RSPCA Australia submission

Better tax- lower, simpler, fairer discussion paper

1 June 2015

RSPCA Australia makes this submission on the Better tax discussion paper on behalf of its members, RSPCA ACT, RSPCA Darwin, RSPCA NSW, RSPCA QLD, RSPCA SA, RSPCA TAS, RSPCA VIC and RSPCA WA.

In addition to the comments below, RSPCA Australia also supports the recommendations contained in the Not for Profit Tax Concession Working Group report *Fairer, simpler and more effective tax concessions for the not-for-profit* sector, May 2013 and the Community Council for Australia submission to the discussion paper.

The RSPCA believes that the following principles should inform the reform of Australia's taxation system:

1. Individuals, corporations and other organisations are provided with incentives and simple mechanisms to donate money, goods and services to charities
2. The taxation system is procedurally fair for charities and their employees
3. The total value of the current taxation benefits provided to charities is preserved
4. The administration of the system for charities is simple and efficient
5. Charities should not be penalised for operating commercially focused businesses as part of the charity as a means of achieving their mission and raising funds to be allocated to this purpose.

In relation to some of the specific issues raised in the discussion paper, in summary, the RSPCA:

1. does not support the removal of income tax concessions. Removing income tax concessions would mean the RSPCA would incur significant additional costs that would likely restrict its public benefit activities
2. recognises the salary packaging benefits offered to employees of charities through fringe benefits tax however sees opportunities for reform to ensure fair application across all charities and simple administration
3. receives an important source of income through refundable franking credits and sees no reason for their review
4. recommends the development of new ways to provide access to capital for charities
5. recognises the need for new mechanisms to facilitate the flow of private funds as well property and other goods and services to charities and
6. recommends leadership by the Australian Government in the short term to ensure workplace giving opportunities are available in every government department, authority and entity.

The following expands on these points.

1. Concessions available for charities

The availability of taxation concessions for the RSPCA are extremely important as they help facilitate the achievement of our purpose, the prevention of cruelty to animals.

Income tax concession

Any income earned by the RSPCA is used in various ways to achieve our purpose. Changes to the current income tax concessions would be extremely detrimental to the organisation.

For example, a number of RSPCA Societies are very reliant on bequest income and some of this bequest income is specifically targeted at capital items such as specific pieces of equipment or building works. The taxation of bequest income would therefore be a net outlay for the Society as we would expense the capital item to the balance sheet and recognise the income to the profit and loss. Please see the attached confidential example.

Compliance costs too would increase, with up-front costs in the order of $100,000 for changing structures for taxation records such as a taxation depreciation schedules for each of the larger Societies. An assessment of ongoing requirements would also be required to determine if additional staff is required to maintain the systems, so more costs.

Professional fees for taxation return completion and lodgement would also be incurred, likely to be between $100,000-$200,000 across the RSPCA per annum.

Changes to income tax concessions would also add flow on complications with other areas such as capital gains tax.

<u>Fringe Benefits Tax</u>

Taxation benefits for employees of charities are an important way for charities to package salaries in order that they can better compete with higher government and private sector salaries.

As principles, the concessions available should ensure procedural fairness and equal benefit across all employees of charities and should be simple to administer. The current fringe benefit tax arrangements do not perform well against these principles.

Currently there is an unfair system of tax concessions for employees of charities delivering direct services to the community. Providing benefits to some charities and not to others infers that some charitable purposes are more worthy than others. Making a judgement on the contribution of one charity or charitable sector over another is a judgement based on individual values rather than being underpinned by a system of procedural fairness.

The current inequity of benefits between charities creates distortions in the charity employment market and places higher hurdles on raising funds for some. The salary package of an employee of a charity that is also a public benevolent institution, for example, has a higher employee benefit than the same salary package of an employee of the RSPCA, an organisation that is widely recognised as providing direct delivery of essential community services. For the RSPCA to match the employee benefits of the salary package of a PBI employee, means that the RSPCA needs to raise substantial additional funds from the public (the RSPCA employees around 1,100 people and 98% of the RSPCA's funding comes from individuals and businesses), creating an unfair burden.

<u>Refundable franking credits</u>

Refundable franking credits provide an important source of income to support the RSPCA's work for animals and community. We see no reason to consider changes to this concession.

2. **Access to capital**

It is the RSPCA's experience that banks usually take a very conservative lending position. Generally RSPCA Societies have very little debt and many fixed assets (such as our adoption centres). While normally this type of balance sheet would allow a bank to lend, the RSPCA's profile and social position restricts this as the bank is less inclined to take anything other the most conservative of risks as they do not want to be in the position of being seen to foreclose on one of Australia's most trusted charities.

This limited access to capital would impact our ability to fund tax bills to be paid if income tax concessions were removed and we needed to pay tax on for example, the profit on capital bequeathed to the RSPCA. The RSPCA would need to consider whether to sell the property (which may not be easy given special conditions placed by the estate and/or the required purpose) and this may then impact whether the RSPCA would receive the bequest in the first place as we may not be in the position to fulfil the terms of the estate.

The RSPCA supports the development of mechanisms to free up capital by providing incentives for private investment into activities of charities for the public benefit.

3. **Encouraging donations to charities**

The growth in demand for the services of charities means that new mechanisms that will facilitate the flow of private funds as well property and other goods and services to charities needs to be found and introduced.

In the short term there needs to be public awareness activities to encourage the introduction or expansion of workplace giving programs in workplaces of all sizes. The RSPCA recommends that the Federal Government leads by example and ensures that all departments, authorities and other government entities offer workplace giving opportunities to all employees.

At the same time, the government, charitable sector, philanthropists and employer and employee bodies should collaborate to identify new ways to encourage and/or overcome barriers to charitable giving at all levels.

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