EXPOSURE DRAFT - FOR COMMENT AND DISCUSSION ONLY

Deadline for comment: **11 December 2026**

Please quote reference: **ED0265**

Notes: This draft Operational Statement outlines technical views on how, from 1 April 2027, the income tax laws apply to various amounts that a not-for-profit body (NFP) receives from its members where it is not subject to a specific tax exemption (a taxable NFP). The Statement will apply prospectively when finalised.

A draft Operational Statement was published for consultation in April–June 2025 covering some of the same ground. ED0265 Mutual transactions of associations (including clubs and societies) (the first draft OS) suggested that selling trading stock or supplying services to members results in taxable income for a taxable NFP. The first draft OS also signalled a possible change to Inland Revenue's longstanding position that membership subscriptions, fees and levies are not taxable.

This statement maintains the view that trading receipts are income subject to tax but confirms that membership subscriptions, fees and levies are not income except in very limited circumstances. Applying from 1 April 2027, legislation changes have been announced to the effect that the common law principle of mutuality can apply despite the body in question being unable to distribute to members. For almost all taxable NFPs, this will mean that subscriptions, fees and levies will not be taxable. This and two other measures will reduce potential tax liability and compliance costs for many taxable NFPs. The two other measures are increasing the s DV 8 deduction and giving an option not to file tax returns to a taxable NFP that qualifies for the s DV 8 deduction.

The objects of this consultation are to signal in advance of the legislation changes what will be expected of taxable NFPs from 1 April 2027 and to give submitters a chance to indicate what further guidance would be useful to help this important sector with tax compliance.

Send feedback to Public.Consultation@ird.govt.nz

OPERATIONAL STATEMENT

Mutual associations (including clubs and societies)

Issued: Issue date

OS XX/XX

Operational statements set out the Commissioner of Inland Revenue's view of the law in respect of the matter discussed and deal with practical issues arising out of the administration of the Inland Revenue Acts.

The income of associations (clubs, societies and other bodies) is subject to tax unless covered by a specific tax exemption, such as for charities or sports.

This statement clarifies the tax rules for taxable associations including the tax treatment of amounts received from members and their return filing obligations and discusses the current scope for application of the "principle of mutuality".

Briefly, when associations sell trading stock or services to members, payments received are treated in the same way as payments from non-members and are income to be included in a tax return if net income exceeds $10,000. However, membership subscriptions, fees and levies are treated as exempt income except in limited circumstances.

All legislative references in this statement are to the Income Tax Act 2007, unless specified otherwise.

START DATE
01/04/2027

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Summary

1. The purpose of this operational statement is to offer guidance to "not-for-profits" (NFPs) on their income tax and return filing obligations when amounts received are not covered by a specific tax exemption. The statement's focus is on amounts that NFPs receive from members.

2. The mutual association provisions in the Income Tax Act 2007 override the common law principle of mutuality for certain transactions between an association and its members, including the supply of trading stock and services and interest on loans (referred to as trading transactions in this statement). Amounts received from trading transactions are taxable whether trading is with members or non-members.

3. Membership subscriptions, fees and levies are generally exempt income. In rare circumstances they may be taxable, such as if a charge to a specific member for trading stock or services supplied to that member is described as a subscription, membership fee or levy.

4. The principle of mutuality only applies when members who contribute to a common fund can share in the return of any surplus funds to members. The legislation now treats as exempt income amounts that would not have been income (under the principle of mutuality) if the body's constituting documents allowed distributions to its members. This includes membership subscriptions, fees and levies and overcomes the effect of an Australian court decision that, if followed in New Zealand, would result in such amounts being taxable.

5. In calculating their net income to determine tax liability, NFPs may deduct the expenses of producing income from trading transactions and make a fair and reasonable apportionment of expenses that are for more than just producing income.

6. NFPs that meet the requirements to be a "not-for-profit organisation" (incorporated societies or organisations with no purpose of making profits for members and no ability to distribute to members) with net income of $10,000 or less may also deduct up to $10,000 under s DV 8. The result is they will have no income tax liability.

7. NFPs that qualify for a deduction under s DV 8 are only required to file a tax return for a tax year if requested by the Commissioner. NFPs that do not qualify for a deduction under s DV 8 must file income tax returns.

8. The Commissioner will not devote resources to identifying and adjusting the assessments of associations that, for the tax year ended 31 March 2027 and earlier tax years, have filed tax returns that are incorrect because they do not include income derived from trading transactions with members as assessable income or have not filed returns because they qualified for a deduction under s DV 8 and had net income of $1,000 or less.

9. All previous statements by the Commissioner on this topic are withdrawn to the extent they are inconsistent with this statement. This statement applies prospectively from 1 April 2027.

Scope of this statement

10. This operational statement concerns income tax and return filing obligations for groups of people (associations) receiving amounts from their members.

