Re:think tax discussion paper
Submission from Cancer Council Australia on NFP sector issues

Cancer Council is Australia's peak national non-government cancer control organisation. Its members are the eight state and territory Cancer Councils, which work together to undertake and fund cancer research, prevent and control cancer and provide information and support for people affected by cancer.

Cancer Council Australia's goal is to lead the development and promotion of national cancer control policy in Australia, in order to prevent cancer and reduce the illness, disability and death caused by cancer.

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Cancer Council Australia welcomes the opportunity to contribute to the Australian Government's review of Australia's taxation system. Following is a summary of our members' concerns in respect of specific questions relating to the not-for-profit sector.

47. Are the current tax arrangements for the NFP sector appropriate? Why or why not?

The current tax arrangements for the Not-for-Profit sector are inadequate for the following reasons:

1. The current tax arrangements while beneficial do not recognise the full extent of the contribution of the Not-for-Profit sector in Australia. Australia's Not-For-Profit (NFP) sector is one of vital importance; not only because of the valuable services its members provide, but because of the positive, and often intangible, impact it has on communities around the country. Few other sectors can lay claim to such a meaningful influence on people's lives.

   Not-For-Profits are typically funded by individual and corporate donors and have a reduced cost base through the support of volunteers. If the government were to pay for these services, the cost would be significantly more than the tax benefits gained. Some have indicated that the real financial cost to run a Not-For-Profit is five times the tax benefit.

   The significance of tax relief to Not-for-Profits is backed up by the following summary from a BDO survey[1] in 2013:

   > *The BDO Survey for Not-for-Profits 2013 indicated that 91.8% of respondents believe Fringe Benefits Tax (FBT) concessions should continue to be provided to not-for-profit employers. 70% of respondents said the FBT concession thresholds should be increased by some degree.*
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   > *More startling though is the result that almost all respondents believe they would have to limit their organisation's activities if they did not have an income tax exemption. Imagine the financial expense and operational pressure on governments if this reduction in activities occurred and it fell upon the three levels of government to fill the gap.*

2. Most tax benefits are complex to operate and require a high skill level to ensure compliance. This places significant administration burdens on all Not-for-Profits and in particular smaller Not-For-Profits. Given that the Australian public is averse to funding Not-

For-Profits administration costs, these additional costs are harder for the sector to cover and can reduce the level of funding directly allocated to mission.

Cancer Council supports reducing administrative burdens to enable entities to allocate more donor funds to their core purpose and reduce expenditure on dealing with administration and red tape.

3. Tax benefits such as FBT benefits and caps are not indexed to CPI. This results in the benefit to Not-For-Profits being eroded over time. At the same time, Not-For-Profits need to cover increased costs as inflation erodes the value of money over time.

4. Tax concessions are vital, especially FBT concessions, to support staff retention and to be competitive in the market place. The current tax concessions do not keep up with CPI and are now diminishing further. For example, the dropping of the unlimited meal card places a direct disincentive on employees who once had access to these benefits. The ability to attract good employees at a below market cost has been significantly diminished by reducing this important benefit to Not-For-Profit employees.

48. To what extent do the tax arrangements for the NFP sector raise particular concerns about competitive advantage compared to the tax arrangements for for-profit organisations?

Not-For-Profit organisations do gain a tax advantage but this does not mean they have a competitive advantage compared with commercial organisations that operate in similar areas of activity. For example, the 2008 Charities Commission review of the charity section concluded that Sanitarium does not gain a preferential position within the food industry as a consequence of its charitable taxation status. In a health context, not-for-profits rely on donations and specific-purpose grants to undertake vital health education and support services, which are delivered freely to the community and to the widest possible audience – in contrast to similar work done in the private health and health insurance sectors.

There is a lack of understanding about the reasons why Not-For-Profits enter the social enterprise area. It is far from gaining a competitive advantage. Some social enterprises exist to make profits which they reinvest into community programs run by their organisation or others; some social enterprises exist to create employment for marginalised groups; and others set up organisations to meet a community need where the commercial market does not operate. The fact that so many organisations are running social enterprises and the sheer quantum of turnover suggests that the social enterprise model is working and is delivering the social benefit that it was designed to deliver.

There is no evidence that commercial for-profit companies are at a disadvantage. For example, how many for-profit companies have ceased trading as a result of Not-For-Profit commercial activities? Are St Vincent De Paul’s 600 retail outlets putting pressure on the sales of Big W and Target’s 800 plus shops?

