted] [redacted] [redacted] [redacted] [redacted]	

Not in scope

2b	**FOUNDATIONS, FUNDS AND ACCUMULATION** ***Current policy setting*** The current policy setting provides for no time limit on the accumulation of funds and charities are able to provide minimal public benefit. There is a risk under current policy settings that some charities provide no public benefit. s9(2)(f)(iv) [redacted] [redacted] [redacted] [redacted] [redacted] [redacted] [redacted] [redacted]	s9(2)(f) (iv) [redacted] [redacted]

Not in scope

Not in scope

2c	**IMPUTATION CREDIT REFUNDABILITY** ***Current policy setting*** The current policy setting does not allow tax exempt organisations to benefit from the imputation credit system. Refunding imputation credits to tax exempt organisation will put pressure on the company tax base and create greater incentives for charities to be used in tax planning arrangements. The only exception to this policy setting is for tax exempt organisations that invest in Māori authorities. Māori authorities can convert imputation credits to Māori authority tax credits which are refundable to tax exempt investors. s9(2)(f)(iv) [redacted]	s9(2)(f)(iv) [redacted]

Not in scope

2d	**REMOVAL OF OUTDATED EXEMPTIONS** ***Current policy setting*** The Income Tax Act contains income tax exemptions for entities of a particular nature. s9(2)(f)(iv) [redacted]	s9(2)(f)(iv) [redacted]
2e	s9(2)(f)(iv) [redacted] ***Current policy setting*** An exemption from fringe benefit tax (FBT) applies to certain approved donee organisations. This exemption is limited to fringe benefits provided to employees who are either employed directly by a donee organisation or by a business whose activities come within the charitable, benevolent, philanthropic or cultural purposes of the donee organisation. s9(2)(f)(iv) [redacted]	s9(2)(f)(iv) [redacted]

	s9(2)(f)(iv) [redacted]	
[redacted]	[redacted]	[redacted]

	ITEM	FISCALS / WHO IS AFFECTED?
3	**CHANGES FOR THE NOT-FOR-PROFIT SECTOR**	
3a	**TAX RULES FOR MUTUALS AND THE $1,000 DEDUCTION** ***Current policy settings*** The principle of mutuality is grounded in common law and based on the notion that a person cannot derive assessable income from transacting with themselves or from transacting within "the circle of membership". The tax rules abolish this principle unless rebates are provided to the members in proportion to their dealings with the relevant bodies. The overall effect of the tax rules is that member transactions of most not-for-profits are taxable unless they are capital in nature (like share equity) or relate to dealings in goods on a scale that does not constitute a business for tax purposes. Non-member transactions are also taxable. s9(2)(f)(iv) [redacted]	s9(2)(f)(iv) [redacted]

3b	**GST** ***Current policy settings*** Religious, charitable and other not-for-profit organisations are subject to a more generous than normal set of rules when claiming input tax (a deduction) for GST purposes, relative to other GST-registered persons who are required to establish that deductions for input tax are connected with making taxable supplies. s9(2)(f)(iv) [redacted]	s9(2)(f)(iv) [redacted]

3c	**CHARITY DEREGISTRATION TAX** ***Current policy settings*** Tax rules for charities that are deregistered under the Charities Act were introduced in 2014. The rules are designed to be a disincentive to transfer assets out of the charitable base once they are settled there. Under the rules, a charity that is deregistered has one year to re-register or dispose of its net assets to another charity. If this does not occur, the charity must pay income tax on the net value of the assets it holds at normal income tax rates. s9(2)(f)(iv) [redacted] [redacted] [redacted] [redacted] [redacted]	Over 1,400 charities were deregistered in 2018-19.

