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Taxation and the not-for-profit sector
Stewart Donaldson
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23 January 2026

Dear Stewart,

Taxation and the not-for-profit sector: Targeted consultation on detailed design

Thank you for the opportunity to comment on **Taxation and the not-for-profit sector: Targeted consultation on detailed design**.

CPA Australia represents the diverse interests of more than 175,000 members, including over 3,300 members in New Zealand, working in over a 100 countries and regions supported by 19 offices around the world. We make this submission on behalf of our members and in the broader public interest.

We make the following summary comments and key points for your consideration:

Introduction and Summary of Major Points and Recommendations

CPA Australia welcomes the opportunity to provide this submission on the targeted consultation document "Taxation and the not-for-profit sector: Targeted consultation on detailed design" dated 14 November 2025.

CPA Australia has a strong interest in tax policy that supports the not-for-profit (NFP) sector while ensuring integrity and simplicity in the tax system. Our members advise a wide range of NFP organisations, charities, and donors, and we have actively engaged with New Zealand's tax reforms through our detailed submission to the February 2025 issues paper.

This submission responds to the specific questions outlined in the Appendix to the consultation document. Our views draw on publicly available analyses and international comparisons, particularly from Australia (private ancillary funds), Canada (disbursement quota for private foundations), and the United States (private foundation rules).

These regimes provide useful benchmarks, highlighting the importance of balanced rules that promote timely philanthropic use of funds without imposing excessive compliance burdens or deterring genuine charitable activity.

Major points and recommendations

1. **Donor-controlled charities (Chapter 2)**: We support the proposed definition but recommend refinements to avoid capturing non-donor-controlled entities, particularly iwi structures. For the minimum distribution requirement (MDR), a 5% rate is appropriate if aligned with international norms, but we advocate for flexible exemptions, averaging options, and streamlined processes to support long-term charitable purposes. Integrity measures should focus on arm's length transactions, with clear guidance to prevent overreach.

2. We oppose a donation tax concessions cap as overly restrictive and endorse treating donor-advised funds (DAFs) similarly to donor-controlled charities for consistency. On trust income allocations, we recommend targeted anti-avoidance rather than broad taxation to maintain incentives for genuine distributions.
3. **Membership subscriptions and related matters (Chapter 3)**: The proposals for exempting membership subscriptions and related transactions for taxable NFPs are a welcome simplification. We recommend a $10,000 tax-free threshold to align with small business reliefs, a resident withholding tax (RWT) exemption for eligible members, simplified filing, and a 1 April 2027 application date.
4. **Donation tax credit simplifications (Chapter 4)**: We endorse the proposed changes to streamline claims and reduce compliance, with an application date of 1 April 2027.
5. **Treaty of Waitangi considerations (Chapter 5)**: Proposals must explicitly exclude or accommodate Māori authorities and Treaty settlement assets to uphold Treaty principles, with enhanced data collection for monitoring impacts.

Overall, we recommend that Inland Revenue provides comprehensive guidance and transitional relief to minimise compliance costs. International experience shows that well-designed MDRs (e.g., Australia's 5% for private ancillary funds) encourage distributions while allowing sustainability for endowments, with high compliance rates when paired with flexibility. Alignment with comparable regimes would support the consultation's principle of not being more stringent than comparative jurisdictions in the absence of strong justification.

Please refer to the Appendix for our response to the questions raised in the consultation paper. If you have any queries about this submission, please contact me on jenny.wong@cpaaustralia.com.au or Bill Leung, Tax Technical Advisor on bill.leung@cpaaustralia.com.au.

Yours sincerely,

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Acknowledgements

CPA Australia would like to acknowledge the following Tax Committee member for their input and guidance in shaping this submission:

- Mr Angus Ogilvie FCPA (Aust.), Chair of Tax Committee – New Zealand

Appendix

Detailed discussion

Response to discussion questions

The following responses address each question from the Appendix, structured by chapter for clarity. Our views are informed by international precedents and sector analyses.

Chapter 2: Donor-controlled charities

Q1. Are there any issues with the definition of donor-controlled charities outlined in this chapter? For example, would it apply to charities that are not donor-controlled? If so, what alternative(s) would you propose?

CPA Australia appreciates the intent to define "donor-controlled charity" to target integrity risks, aligning with international practices like Canada's private foundation designation. The proposed threshold of >50% cumulative contributions from a primary donor or associates, combined with direct/indirect control "by any means," is a reasonable starting point to capture entities akin to private foundations without being overly broad.

However, potential issues include:

- **Overreach to non-donor-controlled entities**: The broad notion of "control by any means" (e.g., legally unenforceable understandings) could inadvertently capture charities with advisory donor input that does not equate to control, such as community foundations where donors provide non-binding recommendations. Similar concerns have arisen in comparable regimes, where vague control tests led to appeals and refinements.
- **Data and measurement challenges**: Cumulative asset contributions (>50%) may be difficult to track retrospectively, especially for older charities, leading to compliance burdens. In jurisdictions with similar thresholds, independent valuations are often required for larger assets, increasing costs for smaller entities.

