

Clubs New Zealand Submission – Mutual Transactions of Associations (including clubs and societies)

To Inland Revenue Department

Clubs New Zealand welcomes the opportunity to present this submission on ED0265: Mutual transactions of associations (including clubs and societies).

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INTRODUCTION

Clubs New Zealand represents more than 300 not-for-profit member clubs across New Zealand, including Chartered Club, Community Clubs, RSAs and Sporting Associations. These clubs play a vital role in their communities, fostering connection, social participation, and public service.

While we support the IRD's goal of clarity and consistency in tax treatment of not-for-profit associations, we are deeply concerned that this draft operational statement would have unintended and disproportionate impacts on clubs that serve a public and community good, particularly those without charitable or sports exemptions.

KEY CONCERNS

Taxation of Membership Subscriptions

The proposal to treat membership subscriptions as taxable income for clubs that are unable to distribute surpluses represents a fundamental shift from previous expectations and guidance. Subscriptions in clubs are not payment for specific goods or services but are contributions to the shared infrastructure, governance, participation, and social connectivity that clubs provide. Most clubs are explicitly prohibited from distributing funds to members, for example through non-distribution clauses required under section 22 of the Incorporated Societies Act 2022. Treating these subscriptions as taxable would introduce significant compliance burdens while generating limited additional revenue for the Crown. For small clubs such as Bulls RSA, which reported just \$7,395 in subscriptions in 2024, this approach is not only administratively inefficient but undermines the very spirit of member-led community service.

Treatment of Donations, Poppy Income and Bequests

Many clubs receive unsolicited donations or bequests from members, and these amounts have traditionally been treated as capital or non-assessable gifts. A notable example is Poppy Funds received by RSAs, which are ring fenced for veteran welfare and community support. Taxing these



funds would be deeply inappropriate and could provoke significant public concern. These forms of income are not business derived, nor are they recurring or transactional in nature. They represent community generosity and should be preserved as such.

Taxing Member-Based Trading (e.g. Bar, Restaurant Sales)

While we acknowledge the intent of sections CB 33 and CB 34 of the Income Tax Act, it is important to recognise that most clubs do not operate trading activities for commercial profit. Functions such as bars, kitchens, and raffles are run as services for members and often operate at or near break-even. These activities provide essential financial and social support for broader club operations. Applying a full business income tax treatment to these transactions could increase costs for members or force the closure of clubs, particularly in smaller or rural communities where the club is often the last remaining social/community venue.

Confusion around the Treatment of Gaming Revenue

Clubs also require clarity on how gaming revenue interacts with the mutual association rules. While proceeds from gaming that are used for authorised purposes are expected to have a neutral tax outcome, the draft statement should confirm that such income remains effectively excluded. It is also critical to clarify that expenses related to gaming do not become non-deductible or misallocated when calculating taxable income from unrelated revenue sources.

The Diversity of Club Structures

Clubs vary widely in scale and structure, making a uniform application of mutual income rules inappropriate. For example, Kamo Club holds over \$6 million in commercial and residential property, producing rental income that is already taxed. Hornby Club recorded a property revaluation loss of \$2.6 million and a trading loss of \$1 million in 2023. Some clubs lease kitchens or run modest hospitality services, while others depend entirely on volunteers and donations. The one-size-fits-all approach proposed in ED0265 does not account for this diversity and may force even small community clubs to engage costly tax consultants to interpret their obligations.

Accumulated Losses Obscure Taxable Profit

Many clubs are carrying forward significant tax losses due to the impacts of Covid-19 and changing social behaviours. For example, a club with cumulative losses of \$62,200 from 2020-2022 would not be liable for tax on a small profit in 2023 and would continue to carry forward the balance. Although this reduces immediate tax liability under ED0265, the need to track historical losses, calculate depreciation, and prove compliance imposes onerous administrative burden, especially for clubs run by volunteers.

Compliance and Resourcing Burden

The application of business income principles and the narrowing of the mutuality concept will require clubs to undertake technical tax assessments and report accordingly. This increases the risk of unintentional noncompliance and will divert time and energy away from community and recreational programme. Even well governed clubs will face new complexity that may prove unsustainable for organisations with limited administrative support.

