

## **Consultation questions**

Q 1 What criteria should be used to determine whether an entity is entitled to an income tax exemption?

**WWF – Australia (WWF) agrees with the current stance, being that income tax exemption should apply to entities that primarily undertake purposes that are broadly beneficial to the community, such as charitable, religious, scientific and public educational institutions. If an entity is a Registered Charity with the ACNC it should receive ITE without further tests or conditions.**

Q 2 Are the current categories of income tax exempt entity appropriate? If not, what entities should cease to be exempt or what additional entities should be exempt?

**WWF considers that current categories are appropriate but that there should be consistency in treatment across the Charity sector.**

Q 3 Should additional special conditions apply to income tax exemptions? For example, should the public benefit test be extended to entities other than charities, or should exemption for some types of NFP be subject to different conditions than at present?

**WWF considers that the public benefit test should apply consistently across all entities that qualify for income tax exemption status.**

Q 4 Does the tax system create particular impediments for large or complex NFPs?

**It may, but not in particular for WWF.**

Q 5 Should other types of NFPs also be able to claim a refund of franking credits?

**The refund of franking credits should be available to all tax exempt entities.**

Q 6 Should the ability of tax exempt charities and DGRs to receive refunds for franking credits be limited?

**No – the tax treatment of dividends in the hands of these tax-exempt entities should remain the same as that for other entities (e.g. superannuation funds)**

Q 7 Should the ATO endorsement framework be extended to include NFP entities other than charities seeking tax exemption?

**This is a policy decision for the Government –WWF does not express an opinion.**

Q 8 Should the income tax exemptions for State, Territory and local government bodies be simplified and consolidated into the ITAA 1997? Which entities should be included?

**WWF does not have a view on this question.**

Q 9 Should the threshold for income tax exemptions for taxable NFP clubs, associations and societies be increased? What would a suitable level be for an updated threshold?

**This is a policy decision for the Government –WWF does not express an opinion.**

Q 10 Please outline any other suggestions you have to improve the fairness, simplicity and effectiveness of the income tax exemption regime, having regard to the terms of reference.

**The system should be consistent, fair across entities with similar objectives (e.g. all charities treated the same, all clubs, all associations etc.) be national, and encourage the sector to work in partnership with government to achieve objectives with minimal distortion due to taxation issues.**

Q 11 Should all charities be DGRs? Should some entities that are charities (for example, those for the advancement of religion, charitable child care services, and primary and secondary education) be excluded?

**WWF considers that all Charities should be DGR's**

Q 12 Based on your response to Q11, should charities endorsed as DGRs be allowed to use DGRs funds to provide religious services, charitable child care services, and primary and secondary education?

**This is a policy decision for the Government –WWF does not express an opinion.**

Q 13 Would DGR endorsement at the entity level with restrictions based on activity address the behavioural distortions in Australia's DGR framework? Could unintended consequences follow from this approach?

**WWF believes this approach would add unnecessary complication to the system and potentially invite unintended consequences.**

Q 14 If DGR status is extended to all endorsed charities, should this reform be implemented in stages (for example, over a period of years) in line with the PC's recommendations, or should it be implemented in some other way?

**WWF considers this reform should be implemented over a period of years to allow time for the sector to adjust.**

Q 15 Would a fixed tax offset deliver fairer outcomes? Would a fixed tax offset be more complex than the current system? Would a fixed tax offset be as effective as the current system in terms of recognising giving?

**A fixed tax offset system would deliver fairer outcomes, would be slightly, but probably acceptably so, more complex and would be as effective as the current system.**

Q 16 Would having a two tiered tax offset encourage giving by higher income earners?

**It may, but if the threshold is set in line with Canada (\$200), not to any material extent.**

Q 17 What other strategies would encourage giving to DGRs, especially by high income earners?

**Extension of tax deductibility for land covenanted for environmental purposes with appropriate safeguards to ensure correct tax paid if covenants are revoked.**

Q 18 Should testamentary giving be encouraged through tax concessions and what mechanisms could be considered to address simplicity, integrity and effectiveness issues?

**This is a policy decision for the Government –WWF does not express an opinion.**

Q 19 Would a clearing house linked to the ACN Register be beneficial for the sector and public?

