



# POLICY PRIORITIES FOR A MORE GIVING AUSTRALIA

Prepared by Philanthropy Australia  
for the 2019 Federal Election

March 2019





# Executive summary

---

Philanthropy is the 'planned and structured giving of time, information, goods and services, influence and voice as well as money to improve the wellbeing of humanity and the community'. Most commonly, the focus is on the use of money to support charitable causes.

Philanthropy plays a vital role in Australia by supporting the diverse, vibrant and innovative charities, not-for-profits and community groups that form the 'social capital' that strengthens communities right across our nation.

The use of private wealth for public good assists those in need in our community, promotes culture, protects our environment, and makes a difference in many other areas.

It also supports efforts to address the systemic causes of complex social and environmental problems, working in partnership with charities and other organisations to develop new and innovative ways to address these problems.

In 2016, total giving to charities in Australia was \$10.5 billion. \$1.5 billion in grants were provided by 'structured philanthropy' - which is philanthropy that is planned and strategic and involves using a dedicated legal structure to facilitate it.

In Australia there many ways people can get involved in philanthropy. It can be as simple as making regular donations to charities. At the other end of the spectrum, people can establish their own private foundation such as a 'private ancillary fund', and make large multi-year grants. There are currently around 1,650 such private ancillary funds.

People can also establish a 'sub-fund' with a community foundation, a wealth manager or a trustee company. These are a form of 'giving account' sitting within a larger public foundation. There are at least 1,995 such sub-funds. In recent years, we've also seen the rise of 'giving circles', which involve people coming together to pool donations to make a number of larger grants.

Australians also have the option of establishing a testamentary trust. These trusts are the oldest form of foundations in Australia with some in their second century of operation.

These types of trusts are established by the will of the benefactor and do not come into operation until after their death. They can attain income tax exemptions but donations to them are not tax deductible. These trusts must use their income to fund the charitable purpose as specified in the will. There are currently less than 5,000 testamentary trusts, and in 2012 they accounted for only 2.7% of the total value of estates.

The Australian Government encourages philanthropy through various tax incentives and concessions, and by creating a supportive regulatory environment. And it does this for good reason.

Without philanthropy, charities would not be able to offer the range of services they provide - impacting those in need and putting pressure on the government on important community issues.

Philanthropy provides essential funding which helps charities innovate and find new ways to increase their impact. This can also enhance the effectiveness of government programs, which can be shaped by 'on the ground' expertise of charities and the lived experience of those whom they serve.

Philanthropy Australia's advocacy focuses on promoting the development of effective policy frameworks which support and grow philanthropy. We believe that Australia does quite well in this regard, but there is still room for improvement.

The purpose of this document is to set out Philanthropy Australia's policy priorities for the 2019 Federal Election. These are the policy changes we believe the Australian Government needs to embrace in order to supercharge philanthropy in Australia, and maximise the benefits which flow to the community from increased philanthropy. They are divided into short-term priorities, which Philanthropy Australia believes can be delivered within 1-2 years of the 2019 Federal Election and with minimal budgetary impact, and medium to long-term priorities, which have a time horizon of up to 5 years and a higher budgetary impact.

Philanthropy Australia's policy priorities are summarised on the following page.

# Executive summary continued

---

## Short-Term Priorities

### No Changes to Refundable Franking Credit Arrangements Which Would Harm Philanthropy

They are a vital source of income for philanthropic trusts and foundations, and enable them to provide more grant funding to charities. No changes should be made which would jeopardise this, as it would have major ramifications for charities and the broader community.

### Protecting Advocacy by Charities

In recent years, a negative atmosphere has been created for charities undertaking advocacy. This needs to change.

### An Effective and Responsive ACNC

The Australian Charities and Not-for-profits Commission (ACNC) is vital to Australia's not-for-profit sector, and it is essential that it delivers on its purpose.

### #FixFundraising

Australia's framework for regulating fundraising by charities (and other not-for-profit organisations) is not fit-for-purpose. Fundraising regulation needs to be reformed to reduce red tape whilst maintaining protections for donors.

### Allowing public ancillary funds to receive distributions from other ancillary funds

Currently red tape hampers the ability of philanthropy to fund organisations such as community foundations.

