

**SUBMISSION FROM THE UNITING CHURCH IN AUSTRALIA
NATIONAL ASSEMBLY, DATED 16TH December 2012.**

The Manager,
Charities Unit,
Indirect, Philanthropy and Resource Tax Division,
The Treasury,
Langton Crescent,
PARKES. ACT. 2600.
AUSTRALIA

**NOT-FOR-PROFIT SECTOR TAX CONCESSION WORKING GROUP
DISCUSSION PAPER Dated NOVEMBER 2012:**

Dear Manager,

This submission represents the views of the Uniting Church in Australia in all its diversity of activities, locally and internationally, including our community services operations under the banner of UnitingCare who will be making a separate submission for their area of activities. Both UnitingCare Australia and the Uniting Church have worked collaboratively under the coordinating leadership of Nina McKenzie and Jim Mein AM respectively and they are available to make a joint presentation to the Working Group if so required.

Whilst the Uniting Church, hereinafter referred to as “the Church”, is generally supportive of the Government’s initiative to create the Commission (“ACNC”), it has some considerable concerns with the extent of the suggested changes predicted for the income tax and other taxation concessions discussion paper which are both wide sweeping and unsustainable. Certainly they do not achieve the Government’s overall objective of “fairer, simpler and more effective tax concessions for the not-for –profit sector” “at no extra cost to Government.”

What is also difficult to see and discuss is the ability to confidently assess the still to be advised unrelated business income tax proposal. The inability of the Federal Government to present an isolated non-business related income tax (currently referred to within the industry as an unrelated income tax or UBIT Tax). Failure to define this tax is making the discussion paper an uninformed, inconclusive, and an unhelpful document. An often heard concern is that the “UBIT” is a “charities” Tax. We wonder why ‘UBIT’ has not since been introduced. Does the Australian Government still plan to introduce the UBIT tax?

As a national Australian Church and one of the largest religious institutions, aged care and other community services providers and educational bodies, we have regularly provided government assistance advice and assistance and are happy to meet with our counterparts and the Treasury counterparts.

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BACKGROUND TO THE UNITING CHURCH IN AUSTRALIA

The Church is an unincorporated body created by consistent State and Territory called the property trust legislation. That legislation was enacted on 22nd June 1977.

The Church is the result of the of many years of discussion to 22nd June 1977 of the Methodist Church in Australia and the majority of both the Presbyterian and Congregational Union Churches in Australia.

Enabling State and Territory Legislation created a statutory corporation in each of their geography but the “State” jurisdictions for the Church do not exactly follow those geographies. Additionally, the Church is a federated body but the main operational responsibilities are through the synods and their presbyteries, most of the latter being limited to each presbytery’s regional geography but there are some exceptions, being mainly because of indigenous and ethnic presbyteries. As well, each statutory corporation primarily has a nominee role and not one that is a trading or operational activity.

Being primarily an unincorporated association of religious individuals who are able to exercise a wide variety of ministries through the authority of national Regulations and synod by-laws, there are nonetheless many different structures including unincorporated entities such as the synods, national Assembly, church constituted unincorporated bodies and congregations, companies limited by guarantee, incorporated associations, letters patent, public ancillary funds and trusts. This structural diversity covering over 3,000 entities across Australia will be greatly impacted by the recently passed legislation for Charities and Not-for-Profit entities which primarily appear to be built on companies limited by guarantee and incorporated associations.

We also advise that we believe there has been considerable consultation by Government officers and bureaucrats throughout the evolutionary development of the ACNC Legislation through the many opportunities to respond to discussion papers, attend discussions in public forums as well as in special meetings with them and leaders of the Church.

At times we have been resource pressured in meeting deadlines for submissions but there has been reasonable consideration of our comments and suggestions. However, one has to understand the diversity of the sector in its range of activities, entity structures, governance processes and accountabilities. In other words, one set of rules and requirements does not automatically work for all. Our mixture of unincorporated entities, companies limited by guarantee, incorporated associations, letters patent, trusts and public ancillary funds is not common to most charities and not-for-profit organisations.

Our ultimate concern is the way the Discussion Paper has been designed as a more political presentation of options for the sector to guide the Federal Government. We also seek a formal process of consultation to ensure such that the Government’s sector understanding will achieve a fairer distribution of tax concessions within the sector.

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Accordingly our submission does not follow the suggested commentary on each of the 57 “Consultation Questions”.

The Church also widely supports the Uniting Care Australia submission for the community welfare sector support and related services, particularly their area of charity. Our preference on the latter is for a statutory recognition to be automatic if that an activity is owned by a religious institution.