	ITEM
4	**OTHER MATTERS**
	For completeness we have outlined several other tax policy matters raised by the not-for-profit sector that are not on the current work programme but could be considered further.
4a	s9(2)(f)(iv) [redacted]
[redacted]	[redacted]

4c	s9(2)(f)(iv) [redacted]

Hon Stuart Nash LLM, MMgt, MForSc

MP for Napier

Minister of Police
Minister of Fisheries
Minister of Revenue
Minister for Small Business

2 2 AUG 2019

s9(2)(a) [redacted]

Dear s9(2)(a) [redacted]

Your email of 30 July 2019 to the Prime Minister, Rt Hon Jacinda Ardern, suggesting changes to our tax system, has been referred to me, as Minister of Revenue, for reply.

Charities

To qualify for an income tax exemption, charitable organisations must be registered under the Charities Act 2005, and meet the requirements set out in that Act. An organisation can only be a registered charity when it has exclusively charitable purposes. Charities Services, part of the Department of Internal Affairs, is responsible for registering and monitoring charities. The rules and information (including financial statements) for charities are available on the Charities Services' website (charities.govt.nz).

It is acknowledged that the income tax exemption for trading operations of charities can be perceived as providing an unfair advantage over other commercial entities. In May 2018, the Government announced the inclusion of a review of the tax treatment of charities conducting business in the Tax Policy Work Programme, available at taxpolicy.ird.govt.nz/work-programme.

The Tax Working Group (the Group) also considered and made recommendations regarding the way charities are taxed in Chapter 9 of Volume I of their Final Report. An underlying issue identified is the extent to which charitable entities are accumulating surpluses, rather than distributing or applying those surpluses for the benefit of their charitable activities. You can read the Group's Final Report at taxworkinggroup.govt.nz.

The tax treatment of charitable organisations is also considered in the discussion document *Modernising the Charities Act 2005*, issued on 22 February 2019. This document looks at ways to modernise the Charities Act to ensure it works effectively for charities and the public. The discussion document can be found on the Department of Internal Affairs website (dia.govt.nz/charitiesact).

Although charities make considerable contributions to our communities, Inland Revenue recognises that some charities have been used to abuse the tax system through aggressive tax planning and fraud. Inland Revenue works with the Department of Internal Affairs to identify charities and individuals whose activities warrant investigation.

If you have information about anyone who you believe is engaged in conduct that is in breach of the Charities Act, or serious wrongdoing in connection with a registered charity, you can make a complaint online through the *Making a complaint* section of the Charities Services website.

Not in scope [redacted]

Ref: 20MIN076

+64 4 817 8712 Private Bag 18041, Parliament Buildings, Wellington 6160, New Zealand s.nash@ministers.govt.nz beehive.govt.nz

Not in scope

Thank you for writing.

Yours sincerely

Hon Stuart Nash
Minister of Revenue

Hon Stuart Nash LLM, MMgt, MForSc

MP for Napier

Minister of Police
Minister of Fisheries
Minister of Revenue
Minister for Small Business

8 June 2020

s9(2)(a)

Dear s9(2)(a)

Your email of 21 May 2020 to the Minister of Finance, Hon Grant Robertson, about tax exemptions for charitable organisations has been referred to me, as Minister of Revenue, for reply.

Most countries around the world provide tax support to charities and not-for-profit bodies in one way or another in recognition of their valuable contribution to society. In New Zealand, most of this support takes the form of an income tax exemption.

To qualify for an income tax exemption, charitable organisations must be registered under the Charities Act 2005, and meet the requirements set out in that Act. An organisation can only be a registered charity when it has exclusively charitable purposes. Charities Services, part of the Department of Internal Affairs (DIA), is responsible for registering and monitoring charities. The rules and information (including financial statements) for charities are available on the Charities Services' website (charities.govt.nz).

It is acknowledged that the income tax exemption for trading operations of charities can be perceived as providing an unfair advantage over other commercial entities. A review of the tax treatment of charities conducting business has been included in the Tax Policy Work Programme, available on the Tax Policy website (taxpolicy.ird.govt.nz), and work on this topic is on-going.

