Aged Care Association
NEW ZEALAND

Aged Care Association submission to the Inland Revenue on the ED0265 draft operational statement: Mutual Transactions of Associations (including clubs and societies)

June 2025

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About the Aged Care Association

This submission is from the Aged Care Association (ACA), the peak body for the aged residential care (ARC) sector in New Zealand.

New Zealand has over 670 aged residential care facilities, with more than 40,000 beds and 35,000 residents. In comparison, Te Whatu Ora | Health NZ oversees 10,748 public hospital beds.

Our members provide rest home, hospital, dementia, psychogeriatric, respite, and palliative care and care for around 700 younger people with disabilities.

Sixty six percent of beds are run by religious institutions, charitable trusts, family-owned, not-for-profits, and privately owned facilities. Most of the remaining beds are operated by listed companies (34 percent), with less than 1 percent provided by Te Whatu Ora | Health NZ.

Residents may be

- very frail and clinically unstable,
- well but disabled and have very high care needs,
- cognitively impaired or with mental health issues, with some requiring a secure environment,
- receiving end of life care.

Funding for aged residential care is a mix of means-tested user-pays and government subsidy.

Aged residential care providers are contracted by Te Whatu Ora | Health NZ to provide care services at a rate that is set annually.

Context

The ACA welcomes the opportunity to make a submission to the Inland Revenue on the ED0265 draft operational statement 'Mutual Transactions of Associations (including clubs and societies)'. This submission also reflects the perspective of the Association's Education Trust arm, a registered charity focused on training and education within the aged care sector.

The draft operational statement outlines a revised interpretation of how income tax laws apply to transactions between not for profit (NFP) associations and their members, including the potential taxation of member subscriptions. This submission specifically focuses on the implications for the Aged Care Association itself, as a not-for-profit sector body and peak body for the aged residential care sector in New Zealand.

The ACA's core function involves advocating for the aged care sector, providing leadership, producing research and professional development opportunities, and facilitating networking events. The strength of our collective voice and influence is directly tied to our membership and support.

Key concerns

Fundamental shift from accepted principles

The ED0265 statement itself acknowledges that taxing member subscriptions represents a change in the Commissioner’s view. This revised view on the mutual transactions of associations represents a significant departure from Inland Revenue's previous clear and consistent communications.

In its submission BusinessNZ highlights that this revised position has come as a complete surprise to many in the business association community. The current tax treatment of mutual associations has long been an accepted foundation of tax policy.

Direct impact on ACA's financial sustainability and operations

For the ACA, member subscriptions contribute to operating costs. Taxing this income would compel us to increase membership rates to mitigate any loss in operating costs.

This, in turn, could affect the ability of our members, over 60 percent of which are small and medium providers, to continue their membership. Such a change would impose additional financial strain on the already underfunded ARC sector.

It would significantly limit our ability to adequately represent a broad cross-section of the sector.

Furthermore, it would impair our capacity to invest in crucial activities such as advocacy, research, training, education, and engagement, all of which are critical to supporting the aged residential care sector. For instance, the ACA Education Trust plays a critical role in providing educational opportunities, professional development and knowledge-sharing to the ARC workforce.

Misconception of mutuality and charitable purpose

The ED0265 statement asserts that subscriptions and levies paid to associations prohibited from distributing to members are not mutual in nature and may be taxable, citing *Coleambally Irrigation Mutual Co-operative Ltd v FCT (2004)*. ACA subscriptions are contributions to a common fund, allowing the organisation to operate, and are mutual in nature, where any surplus remains the property of the contributors.

As a general rule, any surplus generated by the Aged Care Association is reinvested into the association’s mission, for the benefit of its members.

Inconsistency and lack of evidentiary basis

We question the inconsistency in tax treatment between different types of not-for-profit organisations. Inland Revenue has confirmed that sports clubs and societies promoting amateur games will continue to be tax-exempt, yet professional associations like the ACA, despite sharing many similarities, could be treated differently. Treating them differently is both unfair and illogical.

The proposals appear to be based on assumptions that do not accurately reflect the realities of membership-based not-for-profit associations and organisations. The ACA agrees with BusinessNZ that the Statement does not appear to be based on any evidence of a problem that needs to be solved. We believe that strengthening compliance with existing rules should sufficiently address any issues within the not-for-profit sector.

Increased compliance costs and unintended consequences

Adjustments to not-for-profit tax settings will lead to increased tax payment obligations and significant compliance costs, which will force us to divert resources from core activities like advocacy, training, education and networking, to tax management, potentially leading to increased fees and reduced services, thus weakening our ability to support our members.

Recommendations

The ACA urges Inland Revenue to reconsider the approach outlined in the ED0265 draft operational statement.

We strongly recommend that the Government does not proceed with the draft operational statement endorsing Inland Revenue's revised interpretation. Instead, we urge the maintenance of the long-standing tax treatment of not-for-profit associations, ensuring that these essential organisations can continue to serve their members and the wider New Zealand economy effectively.

Inland Revenue must revert to its longstanding position that membership subscriptions are not taxable income.

Thank you for your consideration.