11. The statement has limited relevance to associations with tax exemptions such as charities registered under the Charities Act 2005, friendly societies and amateur sports promotors. For "friendly societies" (which include credit unions) income is exempt unless it is from a business carried on beyond the membership of the society.

12. A central issue for many amounts received by an association from members is whether the "principle of mutuality" applies. Briefly, this is the rule developed by the courts that amounts derived by an association from "mutual" interactions with its members are not subject to income tax. As discussed in this statement, tax legislation overrides the principle of mutuality when an association sells trading stock or charges for supplying services to members.

13. Because "association" is very broadly defined, the statement covers a broad range of groups and organisations, incorporated and unincorporated, from large corporate bodies or institutions to small clubs or societies. It is most relevant to entities that are bodies or associations of people acting together to further a common object, often to provide benefits to members other than financial returns.

14. Many associations within the scope of this statement are commonly referred to as "not-for-profits" or "non-profit" organisations. They might also be described as "taxable not-for-profits" (taxable NFPs) because there is nothing in legislation that

makes them not taxable. This operational statement only covers the income tax treatment of these entities. It does not cover other taxes such as GST.

15. Examples of the varied nature of relevant bodies include chartered clubs, cooperatives, trade associations, professional and regulatory bodies, trade unions, cultural societies, and industry councils and associations.

16. Other examples of associations potentially affected include mutual insurance groups, institutes and bodies corporate for unit title developments.

17. Groups or associations not covered by the statement include trusts (unless they are members of an association) and partnerships.

Introduction

18. Under the common law principle of mutuality, an association of people (such as a club or society) does not derive taxable income from transactions within the circle of membership of the association. Truly mutual transactions do not generate profits for the association because the amounts received by the association come from members transacting with themselves and any surplus ultimately belongs to the members.

19. However, the principle does not apply where legislation provides otherwise.

20. Although not always well understood, legislation has provided otherwise since the 1930s. Under the mutual association provisions (ss CB 33, CB 34, DV 19, and subpart HE), amounts derived from a variety of transactions with members are taxable income of an association. This is despite the transactions being otherwise covered by the principle of mutuality.

21. Therefore, the mutual association provisions override the principle of mutuality for relevant transactions (as discussed below at [48]).

22. This statement confirms the correct legal position and discusses the implications for future tax positions taken by clubs and societies and other associations, which may need to differ from positions taken previously.

Discussion

Mutuality

23. The common law principle of mutuality developed through a series of court decisions including some from the 19th century. In brief, the principle is that a group of persons

cannot derive assessable income from a mutual transaction on the basis that group members cannot make a taxable gain from trading with themselves.

24. A mutual transaction is generally one confined to the circle of membership of the group. When the group enters into transactions with persons who are not members, those transactions fall outside that circle of membership. Any profits from those transactions are assessable income unless they are capital in nature or otherwise not income for tax purposes.

25. Central to the concept of a mutual transaction is that, by transacting within the circle of membership, members contribute to a common fund to which other members have also contributed and in which the members are entitled to share or participate once the fund is no longer required for the group's purposes. In substance, the members own the common fund.

26. A more detailed description and analysis is not required for this statement because the mutual association provisions in the Income Tax Act 2007 override the principle of mutuality in the circumstances to which the provisions apply. In addition, legislation changes in 2027 confirm that most membership subscriptions, fees and levies will not be taxable.

Mutual association provisions in Income Tax Act 2007

27. The relevant provisions are ss CB 33 and CB 34 (mutual associations), s DV 19 (association rebates) and subpart HE (mutual associations). In this statement, these are collectively referred to as the "mutual association provisions".

28. Section CB 33 applies when an association enters into a "mutual transaction" with members or with members and non-members. The section makes an amount income of the association "if the association derives from the transaction an amount that would be income under another provision in this Part [Part C] but for the mutual character of the transaction" (s CB 33(2)).

29. This means only amounts that are covered by both the principle of mutuality and by a provision in Part C will be affected by s CB 33. Therefore, amounts are not income under s CB 33 if they do not independently also meet the requirements to be income under Part C. Some amounts are not income under Part C because, for example, they are of a capital nature or are not from a business or income under ordinary concepts.

30. It also follows that for a mutual transaction covered by the mutual association provisions, the mutual association provisions determine the income tax treatment, not the principle of mutuality.

31. Section HE 2(1) defines a mutual transaction:

> (1) ... a mutual transaction arises when an association—
>
> (a) enters into a transaction with members of the association, or a transaction with members of the association and other persons; and
>
> (b) the association takes the transaction into account in an income year in determining its net income or net loss under section BC 4 (Net income and net loss).

