31 Poutūterangi (March) 2025

Rangitāne
Te Rūnanga a Rangitāne o Wairau
Level 5, Rangitāne House
PO Box 883 Blenheim 7240
Ph: 03 5786180
Email: admin@rangitane.org.nz
www.rangitane.org.nz

Inland Revenue Department
C/- Deputy Commissioner, Policy
PO Box 2198
WELLINGTON 6140

Tēnā koe

SUBMISSION ON TAXATION AND THE NOT-FOR-PROFIT SECTOR

This Submission

This submission is made on behalf of the Rangitāne o Wairau Group (comprising Te Rūnanga a Rangitāne o Wairau Trust, Rangitāne o Wairau Settlement Trust, Rangitāne Holdings Limited and Rangitāne Investments Limited) and relates to the officials' issues paper on taxation and the not-for-profit sector, issued on 24 February 2024. Our submission addresses questions 1 to 9 of the issues paper.

Rangitāne o Wairau welcomes the opportunity to provide a submission on the issues paper. We provide a summary of our submission, an overview of Rangitāne and a response to the specific questions that the consultation proposes.

Summary of our Submission

We submit that the proposal to remove the tax exemption for unrelated business income of charities should not proceed on the basis that:

- The proposal does not recognise the unique background to the existence and operation of charitable businesses by iwi/Māori organisations;
- The proposal would undermine the Tiriti/treaty settlement process that many iwi have undertaken with the Crown since 1995;
- Iwi-operated businesses are not unrelated to their charitable purpose but are inherently part of the way that the charitable purpose is being delivered in that they provide employment opportunities for whānau and local communities, protect and restore the moana and whenua and enhance the mana of the iwi to contribute to Aotearoa New Zealand.
- The proposal would impose significant compliance costs on iwi organisations that would reduce their ability to deliver economic and social development to their

members and communities resulting in shifting more of that cost to the Government.

We submit that the proposals to impose greater restrictions on donor-controlled charities should not apply to iwi/Māori charities on the basis that those charitable entities deliver charitable purposes to their iwi members and communities and have well established independent governance arrangements and policies governing the distribution to charitable purposes.

About Rangitāne

Rangitāne have resided in Te Tauihu o Te Waka-a-Māui (northern South Island) for many generations since the arrival of our tupuna Te Huataki in the sixteenth century. In addition to Te Huataki, other significant migrating chiefs include Hapairangi, Tūkaue, and Te Whakamana. These leaders played pivotal roles in establishing Rangitāne's presence and influence in the region.

Rangitāne have occupied and used resources within a territory stretching from the Waiau-Toa (Clarence River) in the south to the Wairau (Marlborough), including the Nelson Lakes, and north to Kaituna and the Marlborough Sounds and west into the Whakatū (Nelson) area. Rangitāne customary rights often overlapped and intersected with Kurahaupō and other iwi, especially in the Waiau-Toa, Nelson Lakes, Marlborough Sounds and Whakatū districts.

Rangitāne communities were linked by a well-used system of trails across the interior, which also formed conduits for trade and means of contact with other iwi. Trade goods included pounamu (greenstone) and pakohe (argillite). The Nelson Lakes formed the hub of this extensive network of trails which connected Rangitāne with other tribal communities in Te Hoiere, Te Tai Aorere (Tasman Bay), Mohua (Golden Bay), Te Tai Tapu (the northern West Coast) and Kawatiri (Westport).

Rangitāne Chief Ihaia Kaikōura was one of the signatories of Te Tiriti o Waitangi, signing Te Tiriti at Horahora Kākahu Island in the Port Underwood area on 17 June 1840. This established Rangitāne's enduring relationship with the Crown.

In 2014, our Treaty Settlement was passed into law, with the Ngāti Apa ki te Rā Tō, Ngāti Kuia, and Rangitāne o Wairau Claims Settlement Act gaining royal assent on 22 April 2014. Our rohe/Area of Interest is defined in our Deed of Settlement and the Settlement Act, and is attached as **Appendix 1**.

Within our Treaty Settlement, the Crown made a formal apology to Rangitāne. The Crown apology is included below:

(1) The Crown makes the following apology to Rangitāne, and to their ancestors and descendants.

(2) On 17 June 1840 the Rangitāne rangatira Ihaia Kaikoura signed the Treaty of Waitangi at Horahora-kākahu, Port Underwood. The Crown is deeply sorry that it has not fulfilled its obligations to Rangitāne under the Treaty of Waitangi

and unreservedly apologises to Rangitāne for the breaches of the Treaty of Waitangi and its principles acknowledged above.