The Tax Working Group (the Group) also considered and made recommendations regarding the way charities are taxed in Chapter 9 of Volume I of their Final Report. An underlying issue they identified is the extent to which charitable entities are accumulating surpluses, rather than distributing or applying those surpluses for the benefit of their charitable activities. You can read the Group's Final Report on its website (taxworkinggroup.govt.nz).

The tax treatment of charitable organisations was also considered in the discussion document *Modernising the Charities Act 2005*, issued on 22 February 2019. This document looks at ways to modernise the Charities Act to ensure it works effectively for charities and the public. The discussion document can be found on the DIA website (dia.govt.nz/charitiesact).

While the income received by charitable entities is generally exempt from income tax, this exemption does not extend to the individuals involved with the charities. Their income is still subject to income tax. The charities also need to meet their GST and PAYE obligations just as any business operating in New Zealand is required to do.

Thank you for writing.

Yours sincerely

Hon Stuart Nash
Minister of Revenue

Ref: 20-0811

Hon Stuart Nash LLM, MMgt, MForSc

MP for Napier

Minister of Police
Minister of Fisheries
Minister of Revenue
Minister for Small Business

16 June 2020

s9(2)(a) [redacted]

Dear s9(2)(a) [redacted]

Thank you for your letter of 30 March 2020, which I recently received from the electorate office of Mr Matt Doocey MP. I have noted your comments about charitable organisations operating businesses. I apologise for the delay in responding to you.

Most countries around the world provide support to charities and not-for-profit bodies in one way or another, in recognition of their valuable contribution to society. In New Zealand, most of this support takes the form of an income tax exemption.

To qualify for an income tax exemption, charitable organisations must be registered under the Charities Act 2005, and meet the requirements set out in that Act. An organisation can only be a registered charity when it has exclusively charitable purposes. Charities Services, part of the Department of Internal Affairs (DIA), is responsible for registering and monitoring charities. You can find the rules and information (including financial statements) about charities on the Charities Services' website (charities.govt.nz).

Although the income received by charitable entities is generally exempt from income tax, this exemption does not extend to the individuals involved with the charities. Their individual income is still subject to income tax. Charities also need to meet their GST and PAYE obligations, just as any business operating in New Zealand is required to do.

It is acknowledged that the income tax exemption for charities' trading operations can be perceived as providing an unfair advantage over other commercial entities. A review of the tax treatment of charities conducting businesses has been included in the Tax Policy Work Programme, available on the Tax Policy website (taxpolicy.ird.govt.nz). The review is ongoing.

The Tax Working Group (the Group) made recommendations regarding the way charities are taxed in Chapter 9 of Volume I of their *Final Report*. The Group identified that the underlying issue is the extent to which charitable entities are accumulating surpluses, rather than distributing or applying those surpluses for the benefit of their charitable activities. You can read the *Final Report* on the Group's website (taxworkinggroup.govt.nz).

Ref: 20-0891

The tax treatment of charitable organisations was also considered in the discussion document *Modernising the Charities Act 2005*, issued on 22 February 2019. This document looks at ways to modernise the Charities Act to ensure it works effectively for charities and for the public. You can read the discussion document on DIA's website (dia.govt.nz/charitiesact).

Thank you again for writing.

Yours sincerely

Hon Stuart Nash
Minister of Revenue

Ref: 20-0891

Hon Stuart Nash LLM, MMgt, MForSc

MP for Napier

Minister of Police
Minister of Fisheries
Minister of Revenue
Minister for Small Business

21 October 2020

s9(2)(a) [redacted]

Dear s9(2)(a) [redacted]

Your email of 1 October 2020 to the Prime Minister, Rt Hon Jacinda Ardern, regarding the tax obligations of charitable organisations, has been referred to me, as Minister of Revenue, for reply.

Most countries around the world provide support to charities and not-for-profit bodies in one way or another in recognition of their valuable contribution to society. In New Zealand, most of this support takes the form of an income tax exemption.

However, although the income received by charitable entities is generally exempt from income tax, this exemption does not extend to the individuals involved with the charities. Their income is still subject to income tax. The charities also need to meet their GST and PAYE obligations just as any business operating in New Zealand is required to do.