32. Therefore, mutual transactions as defined involve transactions with members. They must also be transactions involving amounts that are income that the association must take into account for s BC 4 purposes (that is, they are income under Part C). Supplies of goods and services between an association and members are therefore mutual transactions if the amounts paid are business income or for some other reason meet the requirements to be income under Part C (such as being income under ordinary concepts under s CA 1(2)). Borrowing and lending transactions are expressly included (by s HE 2(2)).

33. In addition to treating as income amounts that would not otherwise be income because of the principle of mutuality, the mutual association provisions provide for an "association rebate" paid by an association to a member. An association rebate is deductible to the association (s DV 19).

34. An "association rebate" is a payment that is made "through a distribution of profits of the association" (s HE 3).

35. The effect of the deduction is that profits derived from member trading and distributed to members will not give rise to a tax liability for the association.

36. If the full amount of surplus is paid back to a member as an association rebate (in the same income year) the net effect of the statutory scheme should be the same as the net effect of the principle of mutuality. That is, the net income from the transaction, being the gross income less the expenditure incurred in earning that income, and less the deductible association rebate (full profit on the transaction returned to the member), would be nil. This is a similar tax treatment to "exempting" the transaction under the principle of mutuality.

37. As well as allowing an association a deduction for an association rebate, the rebate may be income to the member receiving it. This is where the mutual transaction to which the rebate relates is taken into account in determining the taxable income of the

member (s CB 34). The result is that a rebate may be income to a member who carries on a business.

Associations covered by mutual association provisions

38. The mutual association provisions (ss CB 33, CB 34, DV 19 and subpart HE) apply to an "association". The Act defines "association" broadly as "a body or association of persons, whether incorporated or not" (s YA 1).

39. The mutual association provisions do not apply just to organisations such as cooperatives or statutory producer boards. Clubs and societies are also bodies or associations of persons. Therefore, they are "associations" for the purposes of the provisions.

40. Nothing in the wording of the mutual association provisions confines their application to associations that are conducting activities of a commercial nature as opposed to simply pursuing their objects, defraying costs or providing public benefits.

41. Associations that may be affected by the mutual association provisions and not covered by an exemption from tax include chartered clubs and some organisations that might not ordinarily consider themselves clubs or societies such as trade unions, trade associations and advocacy organisations. The mutual association provisions have a broad coverage extending to all bodies or associations of people, whether incorporated or not, that trade or transact with their members.

42. Subpart HE expressly states that ss CB 33 and CB 34 apply to a "mutual association". That is not a defined term, but the Commissioner's view is that a mutual association is a body or association of people that is engaged in the type of mutual transaction with members that is covered by subpart HE. As discussed further below, this includes a wide range of supplies that an association might make to its members and that its members might make to an association, such as the sale or purchase of trading stock, the supply of services and borrowing from or lending to members.

43. More specifically, s HE 2(1) defines mutual transactions in terms of transactions to be considered in determining the association's net income or net loss under s BC 4, in other words transactions where the association derives assessable income. Whether a transaction brings an association into the mutual association provisions will therefore depend on whether the transaction needs to be considered for s BC 4 purposes.

44. This means a body does not enter mutual transactions just because it sells an asset to a member or charges members a subscription, membership fee or levy. Ordinary tax rules apply and the amount charged needs to be assessable income that is part of the

calculation of the association's net income or net loss under s BC 4. Business income (s CB 1) and income under ordinary concepts (s CA 1) are two examples of such assessable income.

45. Some amounts received from members would not be from mutual transactions because they represent contributions by members that are capital in nature and so are not income under any provision in Part C, including s CB 33 (for example, levies on members to build an extension to the association's offices or fund a vehicle purchase). Such amounts would not constitute income in the hands of the association, whether the principle of mutuality applied or not. Therefore, s CB 33 would not make them income.

46. Even if not capital in nature, some amounts an association receives from members may also not be from mutual transactions within the scope of the mutual association provisions because they are not the type of transaction covered by them. The predecessor provision to s HE 2(1) was s HF 1(8) of the Income Tax Act 2004. Section ZA 3(3) and (4) confirms that the Income Tax Act 2007 is the 2004 Act in rewritten form and that the old law should be used to determine the correct meaning of the new law. Section HF 1(8) made it clear that only certain types of transaction, essentially in the nature of transactions involving supply of trading stock or services and lending transactions, were within scope. It is not considered that the current wording of the mutual association provisions has altered the scope of the provisions in relation to what constitutes a mutual transaction.

47. Therefore, clubs and societies are mutual associations covered by the mutual association provisions if they operate a business in which they sell goods to members (trading stock requires a business) or, whether they operate a business or not, charge members for services supplied including money lent.