Risk of Inconsistent Application and Reputational Damage

The shift away from the mutuality principle and revocation of all prior statements will cause uncertainty among clubs and concern among members that they are being treated as commercial entities rather than community institutions. Many are questioning the benefit of continuing as a member based, not-for-profit entity.

Impacts on Clubs New Zealand as an Incorporated Society

Clubs New Zealand Incorporated is itself an incorporated society subject to the same operational and legislative framework as the member clubs it represents. Our constitution includes a non-distribution clause that prohibits any financial benefit to members and provides that, on winding up, any surplus assets must be distributed to a similar not-for-profit organisation.

Our primary source of income is derived from annual member subscriptions, which are used to support our governance, member services, industry advocacy, and administrative operations. In addition to subscriptions, Clubs New Zealand also generates revenue by providing supplementary services to members, including professional training programmes, conferences, and events. These activities are designed to build sector capability and foster engagement, and they are offered on a cost-recovery or modest surplus basis rather than with any commercial intent.

Under the interpretation outlined in ED0265, the subscription income that funds our core operations could now be considered taxable despite its mutual nature and the fact that it is not directly linked to the supply of goods or services. This would impose a tax obligation on a not-for-profit sector organisation that exists solely to support other not-for-profits, in contradiction to the sector's broader purpose.

Further, the administrative burden of apportioning income between exempt and potentially taxable activities, especially in relation to services that are provided to members as part of our support role, would impose significant compliance costs without advancing the underlying policy objective of revenue collection or tax fairness.

RECOMMENDATIONS

Preserve Non-Tax Treatment for Membership Subscriptions

Clubs New Zealand recommend that Inland Revenue adopt or seek a legislative clarification confirming that subscriptions to not-for-profit associations with constitutional non-distribution clauses and primary community benefit purposes are not taxable unless clearly provided in exchange for specific goods or services. This approach would be consistent with long standing practice and with broader public policy objectives.

Explicitly Exempt Donations, Bequests and Community Welfare Income

Clubs New Zealand recommend that unsolicited donations, legacy bequests and welfare related income such as Poppy Funds be expressly excluded from assessable income. These sources are irregular, non-commercial, and provide vital support to clubs and their communities. Their taxation would contradict public expectations and reduce incentive for future giving.

Introduce a Safe Harbour Threshold

Clubs New Zealand recommend the creation of a de minimis threshold, such as a gross income cap of \$100,000 or a net surplus cap of \$20,000 from member transactions, below which clubs would be exempt from the mutual income tax rules unless they are engaged in clearly commercial activities. This would provide relief for the vast majority of smaller clubs while maintaining integrity in the tax system.

Expand or Adjust Section DV 8 Deduction

Clubs New Zealand recommends that the section DV 8 deduction be increased from \$1,000 to at least \$10,000 to better reflect the realities of today's operating environment. In addition, the

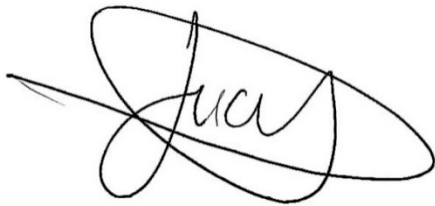
scope of eligible income should be broadened to include minor hospitality revenue and community event fundraising, which are central to club operations but not profit driven.

CONCLUSION

The proposals in ED0265 represent a significant departure from the treatment that community clubs have historically relied upon. While we acknowledge Inland Revenue's legal interpretation, we believe the broader principles of equity, proportionality, and public interest must be considered. The mutuality principle may have limited statutory effect under the current law, but its underlying rationale remains sound, members of a not-for-profit community association should not be taxed for contributing to their own collective wellbeing.

If implemented without modification, the proposals will place unsustainable burdens on clubs that are already under pressure. We therefore urge Inland Revenue to adopt a balanced, principled, and practical approach that upholds tax integrity while recognising the vital role clubs play in supporting social cohesion and public wellbeing.

We would welcome the opportunity to further engage with Inland Revenue on these matters and to contribute to the development of practical guidance.

A handwritten signature in black ink, appearing to read 'Lucy', enclosed within a large, loopy, oval-shaped flourish.

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