### Supporting Better Collaboration Between Government and Philanthropy

This could facilitate more effective partnerships between the Australian Government, philanthropy and not-for-profits, to deliver initiatives and programs with more impact.

## Medium to Long-Term Priorities

### Reforming Our Deductible Gift Recipient (DGR) Framework

The current framework is a source of red tape, with many charities falling through the cracks, which means that accessing philanthropy is much harder.

### Establishing the Living Legacy Trust Structure

With the right policy settings, Australia can take advantage of the record intergenerational wealth transfer in coming years, to benefit the community.

### A National Giving Campaign

A national giving campaign co-funded by the Australian Government and philanthropy and supported by charities and peak bodies from across the not-for-profit sector, can enhance Australia's culture of giving, benefiting the community.

### Growing Legacy Giving from Superannuation

Many retirees will leave substantial inheritances from their unspent superannuation. If a retiree decides to use these funds to leave a bequest to a charity, this is generally taxed at a minimum of 15% upon their death, which is a disincentive to giving.

# Short-term priorities

## No Changes to Refundable Franking Credit Arrangements Which Would Harm Philanthropy

### Issue

Refundable franking credits are a vital source of income for philanthropic trusts and foundations, and enable them to provide more grant funding to charities. No changes should be made which would jeopardise this.

### Details

Philanthropic trusts and foundations generate income in various ways, but most commonly it is by investing their corpus in a variety of asset classes including equities, property, fixed interest and cash. Any returns from these investments, in the form of capital gains, dividends, rents, or interest, are exempt from income tax. These returns can then be applied to support important charitable causes in the community.

The availability of refundable franking credits is relevant in the case of dividend income, and is consistent with the income tax exemption which philanthropic trusts and foundations receive. That is because refundable franking credits ensure that no income tax is paid either directly or indirectly by the philanthropic trust or foundation.

If refundable franking credits were no longer available, philanthropic trusts and foundations would no longer be fully income tax exempt as they would be indirectly paying tax on some of their income through the corporate taxation system.

This would offend the well-established principle that where funds are applied for charitable purposes for the public benefit, they should be exempt from income tax.

The availability of refundable franking credits provides an important flow of funds which support charities and charitable causes in the community.

In 2016-17 the value of refundable franking credits claimed by philanthropic trusts and foundations and other charities was just over \$1.1 billion dollars.

If refundable franking credits were no longer available, there would be a very large decrease in the amount of grants philanthropy can provide to charitable causes. This would have major ramifications for charities and the broader community.

It would mean less funding for medical research, addressing homelessness, promoting education, supporting the arts and protecting our natural environment.

We note that the Australian Labor Party's policy to end the availability of refundable franking credits includes an exemption for income tax exempt charities, including philanthropic trusts and foundations. This means that these entities will continue to be able to access refundable franking credits. We welcome this important exemption.

### Recommendation

That existing refundable franking credit arrangements applying to philanthropic trusts and foundations and other charities be retained.

---

**If refundable franking credits were no longer available, there would be a very large decrease in the amount of grants philanthropy can provide to charitable causes.**

# Short-term priorities continued

---

## Protecting Advocacy by Charities

### Issue

In recent years, a negative atmosphere has been created for charities undertaking advocacy. This needs to change.

### Details

Advocacy is an essential element of the work of many charities in Australia, and for good reason. By seeking to change government policies and practices, it targets the root causes of social and environmental challenges, rather than just addressing the symptoms.

It is an important way that charities can use their expertise and experience working on the frontline in communities right across Australia to give voice to those on the margins of society and whose interests may otherwise be drowned out by more powerful groups. It is for this reason Philanthropy Australia has been educating our Members about the benefits of funding advocacy.

However in recent years, the atmosphere for charities undertaking advocacy has been difficult.

In 2017, Pro Bono Australia's Civil Voices report found that not-for-profit organisations are feeling pressured to take a more cautious approach to advocacy because they fear it may impact upon the funding they receive and the services they provide.

The advocacy work of some charities has been attacked by certain figures within the Australian Government, and threats have been made to the deductible gift recipient status of certain organisations, for example during the House Standing Committee on the Environment's Inquiry into the Register of Environmental Organisations. In 2018, proposed amendments to the *Commonwealth Electoral Act 1918* were cause for concern given the impact of the proposals on advocacy activities by not-for-profit organisations.