48. The result is that taxable NFPs must calculate their tax liability on the basis that amounts received from selling trading stock or supplying services are income. For example, a club operating a restaurant and bar where members buy food and drink and an association that provides conferences for a fee should each include the amounts charged in income and deduct expenses associated with providing those goods and services. Other fees charged for things like ticketed events, professional development and training, advisory services, and hiring or renting premises to members would also be income. The fact that these goods and services are not priced to make a large or any profit (a discounted amount is the amount that will be income) is not relevant to whether they are covered by the mutual association provisions. A better question is whether, if the transactions were with non-members, would they be income? If they would, then they are no less income just because they are with members.

49. It is important to distinguish between amounts members pay to an association that entitle them to receive services if they choose to do so, and amounts charged for specific services made to individual members. For example, a membership subscription will commonly give the right to all members to take advantage of services such as using club facilities, advocacy for the benefit of all members, legal representation in disputes or receiving a magazine. That is different to charging a member for a service such as a conference fee, a week in a holiday home or a ticket to an awards evening. The mutual association provisions do not apply to an amount unless it is charged for providing particular goods and services to a specific member. This is discussed further under the next heading.

Membership subscriptions, fees and levies

50. Generally, membership subscriptions, fees and levies are an obligation of membership and a condition of maintaining membership rather than being the price of specific goods or services. The court in *Bohemian Club v FCT* (1918) 24 CLR 334 made observations to the effect that, in the context of a social club, subscriptions are contributions by members to defray the costs of pursuing the common purpose of the collective body of members. However, the mutual association provisions apply if the true nature of payments described as subscriptions, fees or levies is that they are payments for specific goods or services the body supplies to members (see *Case C27* (1978) 3 NZTC 60,261, discussed (although referenced as *Case C32*) in "Tax treatment of bodies corporate which are constituted under the Unit Titles Act 1972" *Tax Information Bulletin* Vol 6, No 4 (October 1994): 5 at page 6).

51. It follows that where subscriptions, fees and levies are mutual in nature, the principle of mutuality may still apply, and s BC 4 does not require the association to take them into account.

52. However, in the absence of legislative intervention, membership subscriptions, fees and levies paid by members to an association that is prohibited from distributing funds to its members are not eligible to benefit from the principle of mutuality. This was the conclusion of the Federal Court of Australia in *Coleambally Irrigation Mutual Co-operative Limited v FCT* 2004 ATC 4126 (and of the Full Federal Court on appeal in *Coleambally Irrigation Mutual Co-operative Limited v FCT* 2004 ATC 4835). It is possible that this case would be followed in New Zealand without legislation change. The result would be that membership subscriptions, fees and levies would be taxed under the ordinary income provisions of the Act, including, in particular, ss CA 1(2) (income under ordinary concepts) and CB 1(1) (amounts derived from a business).

53. The legislation in Australia was changed in response to *Coleambally*. A change to similar effect has now been made here. Under s CW 44B, an amount derived by a "not-for-profit organisation" is exempt income if it would not be income under Part C but for the organisation's inability to distribute to members. Section YA 1 defines "not-for-profit organisation" in terms of an organisation being an incorporated society or not having a purpose of profit for members and having a constitution prohibiting distributions to members. Consequently, an amount derived by a not-for-profit organisation is not taxable despite the constituting documents prohibiting distributions to members if the amount is otherwise mutual in nature (covered by the principle of mutuality). This does not include amounts derived from trading transactions because they are treated as taxable.

54. As a result, consideration must be given to whether the principle of mutuality would apply on the facts if the rules of an organisation did not prohibit distribution. However, Inland Revenue's view is that membership subscriptions, fees and levies received from members are covered by the principle of mutuality unless the mutual association provisions apply. The mutual association provisions only apply to amounts paid for a particular supply to a specific member, not to amounts that provide members with a general entitlement to services, which is typically the case with membership subscriptions.

55. Determining whether the mutual association provisions apply requires consideration of the legal nature of the arrangement in question and, specifically, whether the amount received from a member is a payment for trading stock or services supplied to that member (taxable) or is it a payment for the benefit of the collective body of members and offered by the association to members generally (not taxable). Therefore, subscriptions remain non-taxable generally and would only be taxable to the extent they are a specific charge for supplies to specific members (despite being labelled a subscription).

56. Determining whether an amount from a member is in fact a specific charge for supplies to specific members will depend on the context and the circumstances. For example, a body corporate under the Unit Titles Act 2010 may charge unit owners different body corporate levies. It is not determinative that the amount varies according to the area or value of land occupied by the unit owner relative to other unit owners. However, if the body corporate makes repairs to a unit owner's unit in the unit title development and charges the unit owner for those repairs, the amount received will be income of the body corporate even if the documentation refers to the charge as a levy.

Deductions for expenses

57. Associations covered by this statement may receive amounts from trading transactions (taxable) as well as subscriptions, fees and levies (exempt). The ordinary rules for deduction and apportionment of expenditure apply to any outgoings of an association.

