SUBMISSION

Submission from New Zealand Minerals Council to the Inland Revenue Department Taxation and the not-for-profit sector

December 2025

Introduction

1. New Zealand Minerals Council is the industry association representing the New Zealand minerals and mining sector. Our membership is comprised of mining companies, explorers, researchers, service providers, and support companies.
2. We welcome the opportunity to comment on the document *Taxation and the not-for-profit sector: Targeted consultation on detailed design*
3. We are focusing our submission on Chapter 3 – Membership subscriptions and related matters for taxable not-for-profit organisations.
4. We note it is a targeted consultation. We are disappointed IRD hasn't sought feedback more widely and, in particular, from industry groups to test this proposal and to get a better understanding of their activities.
5. Currently membership subscriptions are not taxable whereas payments for direct services that are separately charged, for example payments to attend an event, are. Payment from members or non-members are not treated differently.

Key points

- All membership subscriptions for not-for-profits should be considered non-taxable. This is standard offshore practice and has been the common understanding in New Zealand for many years.
- Making a distinction between "core membership benefits" and "identifiable direct valuable benefits" for taxation purposes it is too difficult to administer and should not proceed.
- Advocacy activities are core membership services of industry groups and are quite distinct from the examples given of so-called identifiable direct valuable benefits.
- Members of advocacy groups seek the collective benefits that representation brings and do not join for identifiable direct valuable benefits or individual perks.
- If the proposal proceeds, and we do not think it should, we would support increasing the $1,000 threshold to $10,000 so that the first $10,000 is tax free. We do not support the 'cliff-face' approach.

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Membership subscription proposal

6. The proposal as set out in Chapter 3 is to introduce a definition of "membership subscription" for industry groups. This would distinguish non-taxable core membership benefits from taxable payments that provide identifiable goods or services.

7. Any part of a subscription that delivers "identifiable direct valuable benefits" (such as training, meals, access to conferences, certification, or access to facilities) would be treated as taxable, even if not separately identified in the invoice.

8. Given such services are not normally itemised in a membership subscription, the document suggests they could be apportioned. Alternatively, it floats a "simpler approach" whereby all of the membership subscription would be taxed. A "principal purpose" or "wholly or mainly" test to be used to determine the degree of taxability, are also floated.

Our assessment of the proposal

9. We argue that even if it is theoretically possible to make a distinction between core membership benefits and identifiable direct valuable benefits for taxation purposes, the costs of the proposal outweigh the benefits and so the proposal should not proceed.

10. The proposal is too difficult to administer. The apportionment of subscription income as proposed would be complex and subjective. Different members will use different services and have different reasons for joining. Judgement will be required in distinguishing between core benefits and taxable benefits. Significant new compliance and accounting costs would be created attempting to apportion membership subscriptions between what they receive as an "identifiable direct valuable benefit" and what they receive as core membership service such as industry-good advocacy.

11. Importantly, apportioning would create incentives for industry groups to spend more than they otherwise would to avoid paying tax rather than retain subscription income for activities to be undertaken in future years. They may also artificially restructure their membership models or subscription offerings to avoid paying tax. Both of these would be inefficient for the organisations to achieve their not-for-profit goals and, in doing so, would reduce any revenue raised for IRD negating the purpose of the proposal.

12. Where such restructuring doesn't occur, it would result in increased tax liabilities for many industry groups which would place a significant amount of financial pressure on them and could cause smaller ones to close on the basis that they would no longer be financially viable. The scope of what organisations can provide may be reduced or higher subscription fees may be needed making attracting or retaining members more difficult. It should be noted that like most not-for-profits these organisations exist on a break-even basis and cannot sustain extra costs.

13. Most significantly, however, the proposal demonstrates a lack of understanding of the roles and activities of industry groups and what membership subscriptions are used for.

