

# SUBMISSION ON

## Not-For-Profit Sector Taxation

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**To:** Inland Revenue

**Name of Submitter:** Horticulture New Zealand

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# OVERVIEW

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# HortNZ's Role

## Background to HortNZ

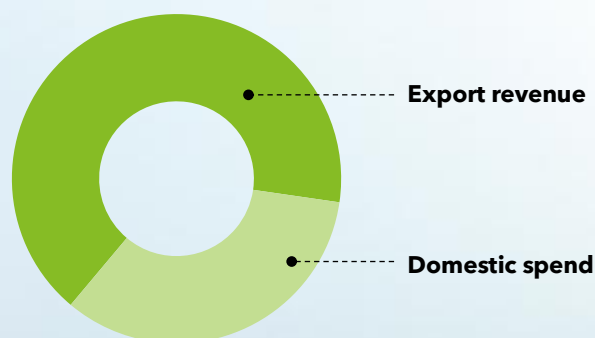
HortNZ represents the interests of approximately 4,300 commercial fruit and vegetable growers in New Zealand who grow around 100 different fruits and vegetables. The horticultural sector provides over 40,000 jobs.

There are approximately 80,000 hectares of land in New Zealand producing fruit and vegetables for domestic consumers and supplying our global trading partners with high quality food.

It is not just the direct economic benefits associated with horticultural production that are important. Horticulture production provides a platform for long term prosperity for communities, supports the growth of knowledge-intensive agri-tech and suppliers along the supply chain, and plays a key role in helping to achieve New Zealand's climate change objectives.

The horticulture sector plays an important role in food security for New Zealanders. Over 80% of vegetables grown are for the domestic market and many varieties of fruits are grown to serve the domestic market.

HortNZ's purpose is to create an enduring environment where growers prosper. This is done through enabling, promoting and advocating for growers in New Zealand.



**Industry value \$7.54bn**  
**Farmgate value \$4.89bn**  
**Export revenue \$4.99bn**  
**Domestic spend \$2.55bn**

Source: HortNZ Annual Report 2025

# Submission

## 1. Commodities Levy Act

All commercial fruit and vegetable growers in New Zealand are legally required to pay a levy on the sale of their produce under the Commodity Levies Act<sup>1</sup>. Many individual crop types also have their own Product Groups, which operate separately from HortNZ and – in most cases – hold their own Commodity Levy Orders. This means growers of those crops pay an additional levy directly to the relevant Product Group. A full list of commodity levies applying to fruit and vegetable sectors can be accessed at [www.legislation.govt.nz](http://www.legislation.govt.nz).

The Commodity Levies Act sets the rules that HortNZ and other levy bodies must follow. Levies can only be imposed where growers approve them through a referendum, ensuring grower democracy in decision-making. The Act requires transparency and accountability by specifying how levies are calculated, who pays them, what activities they may fund, and what reporting, dispute, and audit processes must apply. Levy orders are also time-limited, requiring renewal votes at least every six years or they automatically expire. Importantly, levy funds may only be used for industry-good purposes, not for private benefit or commercial gain. Levy revenue can be used for a wide range of sector-benefit purposes, including:

- Research
- Market development
- Product innovation
- Industry promotion
- Plant health initiatives
- Quality assurance programmes
- Education and training
- Policy advocacy
- Day-to-day administration needed to run the industry body.

The Minister may also authorise other purposes if they are considered appropriate, so long as they align with the non-commercial, industry-good intent of the Act.

## 2. Membership Subscription Definition

There is currently no legal definition of membership subscription which creates confusion about when subscription income is taxable versus non-taxable. IRD is proposing to include a definition so that only payments that give core membership rights would remain non-taxable, while anything that looks like a supply of goods or services would be taxed in the normal way.

Under the proposed framework, the following would be treated as **non-taxable**:

- The right to vote, elect officers, and attend meetings

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<sup>1</sup> [Commodity Levies Act 1990 No 127 \(as at 01 September 2022\)](http://www.legislation.govt.nz/act/public/1990/004/1/1/1), Public Act – New Zealand Legislation

- The right to receive notices, reports, and organisational updates
- Basic participation in governance

However, the following would be treated as **taxable**:

- Training or workshops
- Conferences
- Certification or credentials
- Meals, facilities, or equipment access
- Use of services
- Professional resources or support that can be readily valued

This is problematic for levy bodies. Commodity levies exist because individual growers cannot purchase or deliver these collective functions on their own. Treating compulsory levies as taxable subscriptions would incorrectly imply that growers are buying services from HortNZ, when levy spending is legally restricted to sector-wide outcomes. Most levy funded outcomes have no market price or consumable value for an individual grower, meaning there is no practical way to split them into taxable and non-taxable components without creating arbitrary and unworkable apportionments.

In some cases, levy organisations may hold reserves that were collected under a Commodity Levies Act levy that is no longer in force. These funds were lawfully raised under a statutory levy order and remain subject to the Act's industry-good purpose and non-commercial restrictions. The expiry of a levy order does not change the legal character of those funds or convert them into membership subscriptions.

In addition to levy-funded grower activity, product groups may also have Trade and Export Members who participate on a voluntary basis rather than through a statutory levy. Trade and Export Members are not levy payers and instead pay an annual membership subscription to engage with the organisation and the wider sector. Because these payments are voluntary and not imposed under the Commodity Levies Act, they fall more directly within Inland Revenue's proposed definition of a 'membership subscription'. As a result, any benefits provided beyond core governance rights may be treated as taxable, creating additional compliance and valuation challenges for organisations that operate mixed levy-funded and subscription-based membership models.

Excluding Commodity Levies Act payments from the new definition would not undermine Inland Revenue's policy intent. Levy bodies cannot use levy income for commercial service delivery, so the behaviour Inland Revenue seeks to prevent does not apply. A clear exclusion simply avoids unnecessary complication for both Inland Revenue and levy organisations. We recommend the definition explicitly state:

*"For the avoidance of doubt, the definition of membership subscription does not include levies collected pursuant to the Commodity Levies Act 1990 or any levy imposed by Order in Council under that Act."*

This aligns tax treatment with legislative intent and avoids disproportionate administrative burden for levy organisations and Inland Revenue.

### 3. Conclusion

Commodity levies are not membership fees and should not be treated as such. HortNZ and product groups do not sell services or benefits to growers in return for payment - the levy is a statutory mechanism designed to fund collective industry good outcomes that align with the government's economic growth agenda. Calling levies a membership subscription would suggest HortNZ is trading services for payment, which is not how the levy system works. An explicit exclusion is needed so levy income continues to be recognised for what it is: statutory funding for sector-wide purposes, not a subscription purchase.