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SUBMISSION: TAX CONCESSIONS FOR THE NOT-FOR-PROFIT SECTOR

The Public Trustee of Queensland welcomes the Government's commitment to maintaining the integrity of Not-for-Profit Sector through fairer, simpler and more effective tax concessions. In response to the *Not-For-Profit Tax Concession Working Group Discussion paper*, The Public Trustee of Queensland would like to take the opportunity to provide feedback on the questions raised in the discussion paper.

Background

The Public Trustee of Queensland is Trustee for several of Queensland's leading philanthropic charitable trusts. In the main these Trusts maintain their capital in perpetuity for future generations of Queenslanders. Some Trusts continue to grow their capital bases due to the generous support of philanthropic minded people who choose to leave a lasting legacy to Queensland.

The philanthropic charitable trusts maintained by the Public Trustee have provided a direct source of funds for over 185 charitable organisations in the last 12 months. The ongoing resources provided by these public ancillary funds assist local and national charities to achieve lasting differences in areas of significant need.

The major funds include The Queensland Community Foundation; Lady Bowen Trust; Forde Foundation; the Queensland Aboriginal and Torres Strait Islander Foundation and the Gladstone Foundation. These five major trusts maintain a combined capital base of approximately \$100m.

General comments

The objectives of the proposed reforms are to create simpler and more efficient approach to the NFP sector. While the discussion paper talks to the details of how different regimes (FBT/GST/Income Tax) might be applied, it is the opinion of the Public Trustee of Queensland that in fact, the first thing to consider would be a simplification of the tests for organisations across all tax regimes.

The Public Trustee of Queensland envisages that the framework would be administered by the Australian Charities and Not-for-profit Commission (ACNC). Organisations would be required to be endorsed by the ACNC and approved at their appropriate level. This framework would mean simpler tests and greater consistency in the application of concessional taxation treatments.