This atmosphere needs to change. The Australian Government needs to clearly and unequivocally express its support for charities and other not-for-profit organisations undertaking advocacy, and demonstrate that it values their participation in our democracy and their input into the public policy development process.

### Recommendation

Provided that charities undertake advocacy to further their own charitable purposes, and consistent with existing laws, there should be no more threats to their charitable status.

Two legislative changes are worthwhile.

Firstly, the *Not-for-profit Sector Freedom to Advocate Act 2013* should be amended to include a set of principles outlining the Australian Government's support for advocacy by not-for-profit organisations, against which departments and relevant portfolio agencies would report annually.

Secondly, in order to address some existing uncertainty, the *Charities Act 2013* should be amended to expressly specify that advocacy activities undertaken in furtherance of another charitable purpose are in the public benefit. This would ensure the Act is interpreted consistent with the High Court's *Aid/Watch* decision of 2010.

---

**In recent years, the atmosphere for charities undertaking advocacy has been difficult.**

---

## **An Effective and Responsive ACNC**

### **Issue**

The Australian Charities and Not-for-profits Commission (ACNC) is vital to Australia's not-for-profit sector, and it is essential that it delivers on its purpose.

### **Details**

The ACNC is Australia's independent regulator for charities. It works to support public trust and confidence in Australian charities, provides education and guidance which promotes good governance within charities and seeks to ensure that red tape burdens on charities are minimised.

Since its establishment in 2012, the ACNC has delivered best practice regulation. This was achieved despite ongoing political uncertainty about its future, which only ended when the Australian Government committed to retaining the ACNC in 2016.

The ACNC needs to be supported in order to remain an effective and responsive regulator.

In this regard, it is vital that after the 2019 federal election, the Australian Government promptly respond to the recommendations of 'Strengthening for Purpose: Australian Charities and Not-for-profits Commission Legislative Review 2018'.

This response should be developed in close consultation with stakeholders.

Philanthropy Australia supports most of the recommendations of the Review.

In particular, we strongly support the recommendation to introduce workable arrangements to ensure that the privacy of donors to private ancillary funds is protected.

Consistent with the second object of the *Australian Charities and Not-for-profits Commission Act 2012*, the ACNC must ensure that it continues to be a facilitative regulator, which focuses on supporting the work of Australia's charities by closely engaging with charities and prioritising the provision of education and guidance.

The ACNC Commissioner has also stated his desire to make available more data on charities. The Commissioner's decision to no longer commission the comprehensive and detailed annual 'Australian Charities Reports' is inconsistent with this. These reports were a vital resource for donors and the community. The Commissioner should reverse this decision, and re-commission an external provider to produce the Australian Charities Reports. It is essential that ACNC data continues to be made available online in 'data cube' form.

### **Recommendation**

The Australian Government should promptly respond to the recommendations of 'Strengthening for Purpose: Australian Charities and Not-for-profits Commission Legislative Review 2018' after the 2019 federal election. This must include introducing workable arrangements to ensure that the privacy of donors to private ancillary funds is protected.

The ACNC must ensure that it remains focused on being a facilitative regulator, which focuses on supporting the work of Australia's charities. It should reverse its decision to no longer commission the annual 'Australian Charities Reports' and ensure that the online data cube continues to be made available.

---

**Since its establishment in 2012, the ACNC has delivered best practice regulation.**

# Short-term priorities continued

## #FixFundraising

### Issue

Australia's framework for regulating fundraising by charities (and other not-for-profit organisations) is not fit-for-purpose. Fundraising regulation needs to be reformed to reduce red tape whilst maintaining protections for donors.

### Details

Organisations, including charities, which seek to raise funds from the public, including seeking philanthropy, are subject to fundraising regulation.

Across Australia's seven different fundraising regimes in every state and territory except the Northern Territory, there are different requirements imposed – regarding when and if a fundraising licence is needed, how long a licence is valid, and what must be reported and when. Up to seven permissions may be needed to raise funds throughout Australia, including online.

For smaller groups, it can be particularly difficult to navigate these complex laws. For larger ones, resources are redirected from service delivery to compliance.

Philanthropic organisations, such as community foundations and other organisations operating public ancillary funds are also impacted, as they are also required to comply with fundraising regulation.