Alternatives we propose:

- **Adopt a tiered control test:** Require evidence of both >50% contributions AND de facto control (e.g., power to appoint >50% of trustees or veto distributions), mirroring approaches in Australia for private ancillary funds. This would reduce ambiguity.
- **Explicit exclusion for Māori entities:** As suggested in para 2.13, exclude Treaty settlement assets from "contributions" and Māori authorities from "donor" definitions. If needed, introduce a "public benefit test" exemption for entities with >30% public governance, aligned with Canada's framework.
- **Safe harbour for low-risk charities:** Exempt entities with < $1 million in assets or those distributing >80% of income annually, to protect genuine small-scale philanthropy.

These refinements should ensure the definition targets aggressive tax planning without deterring broader charitable activity.

Q2. What are your views on the proposed minimum distribution requirement?

CPA Australia tentatively supports the introduction of a minimum distribution requirement (MDR) for donor-controlled charities, as outlined in paras 2.15-2.23, to address the risk of excessive accumulation of tax-exempt funds.

The proposed 5% rate on the market value of net assets (excluding those used directly for charitable purposes) appears broadly aligned with international benchmarks, such as Australia's 5% for private ancillary funds, Canada's 3.5 - 5% disbursement quota, and the United States' 5% rule. These regimes have generally promoted timely use of philanthropic funds while allowing for sustainable endowments.

However, our support is conditional on incorporating sufficient flexibility to mitigate potential drawbacks, particularly for smaller or purpose-specific charities.

To provide a balanced perspective, we outline the key pros and cons of the proposal below:

Pros:

- **Enhances integrity and public benefit**: By requiring annual distributions, the MDR would ensure that tax-benefitted donations are used for charitable purposes in a timely manner, reducing the risk of indefinite hoarding and aligning with the policy intent in para 2.15. International examples demonstrate this encourages active philanthropy without significantly deterring donors.
- **Alignment with global standards**: The 5% rate strikes a reasonable balance, as evidenced by high compliance rates in comparable systems, and avoids being overly stringent (per para 2.4). Features like exclusions for direct-use assets and related liabilities (para 2.17) prevent distortions and focus the requirement on investable funds.
- **Flexibility options**: Provisions for exemptions/reductions (para 2.22) for specific purposes (e.g., accumulating for capital projects like CT scanners) and three-year averaging (para 2.23) could support long-term sustainability, provided they are streamlined (e.g., via self-certification with post-audit checks).
- **Application safeguards**: No MDR in the first year or for new registrations (para 2.21) eases transition, and individual entity application (para 2.20) prevents avoidance in groups.

Cons:

- **Potential compliance burdens**: Smaller donor-controlled charities may face increased administrative costs, such as mandatory independent valuations for assets >$500,000, which could strain resources and lead to cash flow issues if distributions force asset sales during market downturns.
- **Risk of reduced donations**: Without adequate flexibility, the requirement might discourage donors focused on endowments or long-term causes, potentially lowering overall philanthropic giving, as seen in some initial implementations of similar rules elsewhere.
- **Challenges for consolidated groups**: Requiring each entity to meet the MDR independently (para 2.20) could impose unnecessary burdens on low-risk groups, complicating operations without clear integrity gains.
- **Monitoring and enforcement difficulties**: Discrete three-year periods for averaging are easier to monitor than rolling ones, but overall implementation may require significant Inland Revenue resources, and exemptions could be prone to subjective assessments if not clearly guided.

In summary, while the MDR could strengthen the sector's integrity if designed with pragmatism, we recommend enhancements such as optional group-level calculations for consolidated entities, mandatory guidance on valuations, and education programmes to support compliance. These adjustments would address the cons and make the proposal more robust, justifying our tentative endorsement.

Q3. What are your views on the proposed integrity measures?

The proposed integrity measures to curb circular arrangements and non-arm's length transactions are necessary to prevent abuse e.g., donors recycling funds through related parties for tax benefits. These align with anti-avoidance rules in Australia for private funds and excess business holdings provisions in the United States, which have deterred risks effectively without broad overreach.

Views:

- **Strengths**: Requiring arm's length pricing for transactions with donors/associates (e.g., loans, investments) and taxing circular flows addresses the heightened risks in para 2.7. A de minimis threshold (e.g., <5% of assets) for minor transactions would reduce compliance noise.
- **Concerns**: Broad application could capture legitimate related-party support (e.g., in-kind services from family businesses). Initial rules in comparable jurisdictions increased audit costs before refinements.

- **Recommendations**: Implement as specific anti-avoidance provisions rather than general rules, with safe harbours for transactions at market value (supported by documentation). Require annual reporting of related-party dealings, integrated with Charities Services filings, to enable targeted audits. Align penalties with general tax avoidance regimes to avoid disproportionate burdens on NFPs.

These measures would safeguard the tax base while preserving incentives for genuine philanthropy.

Q4. What are your views on the alternative proposal of a donation tax concessions cap?