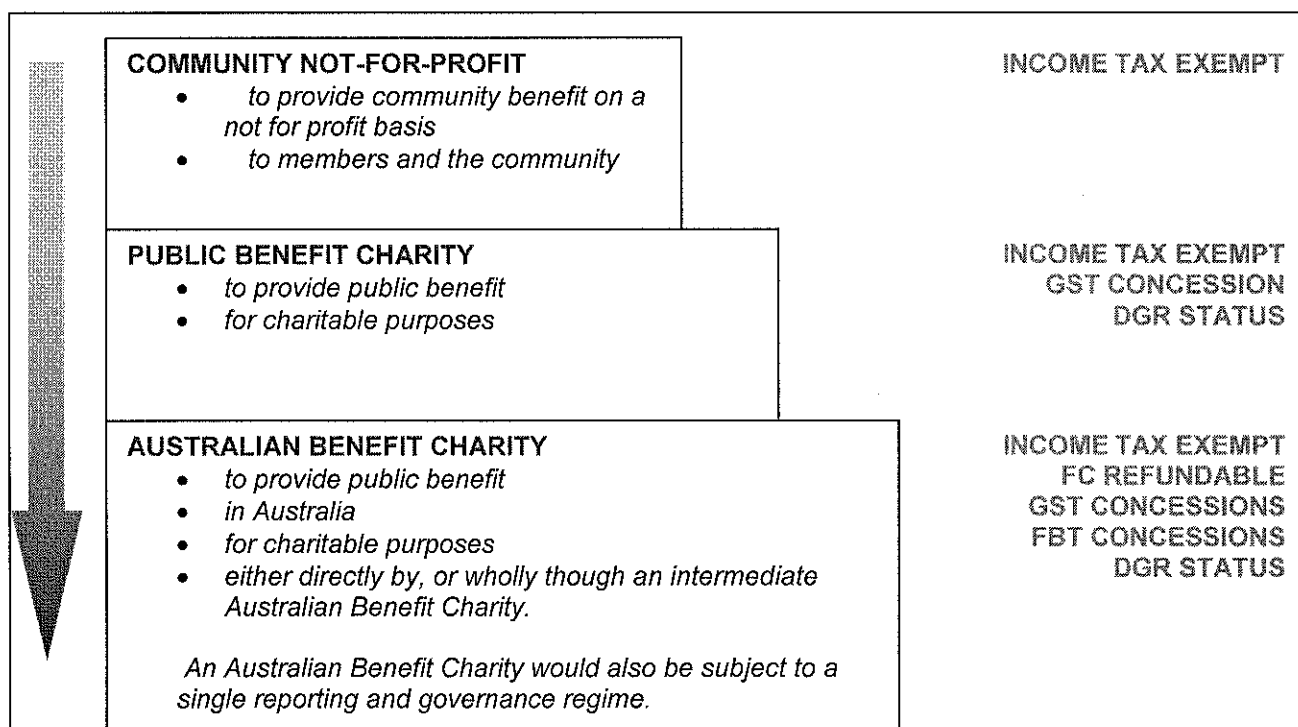


Fig. 1.1: a simplistic example of a holistic framework

Specific comments

1. Income Tax exemption

Option 1.1: Who should be eligible for exemption from income tax?

Option 1.3: Extending the ATO endorsement framework

The Public Trustee of Queensland submits that income tax exempt status should be afforded to all organisations offering a community or public benefit on a not for profit or charitable basis. In order that this principle is robustly interpreted, the Public Trustee submits that a process of endorsement should be applied by the ACNC.

Option 1.2: Who should be eligible for refunds of franking credits?

While the enjoyment of income tax exempt status is appropriate for organisations providing benefits to their communities broadly, the Public Trustee would consider that limiting the refunding of franking credits would be appropriate to organisations where there is public benefit provided for charitable purposes within Australia.

2. Tax Deductions for donations

Option 2.1: Extending DGR status to all charities

The Public Trustee of Queensland contends that DGR status should be limited to those organisations providing public benefit. Where public benefit for charitable purposes can be demonstrated by an organisation, then Deductible Gift Recipient status should be automatic.

In the example of education / childcare providers, DGR status would not be available as they would not be able to demonstrate a dominate purpose of providing public benefit.

Option 2.4: Implementing a tax offset mechanism for gifts

While it is true that the incentive to donate to deductible gift recipients is greater for higher income earners, the statistics also show that those with a larger disposable income have greater capacity to give. While creating an offset to limit the tax effect of gifts may reduce the benefit provided to high income earners, it does not necessarily follow that lower income earners will then give more. To endorse the use of an offset (as opposed to a deduction) as the mechanism for recognising philanthropy in Australia; the government risks significantly diminishing the level of funds available for public benefit in this country.

Option 2.6 Tax incentives to encourage testamentary giving

As one of the largest Will makers in Queensland, and a significant administrator of deceased estates, the Public Trustee of Queensland has significant unique experience in the area of testamentary giving. The proposal that the benefit of giving be provided to the individual before the public benefit has been established or realised is one for concern. This proposal is neither simple nor effective, and is fraught with significant risk of avoidance issues.

Option 2.7: Creating a clearing house for donations to DGRs

The Public Trustee of Queensland considers this proposal to be an excellent investment into the sustainable funding of DGR entities, and would welcome the implementation of such a mechanism to facilitate workplace giving.

Option 2.10: Increase the threshold for a deductible gift from \$2 to \$25

An increase in the threshold recognises not only the current administrative costs of administering donations by deductible gift recipients, but is also reflective of current giving practices. The Public Trustee of Queensland would endorse such an increase.

3. Fringe benefits tax

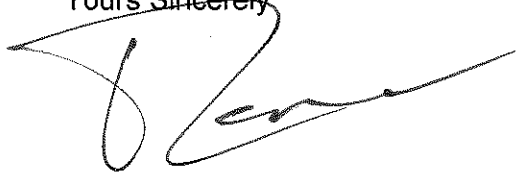
Option 3.1: Should the list of entities eligible for the exemption or rebate be revised?

The Public Trustee of Queensland recognises the difficulty in attracting appropriately qualified staff to the not for profit sector, and the role of FBT concessions in order to mitigate the issue. In the interests of fairness and simplicity, The Public Trustee of Queensland would favour a lower FBT limitation and a broader availability for the sector. That is, all organisations providing a public benefit within Australia for charitable purposes should be automatically entitled to the FBT concessions.

Again, the application of consistent tests for a range of taxation regimes serves to simplify the regulations significantly, and the assessment of the public benefit for charitable purposes would be conducted at the endorsement stage by the ACNC.

The Public Trustee of Queensland welcomes the opportunity to contribute to the reform of the sector in order that regulation is fairer, simpler and more efficient. If we can be of further assistance in support of this submission, please do not hesitate to contact us.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'Peter Carne', with a long, sweeping horizontal stroke extending to the right.

Peter Carne
Public Trustee of Queensland