

29 May 2015

A/ GPO Box 1491

Sydney, NSW 2001

P/ 02 9222 6200

F/ 02 9221 0438

E/ TSANZoffice@thoracic.org.au

W/ thoracic.org.au

ABN/ 17 057 925 836

Tax White Paper Task Force
The Treasury
Langton Crescent
PARKES ACT 2600

By email: bettertax@treasury.gov.au

Dear Minister,

Re:think – Tax discussion paper

The Thoracic Society of Australia and New Zealand (TSANZ) welcomes the opportunity to make a submission to the Tax White Paper Task Force in relation to the tax discussion paper – Re:think. The primary focus of this response relates to discussion questions affecting the Not-for-profit (NFP) sector (Section 7 of the discussion paper).

TSANZ is a Health Promotion Charity registered with the Australian Charities and Not-For-Profits Commission (ACNC) and is a company limited by guarantee established to improve the knowledge and understanding of lung disease, to prevent respiratory illness through research and health promotion, and improving health care for people with respiratory disorders. To achieve these aims, the Society promotes the:

- highest quality and standards of patient care
- development and application of knowledge about respiration and respiratory disease
- collaboration between all national organisations whose objects are to improve the wellbeing of individuals with lung disease and to promote better lung health for the community
- professional needs of the membership
- goal of a tobacco smoke free society

Below are TSANZ's responses to each of the discussion paper's questions:

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

Yes, TSANZ generally agrees that the current tax arrangements for the NFP sector are already appropriate.

- NFPs are able to utilise the FBT concession to compete in the recruitment of highly skilled staff. The concession enables NFPs to hire and retain staff who may otherwise stay in the private and government sectors in order to enjoy improved salaries.

- On the other concessions provided to NFPs, it is the view of the TSANZ that it would be appropriate that these remain as per the status quo as it is critical to the existence of the sector.
- TSANZ notes that meal and entertainment allowances have recently been capped in the May 2015 budget at a grossed-up value of \$5,000 for the FBT year commencing 1 April 2016. This is an area where capping the allowance at a reasonable amount would not be seen as problematic. For the avoidance of doubt, TSANZ believes the cap should be relative to salary levels and allow for a maximum of \$15 000 per item per employee per annum.

TSANZ understands that the current tax arrangements for the NFP sector enable the sector to deliver benefits to the Australian community more efficiently and effectively. One recent example being is the Australian Taxation Office Taxation Ruling 2015/1 “Income tax: special conditions for various entities whose ordinary and statutory income is exempt” which provides guidance regarding two special conditions that a NFP entity must meet to be exempt from income tax. These conditions require an NFP to: a) comply with all the substantive requirements in its governing rules (‘the governing rules condition’); and, b) to apply its income and assets solely for the purpose for which the entity is established (‘the income and assets condition’).

By introducing this ruling, NFPs accumulating profits would need to justify such action, otherwise, risk losing the income tax exemption. The Society believes that this ruling reasonably imposes on the NFPs a burden of proof that its income and assets are used solely for the “purpose for which it was established” thereby delivering the intended benefits to the Australian community at large.

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

We recognise that some charities do have certain operations that generate profits that must be used for the defined charitable purpose. In doing so, they may from time to time compete with businesses that do not have some of the taxation concessions. Requiring NFPs to operate such businesses on a separate ledger without access to FBT concessions for employees within these business units only is unworkable in our view. It is also disruptive as it would be presumable only important when there is a competitor business and that may vary from place to place and from time to time.

TSANZ considers the current tax arrangements provide the NFP sector with the ability to compete with the for profit and government sectors to attract and retain skilled staff. With the NFP sector being responsible for the employment of over 1 million people predominantly in the areas of health, social services, education and research. This is crucial for the wellbeing of Australian communities and for advances in research and education.

The current situation allows NFP organisation to attract staff through the FBT concession whilst the other tax concessions are in place to assist organisation to further their charitable objects and purpose.

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


As explained in the discussion paper under the third paragraph of ‘Deductible gift recipients’, the process for applying as a DGR “can be time consuming” and at times “creates further complexity”. As such, TSANZ supports any motion to simplify administrative arrangements that would result in similar outcomes but with reduced compliance costs. Being a not-for-profit with limited resources, TSANZ is of the view that it would be beneficial to the sector in general if applications for the DGR categories are streamlined and costs associated with the process are reduced – both in real terms and in terms of staff time.

4. What, if any, changes could be made to the current tax arrangements for the NFP sector that would enable the sector to deliver benefits to the Australian community more efficiently or effectively?

As mentioned in the third bullet under question 1 above, TSANZ believes that the cap to meals and entertainment should be relative to salary levels. Also, although the grossed-up taxable value of the fringe benefit increased relative to increases in Medicare levy, TSANZ is of the view that the benefit to the employee should also increase at least relative to the current Australia salary level. Failure to index the grossed-up FBT concessional limit for some time has eroded the value of it to charities and their employees. Once it is agreed that this concession has a reasonable and justifiable purpose in the Australian context, it follows that it should be indexed.

We thank you for the opportunity to provide our responses to the discussion paper. We would be delighted to elaborate further on any of the comments raised in this submission and can be reached on 02 9222 6200.

Yours sincerely,



Peter Gibson
President



Tanya Buchanan
Chief Executive Officer