The current tangle of regulation is outdated and does not effectively support fundraising across state and territory borders, or through digital platforms. It was developed before the advent of online crowdfunding and in some cases still includes provisions from the Victorian era. It's long over for reform.

Led by Justice Connect, the #FixFundraising coalition of which Philanthropy Australia is a member has been advocating for reform to be prioritised.

The Australian Consumer Law (ACL) provides a nationally-consistent set of laws that can be used to support ethical fundraising behaviour.

The ACL already provides protection for donors against misbehaviours associated with fundraising. This means that if duplicative state and territory laws are repealed, it will create a nationally-consistent regulatory regime for fundraising.

For this reason, Philanthropy Australia urges the Australian Government, in partnership with state and territory governments, to progress amendments to the Australian Consumer Law to ensure its application to fundraising activities by charities (and other not-for-profit organisations) is clear and broad.

Combined with this, existing state and territory fundraising regulation would be repealed.

### Recommendation

That the Australian Government, in partnership with state and territory governments, deliver reform of fundraising regulation by the end of 2020. This reform should ideally use the Australian Consumer Law to deliver a single, national and consistent fundraising regulation regime.

---

**Fundraising regulation needs to be reformed to reduce red tape whilst maintaining protections for donors.**



---

## **Allowing public ancillary funds to receive distributions from other ancillary funds**

### **Issue**

Under the current regulatory framework, a public ancillary fund cannot receive a distribution from another ancillary fund, be it private or public. This red tape hampers the ability of philanthropy to fund organisations such as community foundations.

### **Details**

As 'Item 2' Deductible Gift Recipients (DGR), Ancillary Funds can only make a distribution to 'Item 1' DGRs.

This restriction is a common source of frustration, and the red tape it imposes is regarded as a barrier to giving. The following are two examples based on the experiences of our Members.

A Melbourne based private ancillary fund wished to support social inclusion initiatives in Western Australia. They were interested in contributing to the Fremantle Foundation, which in turn would distribute the funds towards social inclusion initiatives in the local area more effectively by using its knowledge and understanding of community needs. As a private ancillary fund, it was unable to distribute to the Fremantle Foundation.

Good2Give is a provider of workplace giving services. They use a public ancillary fund to accept donations from employees across numerous employers, which are then directed to the charities which particular employees have nominated. An employer approached Good2Give, expressing an interest in matching their employees' workplace giving donations, using funds from their corporate foundation. However, they soon found out that they are unable to do so, as their corporate foundation is a private ancillary fund, and hence their matching donations cannot be channelled through a public ancillary fund.

Philanthropy Australia believes that when it comes to this issue, the regulatory framework for private and public ancillary funds is in need of targeted reform.

Philanthropy Australia acknowledges that this proposal would not address the full range of regulatory and taxation challenges faced by Community Foundations and certain other organisations operating public ancillary funds, but it would be a significant improvement on the current situation.

### **Recommendation**

That public ancillary funds be permitted to receive distributions from other ancillary funds, with appropriate safeguards put in place to ensure the ongoing integrity of the regulatory framework for ancillary funds.

---

**A public ancillary fund cannot receive a distribution from another ancillary fund, be it private or public. This red tape is an obstacle to giving.**

# Short-term priorities continued

## Supporting Better Collaboration Between Government and Philanthropy

### Issue

Supporting better collaboration could facilitate more effective partnerships between the Australian Government, philanthropy and not-for-profits.

### Details

There are considerable benefits which can be gained from government, philanthropy and not-for-profits partnering together to develop and implement initiatives which address their shared priorities, and leverage the strengths of each party – be that funding, risk appetite, expertise and experience.

However developing and implementing effective partnerships is not a simple undertaking, and necessitates a mutual understanding of the different partners, as well as examples of the different ways partnerships can be structured.

In 2011 and 2012, Philanthropy Australia was involved in a project undertaken together with the Victorian Government to develop ‘Guiding Principles for Collaboration Between Government and Philanthropy.’

Philanthropy Australia believes there would be merit in developing a similar set of guiding principles at a Federal level. It would set out a strategic approach to developing and implementing effective partnerships between government, philanthropy and not-for-profits. It could also identify areas where partnerships can be developed, implemented and subsequently evaluated.

Combined with this process, it is important to develop closer relationships between government officials and philanthropy sector leaders. We believe that establishing a permanent ‘Government-Philanthropy Advisory Committee’ would be a way of achieving this.

