



St Vincent de Paul Society
NATIONAL COUNCIL *good works*

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***Submission in response to Not-For-Profit Sector's Tax
Concession Working Group Discussion Paper: "Fairer,
simpler and more effective tax concessions for the not-for-
profit sector"***

The St Vincent de Paul Society (the Society) is a respected charitable organisation operating in 148 countries around the world. In Australia, we operate in every state and territory, with more than 50,000 members and volunteers committed to our work of social assistance and social justice. We are accountable to the people in our community who are marginalised by structures of exclusion and injustice.

St Vincent de Paul Society comprises 8 incorporated entities (not including any subsidiary entities), one in each State and Territory of Australia, in addition to the National Council which is incorporated in the ACT (the Council). All incorporated entities are Public Benevolent Institutions and have Deductible Gift Recipient (DGR)¹ status.

On 2 November 2012, the Chair of the working group [check name] invited the Council to make a submission on the Not-for-profit Sector Tax Concession Working Group's discussion paper, *Fairer, simpler and more effective tax concessions for the not-for-profit sector*. The Council is charged with representing the Society on a national basis, and in particular in the area of advocacy. The Council has now consulted with its member states, and welcomes the opportunity to contribute a submission on this discussion paper. The Council has previously provided submissions on related issues.²

Background

We understand that the ultimate aim is for “fairer, simpler, and more effective ways of delivering the current envelope of support”³ that is provided at present from the government to the non-for-profit sector by way of tax concessions. This support equates to \$5–7 billion each year in quantifiable and unquantifiable concessions.⁴

The Council agrees with the conceptualisation of tax benefits for the NFP sector provided in the first and second rationales in the discussion paper: concessions are a form of subsidy for the delivery of public benefit, for a worthy cause.

1. Income Tax exemption and refundable franking credits

Q1/2/3, and Q10.

The question of whether the current categories of income tax exempt entity are appropriate (Q1) depends on what criteria should be used to determine whether an entity is entitled to an income tax exemption (Q2, Q3). The nature of those criteria, in turn, depend on the underlying purpose of providing tax concessions to non-for-profit organizations.

The discussion paper states that concessions can be seen as a form of subsidy for the delivery of public benefit, for a worthy cause.⁵ We would agree with extending the “public benefit” test to the income tax exemption (Question 2, 3). The conclusion must be that the current categories of income tax exempt entity are not appropriate.

¹ See Business.gov.au: <http://www.abn.business.gov.au/DgrListing.aspx>

² <http://www.vinnies.org.au/files/Submission%20-%20ACNC%20-%20St%20Vincent%20de%20Paul%20Society%20-%202020%20July%202012.pdf> <http://www.vinnies.org.au/files/NAT/SocialJustice/2012/Submission-to-NFP-Governance-Review.%20final.pdf>

³ Page 8, discussion paper

⁴ Page 8, discussion paper

⁵ Page 9

In our analysis, considering the principles of fairness, simplicity, and maximising social good, we consider the non-for-profits that currently receive an income tax exemption in three groups, attaining different levels of “public benefit”.

We would argue that “public benefit” clearly include organizations that provide free, universal access to essential goods and services, either as part of a government program or not (for example charity work, public hospitals, and public schools). These organizations provide the minimum level of goods and services that everyone in our society should be able to attain in order to maintain a basic standard of living, and to ensure human dignity and human rights are protected. These services are provided without discrimination as to status, and without fees that would exclude poor Australians.

Then there is a second group of non-for-profits that operate in the same area, but provide a different level of services. These include private hospitals, private health insurers, and private schools: all providing important services, but services that are provided elsewhere. It must also be noted that the institutions we group here are “private”: they cost money, and so are generally closed to people on very low incomes. Moreover, they are sometimes entitled to exclude people from their services for discriminatory reasons (for example religious schools that are not required to accept students of other faiths). While not questioning private organizations’ rights to discriminate, we must ask whether providing tax concessions to this group is really fair. This is particularly true when tax concessions here may occur at the expense of higher concessions or subsidies to the group of *essential* non-for-profits, with the inadvertent effect of increasing inequality – this is not a “public benefit”. For example, by subsidising private hospitals, the government may be seen to be helping those who can already help themselves, instead of investing more desperately-needed money where it will benefit a greater number of needy people: in free, universal healthcare. Concessions to this group must be carefully considered.