(3) The Crown profoundly regrets its long-standing failure to appropriately acknowledge the mana and rangatiratanga of Rangitāne. The Crown did not recognise Rangitāne when it purchased the Wairau district in 1847 and recognition of Rangitāne mana in the Te Waipounamu purchase was belated. The Crown is deeply sorry that its acts and omissions quickly left Rangitāne landless and this has had a devastating impact on the economic, social, and cultural well-being and development of Rangitāne.

(4) The Crown regrets and apologises for the cumulative effect of its actions and omissions, which have had a damaging impact on the social and traditional structures of Rangitāne, their autonomy and ability to exercise customary rights and responsibilities, and their access to customary resources and significant sites.

(5) With this apology the Crown seeks to atone for its past wrongs and begin the process of healing. It looks forward to re-establishing its relationship with Rangitāne based on mutual trust, co-operation, and respect for the Treaty of Waitangi and its principles.

The Rangitāne o Wairau Group (Rangitāne) comprises Te Rūnanga a Rangitāne o Wairau Trust (our mandated iwi organisation in terms of the Māori Fisheries Act 2004 and a Charitable Trust), Rangitāne o Wairau Settlement Trust (our Post Settlement Governance Entity (PSGE) and a Māori Authority), Rangitāne Holdings Limited (a Māori Authority) and Rangitāne Investments Limited (a Charitable Company).

Our Strategic Direction

Our submission is supported and guided by our Strategic Plan, set out in summary below (including our Vision, Strategic Priority Areas and Values).

OUR STRATEGIC PLANNING FRAMEWORK					
VISION	He waka uruuru moana, he waka uruuru whenua, he waka uruuru kapua		A canoe that braves the vast oceans, seeking endless opportunities, whose vision is limitless		
STRATEGIC PRIORITIES	**RANGATIRATANGA**	**MANA MOTUHAKE**	**MANA TAIAO**	**MANA AHUREA**	**MANA TAHUA**
	Tangata ora, mana tangata The health and wellbeing of our people is paramount	**Mana mau, mana tū!** Rights upheld, rights entrenched!	**Toitū te taiao ki tua o ake tonu atu!** Ensuring the integrity and sustainability of our environment	**Taku Rangitānetanga, taku mana, taku oranga!** Our Rangitāne identity is our pride and livelihood	**Whakatupu tahua, whakatupu mana** Growing sustainable wealth, status and influence
VALUES	**RANGATIRATANGA**	**KOTAHITANGA**	**KAITIAKITANGA**	**MANAAKITANGA**	**WHANAUNGATANGA**
	Kia pono, kia ngākau māhaki, kia mana-ā-kī Leading with honour, humility and integrity	**Kia mahi tahi, kia kauanuanu tētahi ki tētahi** Working together, respectfully, as one	**Tiakina ā tātou taonga kei ngaro** Embracing our responsibility to protect, preserve and enhance our taonga	**Kia tangata marae, kia manaaki tētahi i tētahi** Upholding mana with hospitality, generosity and service	**Kia renarena te taukaea tangata, tātou, tātou!** Valuing our relationships and ensuring a shared sense of belonging

Specific Responses to Officials' Paper

Q1. What are the most compelling reasons to tax, or not to tax, charity business income? Do the factors described in 2.13 and 2.14 warrant taxing charity business income?

It is our view that the tax exemption for charitable business income is fundamental to the ability of iwi organisations, such as Rangitāne o Wairau, to uphold their responsibilities to their people. For Rangitāne o Wairau, this exemption ensures we can sustain and grow the economic foundations secured through our Treaty settlement, via a charitable company (in our case, Rangitāne Investments Limited).

From our perspective, Treaty settlements were never full and final compensation for the losses suffered by our people. Rather, they were a step towards rebuilding what was taken. The ability of iwi organisations to operate tax-exempt charitable businesses is central to that restoration. Any move to tax these businesses risks undermining the intent and integrity of the settlement process and the Crown's obligations under Te Tiriti o Waitangi.