58. The general permission in s DA 1 allows deductions for expenses incurred in deriving assessable income or in carrying on a business for the purpose of deriving assessable income. The general limitations in s DA 2 apply. Of particular relevance to associations, the capital limitation denies a deduction for any expense to the extent it is of a capital nature.

59. Whether an expense is deductible or denied a deduction depends on the circumstances of the association in question incurring the expense. [Inland Revenue may provide further guidance as situations arise where such guidance would be useful].

60. The general position is that associations may fully deduct expenses (other than capital expenses) incurred in deriving income from trading transactions and they may partially deduct expenses based on a fair and reasonable apportionment where the expenses are for more than just deriving income. To the extent expenses are incurred to derive subscriptions, fees and levies, they are not deductible.

Associations exempt from tax

61. Despite coming within the mutual association provisions, many bodies are not greatly affected by them. This is because their income is exempt under other provisions. Examples of sections exempting all or some of the income of bodies from tax include ss CW 44 (friendly society), CW 41 and CW 42 (charities' business and non-business income) and CW 46 (promoting amateur games and sports). There are several other exemptions. If all income of such a body is exempt from tax under specific provisions in subpart CW, the body is not a taxable NFP and this statement has no application.

62. Income derived by associations is exempt income only if they are covered by specific provisions such as s CW 44, CW 41, CW 42 or CW 46. Income that is not exempt will be income to be included, along with deductible expenses, in a calculation of net income (or net loss) to determine income tax liability for a year in a tax return (if one is required – see [69] below).

Section DV 8 deduction

63. An association that derives income, whether under the mutual association provisions or from transactions with non-members under any other provisions in Part C, is allowed the ordinary deductions provided for in the legislation, such as deductions for expenditure incurred in deriving that income, as noted above.

64. In addition, s DV 8 provides for a deduction of up to $10,000 if certain requirements are met. These requirements are:

- the association is a not-for-profit organisation (as discussed in [55] above)
- the association's net income for an income year is $10,000 or less.

65. The deduction is for an amount equal to what would be the net income in the absence of s DV 8. For example, if an association's assessable income for a year was $5,000 and deductions for expenditure $2,000, the deduction would be $3,000.

66. In summary, associations can take advantage of the deduction in s DV 8 only if they are an incorporated society or their constitutions prohibit distributions to members and they do not have a purpose of making a profit for members. The effect for any organisation that has net income (without taking the s DV 8 deduction into account) of $10,000 or less is that there is no tax liability. For other organisations, the deduction is not available.

67. Consistent with their status as not-for-profits, this deduction recognises that many taxable NFPs make no or only a small net profit from their activities in any year. Once an association has identified that its income (including from trading with members) after allowable deductions (other than the s DV 8 deduction) is under the $10,000 threshold, it can be confident it will have no income tax to pay.

Return filing obligations

68. If a taxable NFP qualifies for a deduction under s DV 8, it can also choose not to file a tax return for a tax year.

69. The requirement to file a tax return arises under s 33 of the Tax Administration Act 1994 (TAA). This applies to every person whether they derive income or not, unless their only income is exempt income.

70. Section 43C of the TAA provides an exception to the s 33 requirement when the requirements of s DV 8 are met. In that case, not-for-profit organisations are not required to file a tax return for the relevant tax year unless requested by the

Commissioner. Organisations that do not qualify for a deduction under s DV 8 must file tax returns.

71. This means that a taxable NFP with no tax liability also has no return filing obligation. However, it may still choose to file a return in certain circumstances, for example, to preserve tax losses for carry-forward purposes.

Summary of Commissioner's view of law

72. The mutual association provisions apply to all associations that charge specific members for trading stock and services supplied to those members. The principle of mutuality will not apply to amounts charged and these transactions will generate income under Part C for associations to the extent the surplus from the transaction is not distributed to members.

73. However, membership subscriptions, fees and levies received from members are not income of an association if they are mutual in nature and will be exempt income for not-for-profit organisations despite their constituting documents prohibiting distributions to members.

74. If an NFP can distribute to members then it may deduct profits distributed from member trading transactions. NFPs that cannot distribute must identify all income from trading transactions with members and all income from non-members (such as interest and dividends and trading receipts).

75. NFPs may deduct expenses to the extent they are expenses of deriving such income.

76. Assuming the association meets the requirements to be a not-for-profit organisation for the purposes of s DV 8, it must then determine whether net income (income less deductions for expenses) is $10,000 or less. Note: for this determination, tax withheld from income (such as resident withholding tax on bank interest) is not relevant. Net income is the gross amount of income less deductions.

77. If net income is $10,000 or less, the NFP has no tax liability for the year and it has the option of not filing a tax return. Otherwise, it must file a tax return (IR9) and assess its tax liability.