Bringing together senior leaders from a cross section of government departments and philanthropic organisations, the committee would meet at least twice a year. Meetings would be an opportunity to provide updates on relevant developments within government and philanthropy, explore potential partnerships and enable participants to ‘get to know one another’ better.

The relationships that develop would foster the kind of ‘organic’ collaboration that is needed for government and philanthropy to engage more effectively, and deliver improved outcomes for the community.

Such a body could operate under the purview of a broader sector advisory body which the Government may choose to establish to advance its dialogue with the not-for-profit sector.

### Recommendation

A new framework for collaboration between the Australian Government, philanthropy and not-for-profits should be established. This should include developing a set of ‘Guiding Principles for Collaboration Between Government and Philanthropy’ and forming a ‘Government-Philanthropy Advisory Committee’.

---

**It’s important to put in place a framework which fosters closer collaboration between government, philanthropy and not-for-profits.**

# Medium to long-term priorities

## Reforming Our Deductible Gift Recipient Framework

### Issue

Our deductible gift recipient (DGR) framework is a source of red tape and makes it hard for many charities to access philanthropy.

### Details

Australia has just under 55,000 charities, but because of the DGR framework set out within the tax laws, not all these charities are eligible for DGR status. Based on 2017 data, there are only around 29,000 entities with DGR status. Most, but not all of these are charities. The practical implication of this is that around half of Australia's charities can't accept tax deductible donations or a grant from a private or public ancillary fund.

Many charities 'fall between the cracks' and whose only option is to seek a 'specific listing' in the tax laws – a long and complicated process, requiring a legislative amendment and with only a remote possibility of success.

For example, an institution whose principal activity is to promote the prevention or the control of diseases in human beings is eligible for DGR status under the category of a 'Health Promotion Charity'. However, because of the way disease is defined, an institution whose principal activity is to promote the prevention of injuries of human beings (such as through accidents) is not eligible for DGR status.

Community Foundations, whose purpose is to support and grow philanthropy, are not eligible for DGR status in their own right and therefore cannot themselves access grants from private or public ancillary funds.

Because they operate a public ancillary fund, they can only distribute to 'Item 1' DGRs. This limits their potential impact, particularly in rural and regional areas where there are fewer charities for them to provide grants to.

The former Not-for-profit Sector Tax Concession Working Group recommended that DGR status should be extended to all registered charities. This would bring Australia's framework closer to that of the United States and New Zealand. To contain the cost of this reform, it also recommended that charities whose purposes are the advancement of religion, or education through child care or primary and secondary education, would only be able to apply DGR funds towards activities falling within other charitable purposes.

This recommendation still represents a sound blueprint for DGR framework reform which would help grow philanthropy and cut red tape.

If the cost of this reform is a barrier to its implementation, then Philanthropy Australia recommends a more targeted reform to encourage philanthropy in Australia, namely the creation of an 'Item 1' deductible gift recipient category for community foundations.

### Recommendation

That the DGR framework be reformed to broaden and simplify access to deductible gift recipient status. This reform should be modelled on the recommendations of the Not-for-profit Sector Tax Concession Working Group.

---

**Around half of Australia's charities can't accept tax deductible donations or a grant from a private or public ancillary fund.**

# Medium to long-term priorities continued

## Establishing the Living Legacy Trust Structure

### Issue

With the right policy settings, Australia can take advantage of the record intergenerational wealth transfer in coming years by growing giving through Living Legacy Trusts.

### Details

Australia is about to witness the largest intergenerational wealth transfer in our history, with estimates that in the next two decades, \$2.4 trillion is expected to pass from 'baby boomers' to the next generation.

It is expected that charities will benefit from this transfer through bequests.

However, giving by bequest is currently low – in 2012 only 7.6% of final wills had a direct charitable bequest, and charitable bequests accounted for only 2.7% of the total value of estates.

Australia needs to examine ways to grow legacy giving, so that the wealth transfer benefits the broader community by supporting the important work of charities.

One challenge is that there are no tax incentives for legacy giving in Australia – unlike some other jurisdictions, we have no inheritance taxes. Although tax incentives aren't the only reason people give, they do matter and are a critical component of supporting and growing philanthropy.