Finally, there is a group of “cultural” institutions that currently receive income tax exemptions: art, games, literature, and music. There is a clear rationale for promoting cultural participation and engagement. However, again, this group of non-for-profit organisations are even further from providing *essential* public services: they may provide a source of pleasure for many of us, but so does dining out at a restaurant or going to the movies – both activities run by organizations that *would* be taxed on income. We would again argue that concessions made to this group of non-for-profits needs to be carefully considered.

If the aim is to encourage “delivery of a public service, for a worthy cause”, then the income tax exemption for animal racing is even more questionable. There is a growing awareness in Australia of animal sentience, and coupled with this have been recent exposés on animal cruelty (in various settings) that have shocked us as a nation. It is a matter of fact that racing animals is an exploitative practice, in which animals are often cruelly treated, and tens of thousands are euthanized each year. To see animal racing as a public service, or a worthy cause, is laughable, and to exempt its income in the same way as a charity set up to relieve the suffering of the poor is insulting.

We believe that a net gain in social benefit could be achieved by limiting total income tax concessions to those non-for-profits that perform an essential public good, and redistributing the benefits elsewhere (perhaps to those non-for-profits, or perhaps towards specific programs run by other non-for-profits that meet an essential public good test).

2. DGRs

Q11/12.

There are evidently slightly different policy reasons for each of the different types of tax concession available to non-for-profit organisations. We would only comment that it seems slightly strange and unnecessarily complicated to have so many different categories of non-for-profits, each operating

under a slightly different combination of concessions. Surely one overriding purpose (for example, provision of “public benefit”, possibly with sub-categories depending on the level) could clear the waters. However, we note the ACNC’s upcoming work in this area.

Q17. Encouraging giving, particularly by high-income earners, is clearly important. The desired effect seems to be that whatever the donor gives, the government will give an additional percentage (in the current case, but the government forgoing some of its tax on the donor’s taxable income at the end of financial year).

Q18. We feel that testamentary giving through tax concessions should be treated under tax law no differently to *intervivos* giving: if the gift-recipient has deductible-gift recipient status, then the gift should not be taxed whether or not it was made *intervivos* or *testamentarily*. However, we note the comments in the table at page 33 of the discussion paper, and agree that if efficacy is likely to be low, then a reform may not be needed.

Q26. We ask why there needs to be a threshold for deductible gifts at all. Why not do away with the threshold, thereby recognising *all* giving (and possibly encouraging more, small, gifts), but continue with the policy that seems to be in place of only issuing receipts on request. We note also that the ATO doesn’t require production of receipts at the end of financial year anyway.

3. Fringe Benefits Tax Concessions

We agree that “salary sacrificing is utilised by eligible employers as a method of attracting employees by offering packages that compete with those offered by the commercial sector.”⁶ Again, we note the confused variety of categories within the non-for-profit sector (Q28/29), and believe that the ACNC will do valuable work in unpacking this. With regards to the two-tiered system (Q28/29), again we believe the ACNC will do work on separating out charities that operate to provide essential public services (which should receive the highest level of tax concessions) from other non-for-profits.

We also agree that fringe benefit tax concessions do raise issues of competitive neutrality. However, so too does the whole concessions scheme: non-for-profits that fall within a concession category are receiving a benefit that others are not, in recognition for the work that they do. It is unclear whether fringe benefits tax exemptions provide any more of a competitive advantage when recruiting than an income tax exemption, which will also result in more revenue available to be provided to staff in their pay packet.

4. Goods and Services Tax Concessions

5. Mutuality, Clubs and Societies

6. Next Steps

⁶ Para 128, page 34