Examples

78. The following seven examples explain the application of the law.

Example 1: Trade association

New Zealand Malt Users Association (NZ Malt) is a wholesale cooperative formed to purchase malt in bulk for resale to its members, who are all craft brewers, and to non-members such as whisky producers.

Each year NZ Malt distributes its net profits to members in proportion to their purchases of malt from the association.

Tax treatment

NZ Malt is covered by the mutual association provisions and must include as income in a tax return all sales to members and non-members alike. Expenditure on purchasing malt is deductible.

No s DV 8 deduction is available because NZ Malt has a constitution that allows distributions.

NZ Malt can reduce its income by distributing (as association rebates) any of the profit it makes in a year to members to the extent the profit arises from the transactions with members. This will result in income for craft brewers in business that must be included in their tax returns.

Example 2: Body promoting a cause

Change NZ for the Better (CNZB) operates as a lobby group promoting governmental action in areas its members consider would make New Zealand better. It is not incorporated, and its rules do not say what is to happen when the group ends.

Members pay subscriptions as a condition of membership.

CNZB has 300 members who may attend a two-day conference held once a year. Usually, 100 or so non-members also attend.

Apart from subscriptions, all CNZB's other funding comes from this conference, with all attendees being charged entry fees that substantially exceed CNZB's expenditure on the conference.

Tax treatment

Subscriptions are not included in CNZB's income because they are a contribution to the common fund allowing CNZB to operate and are mutual in nature. Also, members do not receive any goods or services for their subscription so the mutual association rules will not make subscriptions income. However, CNZB must file a tax return and include the conference fees for members in income because they are for services supplied by CNZB and the mutual association provisions override the principle of mutuality. Conference fees for members are also income. It makes no difference to the outcome that members pay less to attend the conference than non-members.

CNZB can deduct the expenses of planning, preparing for and holding the conference, including apportioned organisational overheads associated with the conference, but because CNZB has no other income subject to tax, no other expenditure is deductible. If CNZB did have other taxable income, such as interest on bank deposits, and the conference ran at a loss for a year, the conference expenditure would effectively reduce the tax on that other income.

No s DV 8 deduction is available because there is nothing in CNZB's rules prohibiting distributions to members.

Example 3: Chartered club

The South Wellington Metropolitan Club Inc is an incorporated society with 3,000 members. It has clubrooms overlooking the sea and is a popular place for members to spend time socially, including playing a variety of games and eating and drinking in the restaurant and bar.

Members pay subscriptions to belong to the club and visit the clubrooms without further payment, but the club charges for many activities and all food and beverages must be purchased from the club.

The facilities, including the restaurant and bar, are used regularly by guests of members and others who are not club members.

The club has a written constitution providing a comprehensive set of rules governing the club, including what happens on the winding up of the club. The rule forbids any member benefitting from the distribution of any assets at that time.

Apart from subscriptions, most of the club's revenue is from the charges the club makes to members for activities and the supply of food and beverages. Non-members are also allowed to visit and pay charges for supplies made to them.

The club also regularly holds events such as housie (bingo) evenings and dances. The club sells tickets to these events for entry or fees to participate. At most of these, the club also sells raffle tickets where 50% of the price of tickets sold is paid out as prize money. The rest is kept by the club.

The club routinely has a surplus of revenue over expenditure, and each year the club applies a percentage of this surplus to making grants to assist community groups and activities.

Tax treatment

The club must return as business income the amounts it charges for activities and for food and beverage supplied, whether it is members or non-members involved in the activities or who receive supplies. The mutual association provisions apply. Revenue from fees charged for housie, dances and raffle tickets is also income to the club.

The club should not include subscription revenue in its annual income tax return (IR9). This is because subscription revenue would be mutual in nature but for the prohibition of members from benefitting on winding up. As an incorporated society, the club is a not-for-profit organisation. Subscription income is therefore exempt income under s CW 44B.

The club can deduct expenditure incurred in running the restaurant, bar and events, and the cost of raffle prizes and any expenditure on activities or things that generate other income. Expenditure incurred collecting subscriptions is not deductible.

The club may also qualify for a tax deduction under s DB 41 for any grants that qualify as "charitable or other public benefit gifts" (as defined in s LD 3). Note: the club would not have qualified for such deductions if it was unincorporated (because it would not be a "company").

If the club's income after expenses from activities supplying trading stock or services to members and other allowable deductions (apart from the s DV 8 deduction) is $10,000 or less, the club can deduct under s DV 8. This is because it is an incorporated society (and so will meet the not-for-profit requirements of the section) and is also under the threshold for deduction. In that case the club also has the option of not filing a tax return.

If the club's net income is over $10,000, the s DV 8 deduction is not available, and the club will have a tax liability, which it must return.

