

Submission on the officials' issues paper – Taxation and the not-for-profit sector

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Introduction

The Aggregate and Quarry Association (AQA) is the industry body representing construction material companies which produce an estimated 48 million tonnes of aggregate and quarried materials consumed in New Zealand each year.

Funded by its members, the AQA has a mandate to increase understanding of the need for aggregates to New Zealanders, improve our industry and users' technical knowledge of aggregates, and assist in developing a highly skilled workforce within a safe and sustainable work environment.

Key points of our submission

- The principle of mutuality should continue to apply to the not-for-profit (NFP) sector, based on the current law, noting that this has been the position for decades.
- Taxing the subscription income of industry associations would undermine our purpose, reduce the capacity to serve, and ultimately harm the sector that we support.
- Sports clubs and business associations should have equal tax treatment as membership-based, not-for-profit organisations that support their communities.

We make the following submission in relation to the officials' issues paper – Taxation and the not-for-profit sector.

General comments

This consultation document is an officials' issues paper, which we understand means it sets out Inland Revenue's initial views on how the relevant tax laws apply, and requests feedback from interested parties. It is intended to stimulate discussion and allows Inland Revenue to gain a better understanding of the issues, including practical concerns affecting taxpayers.

There would be significant flow-on effects from some of the recommended changes, which do not appear to be based on any evidence of a problem that needs to be solved, beyond a general view that tax changes are needed in the charity and NFP sector.

AQA is a small industry association with 2.5 fulltime equivalent staff. Our predominant funding mechanism is member subscriptions, which typically provide just enough revenue to keep our operations running from year to year.

This means the margins between making a profit or loss can be minimal. AQA strives to make an annual surplus, but the reality for our association is that the subscriptions and other member funds received are typically enough for only a small surplus if everything goes according to plan, with little room for unexpected costs.

There are also many instances where a loss is made, either for a single year or over multiple years. This means we must dip into any reserves that have built up to make up the financial shortfall. The ability for us to build up reserves during more favourable economic times and/or membership increases so that there is a buffer to continue operations would obviously be curtailed by changes to the tax treatment of NFPs.

Principle of mutuality

The principle of mutuality should continue to apply, based on the current law, noting that this has been the position for decades. If Inland Revenue has formed a view that the principle of mutuality should not apply, then we would expect law change is warranted to reinstate the position that most membership organisations have been operating under (i.e. that subs are not taxable and expenditure on membership activities are not deductible).

AQA's focus is on reinvesting any surplus revenue into future options that directly benefit our members. These include, but are not limited to, professional training, industry research, policy advocacy, and engagement. Any surplus funds generated by AQA is always reinvested into the association's mission rather than allocated to members or stakeholders. Therefore, we believe taxing these funds would be counterproductive, as it would reduce the resources available for the very initiatives that benefit our member businesses and the broader economy.

Chapter 4 – Integrity and simplification

The issues paper notes one of the key changes in Inland Revenue's draft guidance is that trading and other normally non-taxable transactions with members, including some subscriptions, should be taxable income regardless of whether the common law principle of mutuality would apply.

The issues outlined in chapter 4 would impact the very nature of AQA's operations. We are deeply concerned that taxing the subscription income of industry associations would undermine our purpose, reduce the capacity to serve, and ultimately harm the sector that we support.

Inconsistent treatment of NFPs

The issues paper suggests that over 20,000 sports clubs and societies currently have an income tax exemption because they have been set up to promote an amateur game or sport.

We question why sports clubs and societies promoting amateur sports are treated differently from special interest clubs and societies that promote other pursuits. Sports clubs and business associations share key similarities as membership-based organisations with a common mission, often funded through subscriptions. Both are governed by a board or committee, host events to foster engagement, and advocate for their members. They also depend on subscriptions, fees, sponsorships, and fundraising for financial sustainability.

From a tax policy perspective, sports clubs and business associations should have equal tax treatment as membership-based, not-for-profit organisations that support their communities.

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