Living Legacy Trusts (LL Trusts) are a structure which can help grow legacy giving and fill a clear gap in the giving options available to Australians.

LL Trusts are a variation of the successful 'charitable remainder trust' structure available in the United States and Canada.

They involve a donor placing an asset in a trust for the benefit of a charity upon the donor's passing. Whilst the asset is irrevocably committed to the charity, the donor can still receive an income stream from the asset whilst they're still alive.

In return for irrevocably committing the asset to the charity, the donor receives a tax deduction when they place the asset in the trust, worth a percentage of the assets value. This percentage varies with the donor's age, given that the older a donor is, the less time a charity will need to wait to receive the asset.

Any income the donor receives from the asset is taxed at the normal rate applicable to the donor's particular situation.

Because they provide a tax deduction for donors who place an asset in a trust for the benefit of a charity upon the donor's passing, LL Trusts effectively introduce a tax incentive for charitable bequests. They also address a concern amongst some donors who may wish to make a gift whilst living but are still concerned that they may need some additional income as they grow older.

### Recommendation

That opportunity to grow legacy giving through Living Legacy Trusts be comprehensively examined, with a view to growing legacy giving in Australia as we experience a record intergenerational wealth transfer in coming years.

---

**In the next three decades, \$2.4 trillion is expected to pass from 'baby boomers' to the next generation.**

## A National Giving Campaign

### Issue

A national giving campaign can enhance Australia's culture of giving, benefiting the community.

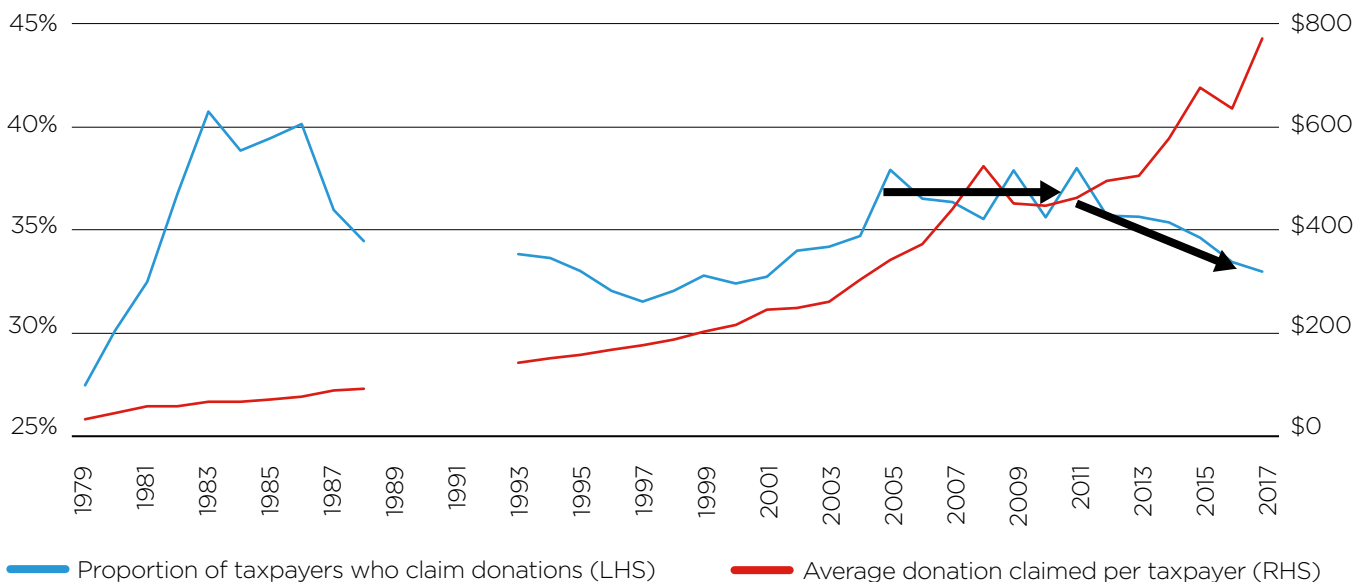
### Details

In order to grow giving in Australia, we need the right taxation and regulatory framework. Whilst tax incentives are not the reason people give, they are one factor people take into account when deciding whether to give and in what amount.

Although Australia has a relatively good taxation and regulatory framework for giving, Philanthropy Australia has made recommendations to improve it.