Example 4: Professional regulatory body

The Institute of Technology Writers is a national organisation established with various objectives, including promoting the interests of people who write about technological change, providing research services, educating people in the discipline of technology writing, and regulating the activities of writers. It has 3,000 members, who pay an annual subscription.

The institute is not a registered charity. Its constitution prohibits distributions to members and provides for any assets held at dissolution to be applied to objects similar to the objects of the institute and not to be transferred to members.

The institute offers a wide variety of activities and provides various services to members. Members pay a fee for services such as training courses and seminars, advisory services and legal services. In addition, the institute holds a conference every year, engages speakers to tour the country and holds networking events, all of which require members (and non-members) to pay a fee to attend. The fees for these activities generally exceed costs by a small margin most years.

The institute also receives money from sponsorships and selling advertising in publications.

Finally, the institute recently required members to make a "one-off" payment to fund the purchase of land for car parking next to the national office.

Tax treatment

The institute must treat as income all amounts received for the services it supplies to members, the services it supplies to non-members and the sponsorship and advertising revenue and can deduct expenditure incurred in deriving those amounts. The institute is a mutual association, and the mutual association provisions apply to all transactions involving supplies of trading stock, services or lending.

The institute, as a not-for-profit organisation in terms of the s YA 1 definition should treat subscriptions paid by members as exempt income under s CW 44B. Although it has a constitution prohibiting distributions to members, the institute would be covered by the principle of mutuality to the extent of amounts paid within the circle of membership. Expenses incurred in deriving both subscriptions and income must be apportioned.

The one-off payment by members to fund the purchase of land is an example of something that is both capital in nature and does not have the quality of income in the hands of the institute due to being mutual in nature.

If the net result is that total income exceeds deductible expenses by $10,000 or less, the institute has no income tax liability and can choose not to file an IR9 tax return. Or it can choose to file a return with an assessment of tax liability (or a net loss if applicable).

If total income exceeds deductible expenses by more than $10,000, the institute does not qualify for the s DV 8 deduction and there will be an income tax liability unless net losses from previous years are available to subtract from net income.

Example 5: Advocacy organisation

The NZ Association of Alternative Protein Producers Incorporated represents the growing number of farmers producing insects as a protein source. The association's constitution includes among its purposes advocating for the interests of its members at national and local levels as well as encouraging good practice in all aspects of insect farming, including insect health and sustainability.

Funding for the association comes mainly from annual membership subscriptions but also from sponsorships by various organisations providing supplies to the industry, some investment income and ticket sales for an annual conference attended by members. While the annual conference runs at a small loss each year, the revenue from sponsorship and investment has been more than $50,000 each year for many years.

Tax treatment

The association is an incorporated society, so its constitution also provides for any surplus assets at the end of its life to be distributed to another not-for-profit entity, as required by the Incorporated Societies Act 2022. Membership subscriptions would be covered by the principle of mutuality if it was not for the constitution so providing and they will be exempt income to the association.

Investment income, being derived from third parties such as banks or companies, is taxable, as is sponsorship income.

Amounts received from ticket sales for the conference are income from services supplied to ticket holders. Therefore, even if the principle of mutuality applied, the override in the mutual association provisions means ticket sale income would be included in taxable income of the association.

The expenses of deriving the conference, sponsorship and investment income are well below the revenue from those activities, and net income therefore exceeds $10,000, so a s DV 8 deduction is not available, and the institute must file a tax return and satisfy a tax liability.

Example 6: Shared interest or recreational club

Powered Pedals of New Zealand Incorporated is an incorporated society providing services to and promoting the interests of electric bike owners and riders in New Zealand. It serves as a national body with a membership comprising representatives of various regional societies.

The objects of Powered Pedals include promoting electric bikes as a means of transport, promoting camaraderie and social interaction among electric bike riders, and improving safety and riding conditions for electric bikes in New Zealand. It runs free safety training courses, information and social events, and lobbies government and local bodies for improved conditions for electric bike users.

Powered Pedals is not registered as a charity and does not otherwise qualify as exempt from tax. Its constitution does not permit distributions to members and requires all assets on winding up to vest in an organisation with similar objects concerned with electric transport.

Powered Pedals gets revenue from a variety of sources. Most of it comes from subscriptions from the regional societies, determined according to how many members each society has. The rest comes from occasional donations, interest on deposits in bank accounts, advertisers in its monthly magazine, and a commission that a national electricity provider pays for electricity used by regional society members who are customers of the provider.

Tax treatment

Powered Pedals' taxable income does not include subscriptions because the subscription payments are mutual in nature but for the constitutional restriction on distributions to members.

Donations will not have the quality of income in the hands of Powered Pedals because they are unsolicited and happen infrequently, and Powered Pedals cannot rely on them to meet its expenses. However, the other receipts (interest, advertising, and the commission) all must be returned as income under ordinary concepts. Powered Pedals should be able to deduct the expenses of deriving the amounts that are income.