**Yes, by encouraging increased and easier charitable giving via a “one stop shop” with outlines of what charities do, how they are funded what they have achieved and their underlying governances processes and procedures.**

Q 20 Are there any barriers which could prohibit the wider adoption of workplace giving programs in Australia? Is there anything the Working Group could recommend to help increase workplace giving in Australia?

**There are no institutional or legislative barriers, low take up seems to be more about awareness particularly below the large corporate sector, so enabling or allocating funding for increased publicity would seem to be the most logical impact of the working group.**

Q 21 Do valuation requirements and costs restrict the donation of property? What could be done to improve the requirements?

**WWF does not have a view on this question.**

Q 22 Is there a need to review and simplify the integrity rules?

**WWF does not have a view on this question.**

Q 23 Are there additional barriers relevant to increasing charitable giving by corporations and corporate foundations? Is there anything the Working Group could recommend to help increase charitable giving by corporations and corporate foundations?

**Not really, the workgroup should emphasize and promote Workplace Giving and its advantages for employees**

Q 24 Are the public fund requirements, currently administered by the ATO, either inadequate or unnecessarily onerous?

**WWF does not have a view on this question.**

Q 25 Are there any possible unintended consequences from eliminating the public fund requirements for entities that have been registered by the ACNC?

**WWF does not have a view on this question.**

Q 26 Should the threshold for deductible gifts be increased from \$2 to \$25 (or to some other amount)?

**WWF does not believe this level should be increased despite the administrative impacts imposed by the low level. The reasons for this are:**

- **Future potential charitable giving streams from mobile devices will be at a low level.**
- **Changing the level may give the impression that charitable giving is only for the well off; the current level indicates it is for everyone.**
- **In practice the administration for \$2 donations is not as difficult as it could be perceived as there are very few donations at this level.**

Q 27 Outline any other suggestions you have to improve the fairness, simplicity and effectiveness of the DGR regime, having regard to the terms of reference.

**Consistency of approach to tax concessions for all who obtain DGR status (i.e. one framework operating across the sector eliminating historic anomalies and exceptions).**

Q 28 Assuming that the current two tiered concessions structure remains (see Part B), what criteria should determine an entity's eligibility to provide exempt benefits to its employees?

**DGR Status – in that all entities with DGR status should be treated equally**

Q 29 Also assuming that the current two tiered concession structure remains (see Part B), what criteria should determine an entity's eligibility to provide rebateable benefits to its employees? Should this be restricted to charities? Should it be extended to all NFP entities? Are there any entities currently entitled to the concessions that should not be eligible?

**DGR Status – in that all entities with DGR status should be treated equally**

Q 30 Should there be a two tiered approach in relation to eligibility? For example, should all tax exempt entities be eligible for the rebate, but a more limited group be eligible for the exemption?

**WWF believes that there should be a consistent (1 tier) approach to concessions and eligibility**

Q 31 Should salary sacrificed meal entertainment and entertainment facility leasing benefits be brought within the existing caps on FBT concessions?

**WWF believes that these benefits should be brought within the existing caps.**

Q 32 Should the caps for FBT concessions be increased if meal entertainment and entertainment facility leasing benefits are brought within the caps? Should there be a separate cap for meal entertainment and entertainment facility leasing benefits? If so, what would be an appropriate amount for such a cap?

**The caps should be indexed on an annual basis in line with CPI. Whether there is a one off increase to account for the proposed change in approach would depend on the availability of funding.**

Q 33 Are there any types of meal entertainment or entertainment facility leasing benefits that should remain exempt/rebateable if these items are otherwise subject to the relevant caps?

**No**

Q 34 Should there be a requirement on eligible employers to deny FBT concessions to employees that have claimed a concession from another employer? Would this impose an unacceptable compliance burden on those employers? Are there other ways of restricting access to multiple caps?

**WWF consider that each employee should be entitled to only one concession in total. The way to achieve this should be the most administratively easy option available, potentially limiting the concession to one employer.**

Q 35 Should the rate for FBT rebates be re-aligned with the FBT tax rate? Is there any reason for not aligning the rates?

