

17 December 2012

NFP Sector Tax Concession Working Group Secretariat
The Treasury
Langton Crescent
PARKES ACT 2600

By email: NFPReform@treasury.gov.au

Not-For-Profit Sector Tax Concession Working Group – Discussion Paper

Live Performance Australia Submission

Dear Working Group

Thank you for providing the opportunity for interested stakeholders to provide comment on the Not-For – Profit Sector Tax Concession Working Group Discussion Paper (Discussion Paper).

Background

Live Performance Australia (LPA) is the peak body for Australia's live entertainment and performing arts industry. LPA was established in 1917 and is registered as an employers' organisation under the *Fair Work Act 2009*. We have over 360 members who work in the live performance sector across all artistic genres, including contemporary and classical music, musicals, theatre, comedy, dance, opera, circus and physical theatre. We represent producers, venues, promoters, performing arts companies, festivals and service providers such as ticketing companies and technical suppliers.

Live performance organisations are not the focus of the Discussion Paper. Despite this, NFP tax concession reform could have a significant impact on the live performance industry, which has a high proportion of NFP organisations.

Context: NFP organisations in the performing arts

The Australian Bureau of Statistics (ABS) research paper, *8697.0: Performing Arts*, found that at the end of June 2007 there were 726 performing arts organisations in Australia, of which 47% (or 345) were NFP organisations.

NFP organisations accounted for 61% of total income for the performing arts (\$447.5 million out of \$733.4 million).

The primary source of income for performing arts NFPs was government funding, which accounted for 38% or \$170.2 million. This was closely followed by box office income (36.9% or \$164.9million) and then fundraising (11.3% or \$50.7 million).

Although these figures are now slightly outdated, they do give an indication of the significance of NFP organisations in the performing arts.

More broadly, ABS research paper *8106.0: Not-for-profit Organisations, Australia, 2006-07* found that at the end of June 2007, art and culture organisations collectively made up 20% of all NFP organisations in Australia. This was the second highest category recorded by the ABS, just behind religious organisations on 21.3%. It should be noted that the 'art and culture' category is much broader than just performing arts (performing arts organisations accounted for approximately 9% of the category).

Amongst many others, LPA represents the Australian Major Performing Arts Group (AMPAG) companies, which include prominent NFP organisations such as the Sydney Theatre Company, Circus Oz, Opera Australia, the Melbourne Symphony Orchestra, Bangarra Dance Theatre, Bell Shakespeare and many more. We also represent a number of smaller NFP organisations ranging from dance companies (Chunky Move), to children's theatre organisations (Windmill Theatre), to training institutions such as the National Institute of Circus Art (NICA) and the Flying Fruit Fly Circus. We also represent government owned arts venues, which are run on a NFP basis. Our NFP members rely on government funding and are therefore subject to many of the same reporting requirements that apply to NFP entities in the community/human services sector. This means that they are often subject to the onerous and inefficient reporting requirements identified by the Productivity Commission report into the contribution of the not-for-profit sector¹.

LPA has had the benefit of reading the AMPAG submission to the Discussion Paper, and we strongly support the positions taken by AMPAG in their submission.

Rather than provide a full response to the Discussion Paper, we have chosen to highlight those issues which are of particular interest and/or significance to NFP's in the performing arts. We refer extensively to the AMPAG submission, throughout.

Our response to those issues are set out below:

LPA RESPONSE TO DISCUSSION PAPER (SELECTED QUESTIONS)

- **Question 4: Does the tax system create particular impediments for large or complex NFPs?**

¹ *Contribution of the Not-For-Profit Sector* – Productivity Commission Research Report, January 2010. <http://www.pc.gov.au/projects/study/not-for-profit>

LPA submits that the taxation system is too complex for all NFP's, not only large or complex NFP's, but also small to medium NFP organisations in the arts.

As AMPAG have stated, the burden of ensuring compliance with an unwieldy and overly complex taxation system is in itself a significant cost. NFP's are typically human resource poor, and consideration should be given to simplifying the taxation regime, to reduce compliance costs.

- **Question 17: What other strategies would encourage giving to DGR's, especially by high income earners?**

Encouraging higher rates of philanthropic giving is a major challenge for NFP's in the performing arts. To that end, LPA made a detailed submission to the 2011 Mitchell Review into private sector support for the arts. Our understanding is that the recommendations made by the Mitchell Review are being considered, and may be part of the forthcoming National Cultural Policy.

In responding to this Discussion Paper, LPA endorses the comments made by AMPAG:

1. A matched funding scheme is the single most important strategy to adopt, to stimulate higher rates of giving. Like AMPAG, we believe that a cap on government contributions to such a scheme would be counter-productive.
2. The Cultural Gifts Program should be amended to enable performing arts companies to receive culturally significant gifts (such as musical instruments) as "public collections".
3. GST should not apply to charity auction transactions, or fundraising events where the fund-raising body has DGR status.

- **Question 26: Should the threshold for deductible gifts be increased from \$2 to \$25 (or some other amounts)?**

LPA strongly disagrees with the assertion in the Discussion Paper that a change to the DGR threshold is likely to have a "minimal impact" on donor behavior. Although it is true that many small sum donors do not claim a tax deduction, the knowledge that they may (if they so choose), no doubt plays a role in their willingness to give. This may not be "rational" from the perspective of traditional economics, but makes perfect sense from a behavioural economics perspective.

LPA believes that an increase in the deductible gifts threshold would have a clear negative impact on small sum donor behaviour, and would create negligible administrative and/or compliance cost benefits.

LPA concurs with AMPAG assertion that the \$2 threshold is highly familiar to the donor base, (the cost of communicating a new threshold would be considerable), and an increase would send the wrong policy message. The government does seek to encourage private sector giving, but increasing the deductible gift threshold could be interpreted as (and indeed, may be) a contradictory reform.

- **Question 46: Are there any other issues or concerns with the operation of the GST concessions in their current form?**

The application of GST to tickets sold by NFP organisations in the performing arts, undertaking essentially non-commercial activity, has been a vexed issue and one in which AMPAG are closely engaged, and in ongoing discussion with the Commissioner, Treasury, the Assistant Treasurer and the TIES working group.

LPA supports the AMPAG position on this issue, and refers the Working Group to AMPAG's comments on this matter, and also in relation to questions 47 – 49.

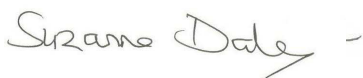
- **Question 57: Do you have any ideas for reform of NFP sector tax concessions within the terms of reference that have been considered in this discussion paper?**

Arts organisations are often under-staffed and under-resourced. Many are strained by the compliance costs associated with navigating the current tax system.

Like AMPAG, LPA requests that the Working Group give serious consideration to simplifying the system with an aim to reducing those compliance costs.

If you have any queries regarding our submission please do not hesitate to contact via the contact details below.

Yours sincerely



Suzanne Daley

Director, Policy and Programs

T 61 3 9614 1111

M 0417 584 514

Email sdaley@liveperformance.com.au