

21 December 2012

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

Dear Manager

### TAX CONCESSIONS FOR THE NOT-FOR-PROFIT SECTOR

Thank you for the opportunity to make this submission. The Queensland Law Society represents 8 500 of solicitors in Queensland, many if not most, also serve in a *pro bono* capacity in not-for-profit organisations. The Society limits its response to only four questions.

**1. Question 7: Should the ATO endorsement framework be extended to include NFP entities other than charities seeking tax exemption?**

This question encompasses two issues:

1. The appropriateness of the ATO endorsement framework; and
2. What entities should be covered by the endorsement framework

Regardless of which entities are covered by the framework, it is no longer appropriate for the ATO to be the decision maker in respect of whether an entity (charity or otherwise) is eligible to be endorsed as a separate commission, the Australian Charities and Not-for-Profit Commission (ACNC) has now been established (from 4 December 2012) with the specialist function of overseeing the sector..

Even if endorsement responsibilities are extended to other not for profit entities, beyond charities it would be logical and simpler to have the ACNC making that determination with consequent tax concessions flowing from that. Giving this role to the ACNC would also improve the efficiency of the endorsement framework and remove some of the confusion about the respective roles and functions the ATO and ACNC.

**2. Question 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?**

We note that GST exemptions for fundraising events are limited on a per annum basis. This is problematic when the same fundraising event is held on different dates and in different locations. This effectively means that not every event will be entitled to claim a GST concession.

*Wording of Cancer Council submission - Currently GST exemptions for fundraising events are limited to a certain number of events per year. Where an event is held on a number of different dates at different venues within a year not all of these events are eligible for GST concessions.*

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

It is the view of the Queensland Law Society that volunteer branches should be permitted to be grouped with the main charity for the purpose of fundraising activities. This benefit is currently enjoyed by churches. We therefore consider that this benefit should be extended to all charities.

*Wording of Cancer Council submission - Grouping of volunteer branches with the charity for which funds are being raised should be allowed. This is currently possible for churches and should be extended to all charities.*

**4. Q 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?**

Whilst the Discussion Paper makes it clear that the net effect of changes to the tax laws must be revenue neutral the Discussion Paper also makes it clear that its object is also fairer, simpler and more effective tax concessions for the not for profit sector as a whole. Given the voluntary, altruistic, public benefiting nature of the sector, it might reasonably be expected that the sector would be recipient of a preponderance of concessions and at the least a fair share as a percentage of total tax concessions. The Discussion paper points out, though, that the total envelope of tax concessions is over \$100 billion ((\$111.664 billion according to the Tax Expenditure Statements) and the portion enjoyed by NFPs around (only) \$4 billion that is approximately 3.6%. The Productivity Commission Report on the Not for profit sector pointed out that in 2006 -2007 the sector comprised 4.1% of GDP and was growing at 7%. The QLS does not make submissions as to where or when adjustments in the total envelope of concessions should be made but raises for the Working Groups consideration the apportionment of the total concessions. If a fairer, simpler and more effective regime of tax concessions is to be developed it should take into account not just the concessions granted to the NFP sector but those concessions as a percentage of the total envelope of concessions.

Thank you for providing the Society with the opportunity to comment on the discussion paper. We look forward to further consultation on this matter. Please contact our Policy Solicitor Ms Raylene D'Cruz on (07) 3842 5884 or [r.dacruz@qls.com.au](mailto:r.dacruz@qls.com.au).

Yours faithfully



Dr. John de Groot  
President