**WWF considers the rate should be re-aligned**

Q 36 Should the limitation on tax exempt bodies in the minor benefits exemption be removed? Is there any reason why the limitation should not be removed?

**Yes – there is no reason to retain this limitation**

Q 37 Is the provision of FBT concessions to current eligible entities appropriate? Should the concessions be available to more NFP entities?

**The current system has evolved through individual decision over time. It should be reviewed with the sector and a clear set of guidelines implemented to ensure consistency of treatment across the sector after an extensive consultation process (i.e. all charities treated the same, all sporting associations the same etc.)**

Q 38 Should FBT concessions (that is, the exemption and rebate) be phased out?

**Yes, provided these are replaced with similar concessions on a simplified basis to enable the charity sector to compete with the for profit sector for staff**

Q 39 Should FBT concessions be replaced with direct support for entities that benefit from the application of these concessions?

**No, for administrative, simplicity and consistency and fairness the support should be to the individual employee through the taxation system as outlined in Q 40.**

Q 40 Should FBT concessions be replaced with tax based support for entities that are eligible for example, by refundable tax offsets to employers, a direct tax offset to the employees or a tax free allowance for employees?

**Yes this would ensure equity across the sector in relation to employment practices and concessions.**

Q 41 Should FBT concessions be limited to non-remuneration benefits?

**No sector concessions should be provided in an alternative manner as noted above and then entities subject to the same FBT regime as the private sector.**

Q 42 If FBT concessions are to be phased out or if concessions were to be limited to non-remuneration benefits, which entity types should be eligible to receive support to replace these concessions?

**Registered charities with DGR status**

43. Does the existing fundraising concession create uncertainty, or additional compliance burdens, for NFP entities that wish to engage in fundraising activities that fall outside of the scope of the concession?

**Not to any significant extent**

44. Would a principles-based definition of the types of fundraising activities that are input-taxed reduce the compliance burden for entities that engage in fundraising?

**Yes**

45. Should current GST concessions continue to apply for eligible NFP entities?

**Yes**

46. Are there any other issues or concerns with the operation of the GST concessions in their current form?

**No**

47. Would an opt-in arrangement result in a reduced compliance burden for charities that would otherwise need to apply apportionment rules to supplies made for nominal consideration?

**WWF does not have a view on this question.**

48. If an opt-in arrangement is favoured, would the preference be to treat the supplies as taxable or input taxed? Why?

**WWF does not have a view on this question.**

49. Is there an alternative way of reducing the compliance burden associated with apportionment for supplies made for nominal consideration?

**WWF does not have a view on this question.**

50. Should the gaming, catering, entertainment and hospitality activities of NFP clubs and societies be subject to a concessional rate of tax, for income greater than a relatively high threshold, instead of being exempt?

**This is a policy decision for the Government –WWF does not express a view.**

51. What would be a suitable threshold and rate of tax if such activities were to be subject to tax?

**This is a policy decision for the Government –WWF does not express a view.**

52. Should the mutuality principle be extended to all NFP member-based organisations?

**This is a policy decision for the Government –WWF does not express a view**

53. Should the mutuality principle be legislated to provide that all income from dealings between entities and their members is assessable?

**This is a policy decision for the Government –WWF does not express a view**

54. Should a balancing adjustment be allowed for mutual clubs and societies to allow for mutual gains or mutual losses?

**This is a policy decision for the Government –WWF does not express a view**

55. Is existing law adequate to address concerns about exploitation of the mutuality principle for tax evasion? Should a specific anti-avoidance rule be introduced to allow more effective action to be taken to address such concerns?

**This is a policy decision for the Government –WWF does not express a view**

56. Are there any areas in which greater streamlining of concessions could be achieved?

**The FBT concession area, by replacing existing concessions with a tax adjustment for employees in the sector.**

57. Do you have any ideas for reform of NFP sector tax concessions within the terms of reference that have not been considered in this discussion paper?

**Explore the potential for employers that have a workplace giving scheme in place to have their staff 'opt out' of the program rather than the current 'opt in' arrangements. This could potentially increase the level of giving to the sector in total while still allowing companies and individuals to direct in accordance with their preferences.**