

NOT-FOR-PROFIT SECTOR TAX CONCESSION WORKING GROUP

JOINT SUBMISSION TO DISCUSSION PAPER – NOVEMBER 2012

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This joint submission is not intended to cover all consultation questions and selectively addresses some of the questions.

Most of the issues to be addressed in this submission are concerned with the impact any proposals would have on the ability of Not-for-Profits to attract staff to the sector and indeed retain existing staff should some of the suggestions be implemented without any compensating changes to Salary arrangements.

Background of Respondents

Mervyn Williams – member of Institute of Chartered Accountants since May 1979 and CFO of Rocky Bay Inc since October 1993. Rocky Bay is an Incorporated Association (DGR and ITEC) operating in the disability sector in Western Australia since 1938. I was also part of working parties of both Chamber of Commerce and Industry and the Institute of Chartered Accounts in Western Australia that provided submissions to the Tax Reform Review in 2011.

Martin Kirkness – Managing Partner of Dry Kirkness, Chartered Accountants and actively engaged in providing professional accounting, auditing and taxation services to the NFP sector. Martin has been involved with the rollout of the GST in 2000 and provided training and support services to the sector on this reform package. He is a past member and Chairman of Finance Committees to private education sector and currently chairs a charitable fund. Martin has extensive engagement with the sector and has presented at professional seminars for business managers in the sector on tax and related matters for a number of years.

This submission is made in our personal capacity and should not be construed to represent the views of our respective employers.

General background information

Since the certainty provided from the introduction of the \$ 30,000 gross benefit limit to the sector in 2001, many of the existing benefits have been enshrined into remuneration packages offered to all levels of staff within an organisation.

Typically the base salaries paid within the sector are less than those available for comparable positions in either the For Profit and Government sectors. The overall packages are more comparable when the impact of packaging options such as the \$30,000 Gross Up value per employee Sacrifice benefit are taken into account in the complete package.

Indeed in Western Australia salary levels within the NFP sector are very similar between organisations as a result of the relatively small workforce market and competitive pressures. Within the sector salary packages are measured taking into account taxation benefits that have been part of the salary package for a number of years.

Questions to be specifically addressed

Question 26

The fact should not be lost that many donors do so for philanthropic reasons but many also do it in order to also obtain a deduction for income tax purposes. It is reasonable that the amount of the minimum donation amount should be increased from its long standing level of \$2. We would see that an increase to \$25 is possibly too large and may be a significant disincentive for public to donate if they have to start at \$25 in order to obtain a taxation deduction. In our view a more realistic figure could be \$10 in order for the donor to obtain a tax deduction.

Questions 37 to 39

There appears to be an overarching theme that this sector and the rest of the for profit workforce should be treated on the same basis with respect to FBT concessions.

Whilst this is an ideal outcome there is a significant concern to the NFP sector concerning how organisations are to fund the additional salaries that will become essential if staff are to be retained (or indeed attracted to work) within the NFP sector. Before any legislative entitlements are removed this needs to be carefully considered. If the maximum \$30,000 grossed up amount is utilised by employees, the additional salary needed to provide an employee with the same disposable income ranges from \$5,599 to \$10,048 (before salary oncosts which range between 25 and 30%) depending upon the individual's marginal tax rate. For an organisation with 400 employees utilising the maximum available sacrifice, this would result in annual additional wages costs of between \$2,800,000 and \$5,000,000.

Organisations within the sector have very little capacity to increase income levels to offset increased costs through additional income generation and would be reliant on additional funding from government to cover this cost. In fact if organisations seek to raise additional income through commercial initiatives, it may have the unwanted consequence of jeopardising their ongoing entitlement to the range of income and other tax concessions currently provided. If an organisation in the NFP sector becomes liable to income tax on part or all of its activities, it will under the current structures and tax rates quickly become financially unviable. The consequence on those using the services provided by the organisation will be significantly negative.

Questions 31 to 33

Access to the additional sacrifice for meals entertainment and facility leasing costs has been available to the sector for a lesser period of time and is therefore less entrenched in remuneration packages.

Rocky Bay does offer this additional sacrifice option to its employees and it has to be said that there is lesser level of "take up" across the workforce and those who do use this form of sacrifice are made aware that it is not part of the overall remuneration package and is only available as long as permitted by taxation laws.. Typically staff on the higher salary levels tend to be those taking advantage of this option and Rocky Bay has a self imposed cap on the amount that can be sacrificed each year.

For this reason any recommendation that placed a maximum level (for example \$10,000 per annum) would be endorsed.

Question 34

The ability to sacrifice the allowable limit of \$30,000 grossed up at more than one employer is not considered equitable or just and therefore any consideration to limit this would also be supported by us. It is suggested that the access to the concession could be implemented by a question on the Tax File Number Declaration form provided by each employee.

Concluding remarks

It is acknowledged that the current FBT concessions have evolved over many years and could be seen to be complex and unwieldy to maintain. However the existing concessions do provide a well established way of providing remuneration packages within the NFP sector that have allowed the sector to attract and retain quality and skilled staff to enhance the service delivery to clients. Any change to reduce the existing FBT concessions available will require a corresponding increase in direct government assistance to the sector.

This submission argues that any change must deliver positive outcomes for all stakeholders, including the wider Australian community.

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