However, it is striking that based on 2016-17 data from the Australian Taxation Office, 44% of taxpayers with a taxable income of \$1 million or more claimed no deduction for giving to a 'deductible gift recipient' (and these organisations are mostly charities). There is also evidence that participation in giving from the broader population is declining, as shown in the chart below extracted from JBWere's 'Support Report' (2018).

### Proportion of taxpayers who claim donations and the average donation claimed



This illustrates the fact that whilst taxation incentives are important, a big part of growing giving is about creating a culture of giving.

A culture of giving is about the expectations within our community - the understanding that if you have wealth, it is incumbent upon you to use some of that wealth for the public good. We can enhance our

culture of giving by raising awareness about giving and its benefits.

A national giving campaign can help achieve this. Involving a variety of communication channels, such a campaign can tell the stories of those who give and the reasons why, and tell the stories of the people, organisations and causes that giving benefits.

## Medium to long-term priorities continued

It can highlight the different ways people can give – such as through workplace giving, through a community foundation or by establishing a private ancillary fund just to name a few examples. It can also target different audiences – the broader public but also individuals who can influence giving choices such as employers and financial advisers.

Philanthropy Australia believes that such a national giving campaign should be co-funded by philanthropy and the Australian Government, and supported by charities and peak bodies from across the not-for-profit sector.

It could operate under the purview of a broader sector advisory body which the Government may choose to establish to advance its dialogue with the not-for-profit sector.

### **Why should Government fund such a campaign?**

For the same reason it provides taxation incentives for giving – because it recognises that giving has a positive impact within the community, and that government support for giving can leverage considerable private funding that is directed towards the public good.

### **Recommendation**

That the Australian Government partner with philanthropy to develop and fund a national giving campaign to grow our culture of giving in Australia.

---

**In 2015-16, 43% of taxpayers with a taxable income of \$1 million or more claim no deduction for giving to a 'deductible gift recipient'.**

## **Growing Legacy Giving from Superannuation**

### **Issue**

Many retirees will leave substantial inheritances from their unspent superannuation. If a retiree decides to use these funds to leave a bequest to a charity, this is currently taxed upon their death, which is a disincentive to giving.

### **Details**

According to modelling by the Grattan Institute, the median retiree will leave an inheritance of \$190,000 in today's dollars, or 33% of their savings at retirement, in addition to any home they own. As this is data for the median retiree, there are some who will leave much larger inheritances.

Under existing laws, any funds which are distributed to a non-dependent are taxed at up to 15% plus the 2% Medicare Levy (however the taxation of superannuation is complicated and there are certain variations to this tax treatment).

In addition, an individual cannot use a 'Binding Death Nomination' to make a superannuation bequest – these can only be used to gift superannuation to a dependent or the person's estate (once gifted to their estate, it can then be given as a bequest to a charity).

These requirements create a disincentive to make a superannuation bequest to a charity. Given that some individuals may still have relatively large superannuation balances at their death, we should be making it easier for them to gift some of this to charities.

Two changes would help achieve this.

---

Firstly, individuals should be allowed to use a binding death nomination to nominate a charity with 'deductible gift recipient' (DGR) status to receive a bequest directly from their superannuation upon their death. This could be capped at a certain percentage of their superannuation balance to ensure that the first priority remains the provision of support to a dependent.

Secondly, any superannuation bequest to a charity with DGR status should be exempt from taxation, consistent with how donations from a person's income are treated during their lifetime.

These changes would not impact any existing taxation arrangements for superannuation during an individual's lifetime.

#### **Recommendation**

That more favourable administrative and taxation arrangements are introduced to encourage legacy giving from superannuation.

---

**Given that some individuals may still have relatively large superannuation balances at their death, we should be making it easier for them to gift some of their superannuation to charities.**

## About Philanthropy Australia

Philanthropy Australia is the national peak body for philanthropy and is a not-for-profit membership organisation with a more than 600-strong membership. Our mission is to represent, grow and inspire an effective and robust philanthropic sector in the community.

Our Members are trusts and foundations, businesses, families and individuals who want to make a difference through their own philanthropy and to encourage others with their giving. To find out more about Philanthropy Australia, visit [www.philanthropy.org.au](http://www.philanthropy.org.au)