14. For example, the core membership benefits for a membership subscription as set out in para 3.13 are very narrow and do not reflect the core business activities of most advocacy groups. A number of activities could be added to these two activities. Most important, advocating on behalf of an industry which is the core membership service of groups like New Zealand Minerals Council. We expand on this below.

New Zealand Minerals Council

15. New Zealand Minerals Council is a small, incorporated society employing 2.5 full time equivalent staff.

16. Referring to the categories of not for profits listed in para 3.16, it would be categorised as an industry group or advocacy group. Advocacy is its main activity by far.

17. We are providing these comments based on our activities. The arguments would apply to other advocacy groups too, many of which also run on small resources.

18. In response to the question in paragraph 3.16, it is clear that advocacy activities are a core membership benefit as we explain here.

Advocacy activities

19. The primary activity of an industry or advocacy group is to provide representation and policy advocacy on behalf of an industry. This is done by having input into central and local government policy making to promote sound policy, and by disseminating information about the industry in the wider public.

20. We, and other industry groups do not as a rule advocate on behalf of an individual business for their own interests. Our role is quite distinct from government relations firms, for example, which act for individual companies.

21. Advocacy activities are different from the examples of identifiable direct valuable benefits listed in paragraph 3.15. In many industry groups they centre around giving an industry view in discussions about setting of rules, regulations, policies and laws that directly impact an industry's ability to function.

22. The benefits of advocacy are not always identifiable. No tangible product is provided to members directly by the organisation. The benefits are indirect, coming through things such as the implementation of sound government policy. The beneficiaries are not restricted to individual company members; all member companies benefit jointly.

23. In fact, not only are the benefits of advocacy received by all member companies, they are enjoyed by all businesses in the industry irrespective of whether or not they are members of the industry group.

24. For example, if a government enacts a piece of legislation as a result of advocacy from an industry group, the impacts of that legislation are not confined to industry group members. They impact the entire industry.

25. Most of the work done by New Zealand Minerals Council falls into this area and it would be the same for most industry groups.

26. Membership subscriptions, therefore, can almost be seen as voluntary contributions. Members are wanting the collective benefits that representation brings and are not joining for identifiable direct valuable benefits or individual perks.

27. In conclusion, and to address the point in paragraph 3.16, advocacy activities must be included in the definition of "core membership benefits".

Other activities

28. Other activities undertaken and services provided by New Zealand Minerals Council include events and forums. These are usually centered around advocacy work. They may be to pass on information to members, or to get expert opinions before submitting on new rules, regulations, policies and/or laws. These are generally open to non-members. Sometimes there is a differentiated fee for non-members, sometimes not.

29. Only a small proportion of New Zealand Minerals Council activities, such as newsletters which include updates of our activities (as referred to in paragraph 3.13), and use of facilities, are available to members only.

30. Services that some industry organisations provide such as training, certification, and the services of in-house lawyers etc are usually paid for separately from membership subscriptions and they are taxable. We do not provide these services.

31. Where services are paid for out of membership subscriptions, it would be too difficult to ascertain what value members place on these activities and so how much of the subscription should be taxable.

32. Either way, in the case of New Zealand Minerals Council, the activities represent a tiny portion of the organisation's overall activities.

Tax-free threshold

33. In addition to introducing a definition of membership subscriptions, there is a proposal to increase the current $1,000 tax-free threshold for NFPs to $10,000. The current threshold has not changed since 1979.

34. We support the proposed increase of the tax-free threshold from $1,000 to $10,000, as a stand-alone proposal, independent of the proposed new definition of membership subscriptions.

35. However, we do not support the proposed 'cliff-face' approach whereby an organisation with a surplus above $10,000 would pay tax on the entire amount. This sharp discontinuity could create incentives to artificially limit income or accelerate expenditure to remain below the threshold or to restructure activities to avoid the tax.

36. The 'cliff-face' may also increase administrative and compliance burdens as industry groups would need to monitor net income each year to avoid inadvertently crossing the threshold.

