**Perspectives on Charity Law, Accounting and Regulation in New Zealand**

**Te Papa Museum**

**Wellington**

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**Speaker’s Notes**

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**Session 9 Funding, social enterprise and the intersection with charities who operate businesses**

***The Issue***

* Tax equity

***What is social enterprise?***

NZ – Internal Affairs

* “an organisation that trades in order to support social cultural and environmental goals.”

Australia – KPMG

* “any investment a company makes to contribute to society that is not primarily motivated by generating a direct financial return.”

USA

Evidence of social investment since the 1790’s.

Canada

“the elephant in the room ... should registered charities be allowed to carry on businesses that are not related to their approved charitable purposes ... .”

***“Charitable” businesses in NZ***

* Billions in net equity
* A wide range of sectors

***Legislative history***

* 1940’s – income derived from any business ... .”
* Was this a war-time measure?

***Government trading***

* “in competition – only right that they should pay their income tax ... .”

***Tax reviews***

* 1967 to 2001 argued for the taxation of trading by “charitable” businesses – where an unrelated activity

***Other jurisdictions***

* Australia – *Word* – Kirby J (dissenting)
* USA – UBIT
* UK – 1927 – unrelated trading: large scale; small scale exemption.

***International***

* Base erosion project

***Comment***

* Is it time to rethink the charitable purposes exemption from income tax?
* Should there be a taxonomy of exempt organisations along the lines of s 501 (c)(3) of the IRS Code in the USA?

***A Solution already exists***

* Donations from large scale trading enterprises paid to a separate charitable trust are deductible to the extent of net income under existing legislation.

**Notes**

Refer to author’s Submission to the Tax Working Group for further detail.

**Resources**

M.J. Gousmett, “The Charitable Purposes Exemption from Income Tax: Pitt to Pemsel 1798-1891” Unpublished Doctoral Thesis, University of Canterbury, 2009 available at <https://ir.canterbury.ac.nz/handle/10092/3448> or via the University of Canterbury, Library Catalogue under “Gousmett M.”

William Langland,

Piers the Ploughman, The Vision of Piers the Ploughman (there are variations on the title as well as a number of versions of the poem) Passus VII, Book or Chapter 7, the verse which is said to have inspired Sir Francis Moor, the “Penner” of the Statute of Elizabeth of 1601; 43 Eliz 1 c.4, in writing the Preamble.

For a short paper on the Preamble see <https://sites.hks.harvard.edu/fs/phall/01.%20Charitable%20uses.pdf>

For a longer paper at a conference on the 400th anniversary of the Preamble see [www.beneficgroup.com/pdf/The%20State%27s%20Agenda%20for%20Charity.pdf](http://www.beneficgroup.com/pdf/The%20State%27s%20Agenda%20for%20Charity.pdf)