We also welcome the invitation to comment on the Working Group’s Discussion Paper and value the research network of the Working Group. However we are very concerned at the wide nature and diversity of activities within the Not-for-profit sector as entertained by the Federal Government. The NFP Sector should not be as large as it has been accepted to be by governments.

COMMENTS ON SELECTED SUGGESTIONS IN THE DISCUSSION PAPER:

Option 2.1: Extending DGR Status to all charities

The Church firstly needs to comment on paragraph 74 on page 24 of the Discussion Paper. The church is the owner of some 50 schools around Australia. For our schools, we do give value for money education which is a significant factor attracting the high number of students.

We agree that tax deductibility for additional services is inappropriate but we fail to see any justification for the comments: “Granting DGR status to these schools is likely to give rise to integrity issues as it would be difficult to distinguish between the payment of fees and voluntary donations.....” We are unable to see an integrity issue if the current DGR status is not granted to schools. However removal of the current DGR funds status to non-government schools would certainly be an injustice.

Option 2.2: extending DGR status to most charities”

The Church does not favour the DGR Status being granted to all Australian charities. We believe the current DGR status allocation is adequate, including the limited use by our schools, because they favour the mainly government funded contracts to the community welfare services area.

Option 2.3: Establishing endorsement conditions relating to the scope of charitable activities:

The Church supports the continuity of the DGR endorsement at the entity level with endorsement conditions for the local entity and its context.

Option 2.6: Encouraging charitable giving and reducing transaction costs:

The Church sees potential benefits from this option but needs to see the proposal’s details so that a full and proper assessment can be made.

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Option 2.7: Creating a clearing house for donations to DGRs:

The Church sees no cost benefit value in such a donation administrative possibility for the following reasons:

- a) The time delays between the original donor and the receipt by the benefiting DGR/Overseas Aid Fund.
- b) The Church needs certainty that the donations are received by the correct fund and that there is an ongoing development of the donor and donor's families to the overseas aid agency. There is no absolute certainty that the donor-donee relationship will be retained with a clearing house. This would be a worse scenario if the Australian Taxation Office and /or Federal Treasury were involved. In other words, no benefit is seen.
- b) The risk of losing the relationship with donors.
- c) \$25 million cost is in our opinion a waste of public funds and would be better utilised in direct benefit to charities and their beneficiaries.

If a charity chose to outsource the clearing house, this would not be opposed but to enforce its use by charities is of no benefit.

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

The Church has considerably assessed the minimum deduction claimable for taxation purposes. Whilst the \$25 donation is arithmetically attractive as it costs considerably more than \$2 to process and to service a donor, we are reluctant to agree to a \$25 starting bench line for donors to claim a donation to an approved beneficiary. Our reasons include:

- The importance of the relationship between the donor and the DGR is of strategic value-long-term- and the small donor can be a substantial donor after death.
- The small donor can be an active supporter of the organisation such that their contribution status must also be measured with other types of contributions as well.

Option 3: Fringe Benefits Tax Concessions:

The Church supports the current regime of FBT and its practical procedures. In fact, it would be nervous about any change that would reduce the tax concessional benefits. Equally, we do not want the capping of exempt benefits because of our great reliance on equity between the employer and employee with the background context of other employment scenarios within the Church's activity diversity.

We also support the benefit sharing of FBT in hospitals between hospital employers and employees.

We would also favour consideration of:

- Automatic granting of FBT and income tax exemptions rather than separately.
- Automatic rejection of FBT exemptions if the entity is not income tax exempt.

Inclusion of meal entertainment and facility leasing benefits within the relevant caps and provide indexation of the caps since their introduction and into

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- the future in order to bring greater equity, reduced administration, retention of value of these tax concessions and save resources.
- Removal of the distinction between FBT Exemption and FBT Rebate and the resultant singular mechanism being that currently being used for FBT Exemption.

Our final area of concern is the absence of indexation of FBT concessions whereas the prime remuneration has been annually indexed or negotiated upwards. By failing to index the concessions, it has become a way of tax saving with lessening benefit, particularly to hard working employees.

Option 5: Mutuality

This area of tax concessions has minimal relevance to the activities of the Church. The main beneficiaries are what are otherwise perceivable as not primarily for the benefit of the social welfare needs of the community nor charitable purposes.

SUMMARY

Our main concern is the no extra overall cost approach for any reform of tax concessions when we do not know the Government's ultimate proposal with "UBIT".

The only innovative suggestion as far as we are concerned relates to the increase of the minimum claimable tax deduction from \$2 to \$25 but it will not adequately work for us. We are certainly open to conversations with you and the Working Group if that is desired.

We are disappointed that a more thorough review of fringe benefits tax deductions does not seemed to have happened.

Yours faithfully,

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