37. It also creates a situation where there is no incentive to have "rainy day" money, creating a real risk that a loss of membership or any other financial shock could very quickly make an organisation insolvent.

Answers to Questions

Chapter 3 – Membership subscriptions and related matters for taxable not-for-profits

Q14. Does the proposed definition of a membership subscription for not-for-profits describe the type of payments we want to relieve from tax? Are there likely to be any unintended consequences?

38. Yes, but the discussion overlooks the fact that virtually all of the activities of most industry organisations paid for by membership subscriptions are for the collective benefit of the industry as a whole, not individual businesses.

39. This is a blunt instrument to solve a problem that doesn't really exist with several unintended consequences including significant new compliance and accounting costs, and incentives for artificial restructuring of membership models.

40. It would also lead to inconsistent interpretations across organisations as to what is and isn't a core membership benefit.

Q15. Does this test sufficiently distinguish payments for core membership benefits from payments made for other benefits received by a member? If not, why?

41. The test treats membership as if it could be broken down into separate, measurable elements, when in reality this would be very difficult to do. People join these organisations not for individual perks, but for the collective benefits.

42. Forcing industry groups to assign prices to intangible benefits would be artificial and inconsistent, as well as creating a compliance burden that cannot realistically be met. The test fails both in concept and in practice, and it does not reflect the way industry groups operate in reality.

Q16. What types of benefit do you think should fall outside the concept of a membership subscription? Would this include, for instance, advocacy services on behalf of an industry or a group of workers?

43. Benefits that fall outside core membership should only include isolated services received specifically by that member.

44. Representation, policy advocacy, industry leadership, and the development of a collective voice are clear examples of a core collective membership benefits and so do not fall outside the concept of a membership subscription.

Q17. The proposed approach requires potential apportionment of some membership subscriptions. Would you prefer a simpler test that required all of the membership subscription to be treated as taxable instead, if it included any identifiable direct valuable benefits? Are there any other approaches we could use?

45. It would be completely inappropriate to tax all of a membership subscription, especially when the document acknowledges that not all of the subscription revenue should be taxable. This solution is proposed in tacit acknowledgement that the proposed splitting of subscriptions is unworkable.

46. Components of subscriptions that meet the proposed definition of taxable are only a small proportion of total membership subscriptions for most industry groups and so the alternative approach of treating none of the membership subscription revenue as taxable makes more sense.

Q18. When a payment contains both taxable and non-taxable elements, would a test like a principal purpose or wholly or mainly test to determine the degree of taxability be appropriate?

47. The subjective nature of these tests creates uncertainty for industry groups, as judgments about the purpose or relative value of benefits can vary between organisations, between individual members, and even between different payments within the same organisation. As outlined above, implementing these tests would impose a substantial administrative burden.

Q19. If the tax-free threshold is increased to $10,000 it would apply to each entity (not to individual branches) and the proposal is for a cliff face threshold, that is, it would not apply to any entity with a net profit greater than $10,000. Do you agree this proposal would reduce compliance costs for small not-for-profits?

48. If the proposal proceeds, and we do not think it should, we would support increasing the $1,000 threshold to $10,000 so that the first $10,000 is tax free. We would not support the cliff-face approach.

Q20. What design changes do you recommend to improve the proposal?

49. We recommend the proposal does not proceed.

Q21. Are there likely to be any unintended consequences of a cliff face threshold?

50. Yes. It would introduce significant new compliance and accounting costs, and incentives for not-for-profit industry groups to change their behaviour and for the artificial restructuring of membership models.

Q23. Do you agree with the approach proposed in this chapter to introduce a short form return? If not, what do you suggest? What should be the consequences of a not-for-profit not filing a return (either a short form or full return)?

51. If the proposal proceeds, and we do not think it should, simplified filing for organisations under the $10,000 threshold would be supported.

52. A short-form annual declaration replacing full income-tax returns would reduce compliance for smaller NFPs.