The establishment and operation of charitable entities in iwi organisations was directly enabled by Government policy developed in 2001[1] and enacted in 2003[2]. That policy and associated legislative change was intended to meet the Crown's Te Tiriti/treaty obligations and acknowledge the unique position of Māori in Aotearoa New Zealand. In those changes, the Government extended the public benefit test to ensure that iwi organisations with charitable purposes were eligible for the charitable tax exemptions and also extended the charitable tax exemption to marae. The current proposal to tax the charitable business income of iwi charities would conflict with and change this long-standing Government position that was considered as a Te Tiriti/treaty matter.

We also note that concerns about competitive neutrality and unfair advantages, as outlined in sections 2.13 and 2.14, fail to recognise the unique position of iwi entities. Unlike private businesses, our primary focus is not individual profit. Any revenue generated is reinvested into the long-term social, cultural, and economic prosperity of our iwi, either by direct reinvestment into commercial activity or by way of distribution to our Charitable Trust (Te Rūnanga a Rangitāne o Wairau Trust), where those funds are used for charitable purposes only.

Q2. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what would be the most significant practical implications?

It is our strong view that such a change would have serious and far-reaching consequences, including:

- **Eroding the economic redress provided through Treaty settlements**: our ability to rebuild our economic base would be severely impacted.

[1] Taxation of Māori Organisations: A Government discussion document 2001

[2] Taxation (Annual Rates, Maori Organisations, Taxpayer Compliance and Miscellaneous Provisions) Bill 2002

- **Limiting our ability to plan for future generations**: our long-term financial strategies are designed to ensure sustainable growth for our people. Taxing business income would restrict our capacity to invest in opportunities that create intergenerational benefits.

- **Reducing our contributions to the wider community**: much of our revenue funds critical initiatives in cultural revitalisation, environmental restoration, and social development. These are areas the Crown has historically underfunded, and taxation would only widen that gap.

- **Imposing significant compliance, administration and efficiency costs**: taxing just the business income of a charity would introduce a new distortion into the structure of an iwi with some activities taxed at 0% and some at 28%. This distortion is likely to increase compliance and administration costs, trigger restructuring and additional operational complexity. It may also create deadweight efficiency costs by incentivising tax-exempt passive investment over taxable productive commercial investment. The Tax Working Group warned of this distortion in relation to the subsidiaries of Māori Authorities and recommended a reduction in the subsidiary tax rate from 28% to the Māori Authority tax rate of 17.5%[3]. The same issues arise with the proposal to tax the unrelated business income of charities.

Q3. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what criteria should be used to define an unrelated business?

It is our view that any definition must take into account the distinct role of iwi organisations. We are not conventional charities, nor are we purely commercial entities. Our businesses exist to create opportunities and support outcomes for our people. Any criteria should explicitly recognise:

- The unique status of iwi organisations as Treaty partners and post-settlement entities.
- The reinvestment of profits into social, cultural, and environmental initiatives.
- The broader economic and historical context in which iwi operate, including the need to rebuild and sustain what was lost.

A one-size-fits-all approach will not work. If changes are to be made, there must be meaningful engagement with iwi to ensure our interests and obligations are properly accounted for.

Iwi commercial activities are directly related to the delivery of our charitable purpose and cannot be considered an unrelated business. Our charitable businesses provide employment, are reestablishing our mana and kaitiakitanga (guardianship for the benefit of all) over the moana and whenua in Te Tauihu o Te Waka-a-Māui (northern South Island), and directly fund social, cultural, educational and health outcomes for our whānau. Our charitable purposes are inextricably woven through our commercial operations.

[3] Future of Tax: Interim Report, The Tax Working Group, September 2018, at paras 55-58.

Q4. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what would be an appropriate threshold to continue to provide an exemption for small-scale business activities?

Any threshold must be developed in partnership with iwi to ensure it does not disadvantage Māori economic development. We believe the emphasis should be on the intended use of the income, rather than arbitrary thresholds. Business activities that support charitable purposes, iwi aspirations and reinvest in our people should remain tax-exempt.

Q5. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, do you agree that charity business income distributed for charitable purposes should remain tax-exempt? If so, what is the most effective way to achieve this? If not, why not?

Yes, we believe it is essential that charity business income distributed for charitable purposes remains tax-exempt. Iwi businesses exist to generate resources that uplift our people, whether through education, cultural revitalisation, housing, or health initiatives. Taxing these activities would not only undermine the purpose of settlements but would also place additional pressure on the Crown and other parties to fill the gaps left behind.