If the excess (if any) of Powered Pedals' income over its deductible expenses is less than $10,000, Powered Pedals qualifies for a s DV 8 deduction that will mean no tax liability and no obligation to file a tax return. However, in deciding whether this is the correct approach, it is important to note that calculating net income involves gross income. The interest amount that is relevant is therefore the gross amount of interest paid and RWT withheld is not relevant.

If amounts of income (disregarding withheld tax) are considered, and the amount after expenses exceeds $10,000, Powered Pedals does not qualify under s DV 8 and will have a tax liability (that withheld credits will partially satisfy) and a return filing obligation.

Example 7: Private utilities scheme

Zipton Wastewater Treatment Society is an incorporated society formed to maintain and operate a wastewater treatment facility constructed in the 1960s to service the seaside town of Zipton. The members of the society are owners of properties in the town and its surrounds.

The society does not separately charge each member for water services supplied to them. The society's revenue comprises an annual levy charged to 300 or so property owners along with passive income (interest and dividends) from funds invested. The passive income is approximately $5,000 each year. The levy is set at a rate that will more than cover the society's annual projected operational and administrative expenses and will also add to a reserved fund that will be used for major capital works needed to replace the scheme's treatment plant and pipelines carrying wastewater from homes. This work will happen within the next 20 years.

Tax treatment

This is an incorporated society not subject to any tax exemption, so returns from funds invested are subject to tax.

The levies provide amounts the society will use for capital purposes. However, it is not a strong argument on the facts that a portion of the levies would be considered to have a capital character in the society's hands.

Instead, s CW 44B applies to exempt levies and take them out of taxable income. It would make no difference if the amounts of the levies varied according to the size or value of each member's property. The mutual association provisions do not apply because each member pays a levy whether any actual services are supplied to that member or not, that is, without a separate charge according to water services supplied to that member. The result would be different if each member was charged a levy that varied according to how much water that member used.

The society's operational and administrative expenditures are not deductible in this case because it has no assessable income. If it charged for services, it could deduct some expenses based on a fair and reasonable apportionment.

Passive income is much less than $10,000, so a s DV 8 deduction means no tax liability and the society can be confident that it has no obligation to file a tax return.

Commissioner's operational approach to issue

79. This Operational Statement applies from 1 April 2027. It supersedes all previous statements published by the Commissioner on topics covered.

80. This statement is not the only guidance the Commissioner will be providing to associations before 1 April 2027 or after that date. Changes are to be made to guides and websites, and other simplified and targeted material developed. For example, the approach to the tax treatment of bodies corporate in unit title developments contained in *Tax Information Bulletin* Vol 6, No 4 (October 1994): 5 is largely consistent with the Commissioner's approach in this statement but should be updated because of changes to the legislation since then.

81. The Commissioner will not devote resources to identifying and adjusting the assessments of associations that, for the tax year ended 31 March 2027 and earlier tax years, have filed tax returns that are incorrect because they did not include amounts derived from trading transactions with members in assessable income or have not filed returns because they qualified for a deduction under s DV 8 and had net income of $1,000 or less.

82. For general guidance on the approach the Commissioner takes when changing a previous position, see Status of the Commissioner's advice.

83. [Who to contact if you want to know more or need help]

This Operational Statement was signed on xx xxxx 2026.

[name]

Domain Lead, Legal Services

References

Legislative references

Charities Act 2005

Income Tax Act 2004, s HF 1

Income Tax Act 2007, ss BC 4, Part C, CW 44B, DB 41, DV 8, DV 19, subpart HE, LD 3, YA 1 ("association"), ZA 3

Incorporated Societies Act 2022

Unit Titles Act 2010

Tax Administration Act 1994, s 43C

Case references

Case C27 (1978) 3 NZTC 60,261

Coleambally Irrigation Mutual Co-operative Ltd v FCT (2004) ATC 4,126 (FCA)

Coleambally Irrigation Mutual Co-operative Ltd v FCT 2004 ATC 4835 (FCA)

Other references

Clubs or societies return guide 2025 – IR9G (guide, Inland Revenue, March 2026) ird.govt.nz/roles/not-for-profits-and-charities/types-of-nfps/sports-clubs-and-societies/file-ir9

IS 23/11: Income tax: Income – when gifts are assessable income (5 December 2023) *Tax Information Bulletin* Vol 36, No 1 (February 2024): 34

https://www.taxtechnical.ird.govt.nz/tib/volume-36---2024/tib-vol36-no1

Status of the Commissioner's advice *Tax Information Bulletin* Vol 24, No 10 (December 2012): 86
taxtechnical.ird.govt.nz/tib/volume-24---2012/tib-vol24-no10

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