To qualify for an income tax exemption, charitable organisations must be registered under, and meet the requirements set out in, the Charities Act 2005. An organisation can only be a registered charity when it has exclusively charitable purposes. Charities Services, part of the Department of Internal Affairs (DIA), is responsible for registering and monitoring charities. The rules and information (including financial statements) for charities are available on the Charities Services website (charities.govt.nz).

It is acknowledged that the income tax exemption for trading operations of charities can be perceived as providing an unfair advantage over other commercial entities. A review of the tax treatment of charities conducting business has been included in the Tax Policy Work Programme, available on Inland Revenue's Tax Policy website (taxpolicy.ird.govt.nz). Work continues on this topic.

The Tax Working Group (the Group) made recommendations on the taxation of charities. An underlying issue the Group identified is the extent to which charitable entities are accumulating surpluses, rather than distributing or applying those surpluses for the benefit of their charitable activities. The Group's recommendations on charities are in the *Final Report* (Chapter 9 of Volume 1), available on the Group's website (taxworkinggroup.govt.nz).

The tax treatment of charitable organisations is also considered in the discussion document *Modernising the Charities Act 2005*, issued on 22 February 2019. This document looks at ways to modernise the Act to ensure it works effectively for charities and the public. This work was suspended in May 2020 due to COVID-19, but has now recommenced. The discussion document can be found on DIA's website (dia.govt.nz/charitiesact).

Thank you for writing. I trust that my comments are of assistance.

Yours sincerely

Hon Stuart Nash
Minister of Revenue

Ref:

Hon Stuart Nash LLM, MMgt, MForSc

MP for Napier

Minister of Police | Minister of Revenue

Minister of Fisheries | Minister for Small Business

5 November 2020

s9(2)(a) [redacted]

Dear s9(2)(a) [redacted]

Your email of 21 October 2020 to the Prime Minister, Rt Hon Jacinda Ardern, has been referred to me, as Minister of Revenue, for reply. I have noted your comments regarding the charitable status of certain businesses.

Most countries around the world provide support to charities and not-for-profit bodies in one way or another, in recognition of their valuable contribution to society. In New Zealand, most of this support takes the form of an income tax exemption. However, although the income received by charitable entities is generally exempt from income tax, this exemption does not extend to the individuals involved with the charities. Their income is still subject to income tax. Charities also need to meet their GST and PAYE obligations, just as any business operating in New Zealand is required to do.

To qualify for an income tax exemption, charitable organisations must be registered under, and meet the requirements set out in, the Charities Act 2005. An organisation can only be a registered charity when it has exclusively charitable purposes. Charities Services, part of the Department of Internal Affairs (DIA), is responsible for registering and monitoring charities. Information (including financial statements) and rules for charities are available on the Charities Services website (charities.govt.nz).

It is acknowledged that the income tax exemption for charities' trading operations could be perceived as providing an unfair advantage over other commercial entities. A review of the tax treatment of charities conducting business is on the Tax Policy Work Programme, available on Inland Revenue's Tax Policy website (taxpolicy.ird.govt.nz). Work is underway on this issue.

The Tax Working Group (the Group) made recommendations on the taxation of charities. An underlying issue the Group identified is the extent to which charitable entities are accumulating surpluses, rather than distributing or applying those surpluses for the benefit of their charitable activities. The Group's recommendations on charities are in their *Final Report* (Chapter 9 of Volume I), which you can read on the Group's website (taxworkinggroup.govt.nz).

The tax treatment of charitable organisations is also considered in the discussion document *Modernising the Charities Act 2005*, issued on 22 February 2019. This document looks at ways to modernise the Charities Act to ensure it works effectively for charities and the public. This work was suspended in May 2020 due to COVID-19 but has now recommenced. You can read the discussion document on DIA's website (dia.govt.nz/charitiesact).

Thank you for writing.

Yours sincerely

Hon Stuart Nash
Minister of Revenue

Ref: 20-1368