If we removed the revenue created through social enterprise from the Not-For-Profit sector in Australia, we would be removing over 39% of the total turnover of the Not-For-Profit sector. (Source: ABS 2009). This does not mean that these shortfalls would be replaced by income from the commercial sector.

Even if, as some argue, Not-For-Profits have a competitive advantage, the benefits derived in the social sector far outweigh any profits that could have been derived in the commercial sector by a few comparatively well off individuals or shareholders.

In conclusion, there is not a lot of evidence to suggest that Not-For-Profits have a competitive advantage over the commercial sector. What is evident is that there is increasing uncertain income stream available from government and the public. Many Not-For-Profits feel compelled to develop commercial revenue streams to increase their autonomy and sustainability.

49. What, if any, administrative arrangements could be simplified that would result in similar outcomes, but with reduced compliance costs?

The contribution of the Not-For-Profit sector in providing essential community support services is well-documented. Yet anecdotally, the compliance burden imposed by governments consumes scarce service delivery resources.

There is insufficient communication to the commercial sector about the ACNC and its role. Commercial operations such as the major four banks still require information to be lodged with ASIC. Some major suppliers still rely on ASIC and not ACNC for information. This causes considerable confusion and time as the Not-For-Profits seek to educate the commercial sector.

The administrative burden could be reduced by the following:

- Many grants are issued by states and federal governments. The federal government should administer all grants so Not-For-Profits only report to the federal government and not federal, state and local governments.
- Annual results are required to be reported to the ACNC and the state government. Often each state has different reporting requirements. This becomes problematic and burdensome when trading over multiple states. The ACNC should be the only government body that Not-For-Profits are required to report annual accounts to.
- There is still a requirement to liaise between federal and state governments for various grants. Some of this reporting is quite onerous. For example, Not-For-Profits in ACT have to report on all retail stores.
- GST and FBT concessions are varied and complex to administer. Keeping appropriate records is onerous. See list below:
    - GST charity concessions
    - non-profit sub-entities for branches
    - donated second-hand goods
    - raffles and bingo
    - fundraising events
    - non-commercial activities
    - accounting on a cash basis
    - reimbursement of volunteer expenses

  The end result is that Not-For-Profits do not avail themselves of this benefit.
- FBT is payable quarterly in advance. FBT should be payable once and when incurred.
- Standard business reporting should be implemented. If all levels of government adopted the NSCOA chart of accounts, the administrative burden of acquittals would be reduced.

50. What if any changes could be made to the current tax arrangements for NFP sector that would enable the sector to deliver benefits to the Australian Community more effectively and efficiency.

The following changes to the tax systems could assist Not-For-Profit organisations deliver more and better-targeted services:

- Rather than have many GST/FBT concessions that are complex and hard to administer, the government should come up with a simplified FBT cap that compensates for all the existing concessions. This would be simple to administer and be easily understood by all interested parties. This cap should be indexed to inflation. For example, replace the $30,000 FBT cap with a $50,000 FBT cap (indexed).

- FBT is complex and requires significant administration and resources to ensure compliance and to maximise returns. For example:

  - Use of pool cars overnight (Garaged at the employees address) usually out of necessity after a long days travel, now needs to have FBT tax paid and now has to be included on the employee's group certificate which is an administrative nightmare.
  - Some FBT business rules are a direct opposite to normal business conventions. e.g. The FBT calculation on car costs is inclusive of GST when all business deals are done ex GST. This causes confusion and compliance issues.
  - Requirement to have signed statements by employees verifying mileage is costly and difficult to administer.
  - Multiple ways of calculating car FBT benefits creates potential for error.

  Not-For-Profits should be totally FBT exempt in the same manner that Not-For-Profits are Income Tax Exempt.

- The federal government needs to increase FBT benefits rather than reducing benefits such as the meal card. These benefits need to be maintained to ensure that Not-For-Profits can acquire and retain quality staff that are paid below market rates.

- The federal government needs to ensure that FBT cap benefits are applied equally and not give an advantage to wealthy individuals in the community. The federal government should legislate to ensure that an individual can only receive the FBT cap once per annum. At the moment, doctors that work for multiple hospitals can claim multiple caps.

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[1] BDO not-for-profits tax concession survey, 2013