CPA Australia opposes the alternative donation tax concessions cap, as it risks disincentivising large-scale philanthropy without directly addressing accumulation or control issues. International evidence from regimes with caps shows drops in high-value donations post-implementation. No such cap applies in Australia's private ancillary funds regime, allowing flexibility that has boosted giving. A cap could complicate administration and unfairly penalise donors supporting long-term causes, contradicting the consultation's principle of not being more stringent than comparators (para 2.4). Instead, prioritise the MDR and integrity measures for targeted integrity.

Q5. Should donor-advised funds be treated in a similar way to donor-controlled charities? If yes, why?

Yes, donor-advised funds (DAFs) should be treated similarly to donor-controlled charities (paras 2.43-2.47), as both involve donor influence over tax-exempt funds, presenting comparable risks of delayed distributions and non-arm's length dealings. In the United States, DAFs are subject to payout rules like private foundations, reducing abuse while supporting substantial annual grants. Australia's treatment of DAFs as ancillary funds ensures consistency. Excluding DAFs could create arbitrage opportunities, undermining the regime.

We recommend applying the full suite of rules (definition, MDR, integrity) to DAFs, with exemptions for public DAFs sponsored by qualified charities.

Q6. What are your views on the proposed changes to trust income allocations to tax-exempt beneficiaries?

The proposals to review and potentially tax distributions from private trusts to tax-exempt beneficiaries are prudent to prevent artificial income streaming for tax avoidance. Without rules, trusts can defer tax indefinitely via charitable beneficiaries, as seen in pre-reform cases in other jurisdictions. However, broad taxation could deter legitimate philanthropy, where trusts are used for planned giving.

Views and recommendations:

- Support targeted rules taxing non-arm's length allocations or those not furthering charitable purposes, aligned with trust distribution rules in Australia.
- Exempt genuine charitable trusts with >50% public beneficiaries or MDR compliance.
- Provide transitional relief for existing arrangements to avoid retrospective impacts.
- Integrate with general trust rules to minimise new compliance.

This approach maintains incentives while closing integrity gaps.

Chapter 3: Membership subscriptions and related matters for taxable not-for-profit organisations

Q7. What are your views on the proposed treatment of membership subscriptions?

We strongly support exempting membership subscriptions from tax for taxable NFPs (paras 3.10-3.15), as they represent mutual benefits rather than income. This simplifies rules, reducing compliance costs for membership-based organisations like clubs. It aligns with mutual income exemptions in Australia to avoid cross-border inconsistencies. We recommend clear guidance on what constitutes a "subscription" (e.g., excluding commercial perks) to prevent disputes.

Q8. What are your views on the proposed treatment of member transactions?

The exemption for arm's length member transactions (e.g., sales at cost) is appropriate (paras 3.16-3.20), targeting non-commercial activities. This aligns with mutual benefit rules in other jurisdictions and reduces any temptation for frivolous audits. We suggest a de minimis threshold (e.g., <$5,000 per member) and documentation requirements for larger transactions to balance integrity.

Q9. What are your views on the proposed tax-free threshold?

A tax-free threshold of $10,000-$20,000 for aggregate NFP income (para 3.21) would be beneficial, mirroring small business exemptions and easing admin for low-turnover entities. A level around $15,000 based on compliance cost-benefit considerations would prevent over-taxation of volunteer-run groups.

Q10. What are your views on the proposed resident withholding tax exemption?

We support a RWT exemption for interest/dividends received by eligible NFPs from members (para 3.22), as it simplifies cash flows. This aligns with exemptions in Australia, reducing administration. We suggest that it is limited to non-commercial income to maintain integrity.

Q11. What are your views on the proposed filing requirements?

Simplified filing (e.g., nil returns or aggregated reporting, para 3.23) is essential to prevent significant fee costs. We recommend integrating with IRD's MyIR portal and exempting entities below the tax-free threshold for digital simplification.

Q12. What is your preferred application date for these proposals?

We prefer 1 April 2027, allowing time for guidance and systems updates (para 3.24).

Chapter 4: Donation tax credit simplifications

Q13. What are your views on the proposed changes to donation tax credit simplifications?

The simplifications (e.g., streamlined claims, higher thresholds, paras 4.5-4.10) are positive, reducing errors and costs. Support removing receipt requirements for small donations and electronic claiming, aligned with reforms in Australia.

Q14. What is your preferred application date for these proposals?

We prefer 1 April 2027 (para 4.11), with transitional support.

Chapter 5: Treaty of Waitangi considerations

Q15. Are there any Treaty implications of the proposals in this document that have not been identified?

The consultation identifies key interests (paras 5.5-5.10), but additional implications include disproportionate impacts on Māori-led NFPs from MDRs, potentially conflicting with tino rangatiratanga. Data gaps exacerbate this; recommend mandatory impact assessments and exclusions for ahu whenua committees.

Q16. How could the proposals be amended to better reflect Treaty principles?

Amend by excluding Māori authorities from donor definitions, providing culturally sensitive exemptions (e.g., for marae funds), and funding compliance support. Any co-design with iwi input would ensure equity.

Conclusion

CPA Australia commends Inland Revenue's targeted approach and urges adoption of our recommendations to foster a robust NFP sector. We look forward to engaging further.