We believe that the most effective way to achieve this is to ensure clear and robust mechanisms that recognise the reinvestment of profits into the iwi's charitable activities. Rather than removing exemptions, we believe there is an opportunity to strengthen the existing framework by ensuring greater transparency and accountability in how profits are applied.

As set out above, an iwi's charitable purpose is woven through the commercial operations and the ultimate charitable trust owner in a unique way. Any requirement to try and define when taxed business income is applied to exempt charitable purposes will be complex to design and administer in the context of iwi, leading to high compliance and administration costs and the likely need to restructure iwi ownership and governance arrangements. For this reason and the reasons set out earlier, we believe that it would be better not to remove the tax exemption for iwi charity business income.

Q6. If the tax exemption is removed for charity business income that is unrelated to charitable purposes, what policy settings or issues not already mentioned in this paper do you think should be considered?

From our perspective, the following considerations must be factored in:

- **The Treaty relationship must be at the centre of any policy change**: the unique role of iwi as Treaty partners must be acknowledged, and any changes must be assessed through a Te Tiriti-consistent lens.

- **Iwi Post Settlement Governance Entities and related business structures require special consideration:** iwi entities do not function like standard charities, and their commercial activities directly support the restoration of Māori economic wellbeing.

- **Mechanisms to safeguard the financial stability of iwi entities**: if taxation is introduced, safeguards must be in place to ensure iwi are not disadvantaged.

Q7. Should New Zealand make a distinction between donor-controlled charities and other charitable organisations for tax purposes?

We believe there is merit in distinguishing donor-controlled charities from other charities. However, iwi organisations and PSGEs should not fall into this category. Unlike donor-controlled charities, iwi entities exist to serve our people collectively, and our structures are designed to ensure benefits are shared across generations.

The issue of donor-controlled charities was raised by the Tax Working Group and the problem identified was the lack of arms-length governance and distribution policies. The Tax Working Group's recommendation was to distinguish between donor-controlled charities and other charities and remove the tax exemption for donor-controlled charities that do not have arms-length governance or distribution policies.[4]

Iwi organisations have strong governance arrangements in place as these were a pre-condition of Te Tirit/treaty breach negotiations and settlements. For Rangitāne, the charitable trust deed requires that there are seven elected trustees who serve a maximum term of three years before needing to be re-elected. Trustees are elected by members of Rangitāne via an election process set out in the trust deed. The trust's policies and practice in distributing toward its charitable purpose are determined by the trustees and communicated to members in detail through the annual report and hui.

The directors of the trading subsidiary, Rangitāne Investments Ltd, are appointed by the trust as shareholder on the basis of their commercial expertise. The current board comprises five directors, only one of whom is also an elected trustee.

It is important that any policy changes do not inadvertently capture iwi PSGEs in a way that undermines our ability to operate effectively.

Q8. Should investment restrictions be introduced for donor-controlled charities for tax purposes, to address the risk of tax abuse?

We acknowledge the concerns around tax abuse in some areas, but we do not support blanket investment restrictions that could impact iwi organisations and PSGEs. Our investment strategies are designed to create long-term financial security for our people, and any restrictions must take this into account.

We submit that rather than a significant legislative change that will likely have unintended consequences and costs, that in the first instance Inland Revenue should

[4] Future of Tax, Final Report Vol.1, The Tax Working Group, February 2019, pg 104, paras 42 and 43.

pursue instances of perceived abuse of the charitable income tax exemption using its powerful general anti-avoidance powers and working in conjunction with the investigative powers of the Charities Service.[5]

Q9. Should donor-controlled charities be required to make a minimum distribution each year?

For iwi organisations, imposing a fixed annual distribution requirement would be problematic. Our investment approach is intergenerational, meaning some years we opt to reinvest a greater proportion of our profits, to grow our assets, while in others we distribute more directly for the benefit of our people. Flexibility is key to ensuring our economic sustainability and the wellbeing of our people.

If distribution requirements are introduced, it is our view that iwi organisations and PSGEs should be exempt, as our structures are already designed to serve our people in a fair, equitable and accountable way.

Closing Remarks

Thank you for considering our submission on this issues paper. We would be happy to be contacted to discuss this further with you.

Ngā mihi nui, nā

Corey Hebberd
Kaiwhakahaere Matua (General Manager)
Rangitāne o Wairau Group

[5] As set out in section 50 of the Charities Act 2005.

Appendix 1: Rangitāne o Wairau Area of Interest (Our Tribal Rohe)
Source: Deed of Settlement