



19th December 2012

NFP Sector Tax Concession Working Group Secretariat
The Treasury
Langton Crescent
PARKES ACT 2600

Response to Not-For-Profit Sector Tax Concession Working Group Paper Introduction

St John Ambulance Australia

St John Ambulance Australia (St John) is a large Australian charity and makes a significant contribution to Australian society by providing first aid services at events and emergencies, first aid training, youth development, various community care programs, a national public access defibrillation program and Ophthalmic programs. St John is largely self-funding, with government contracts limited to provision of ambulance services in Western Australia and Northern Territory, Non-Emergency Patient Transport, some community services programs and specific project grants.

St John is one the world's oldest health charities. As well as providing First Aid, it empowers the community by teaching first aid as well as providing first aid kits to enable people to perform life-saving first aid.

St John Ambulance Australia in Australia consists of 9 separate not-for-profit organisations (Associations or companies limited by guarantee). The 8 State/Territory organisations (one in each State or Territory) are responsible for delivering the wide range of charitable services provided by St John. The 9th organisation, referred to as the National Office, is responsible for ensuring the St John name and reputation is protected and provides a wide range of services to the State/Territory St John organisations. All 9 St John organisations are currently registered as charities.

St John has made a significant contribution to Australia over the last 130 years through saving lives and training thousands in first aid. In 2009/2010 St John commissioned Access Economics to conduct a contribution study to quantify the economic contribution that St John makes to Australia by three of its programs: provision of first aid services at events and emergencies, first aid training and Project Heartstart, the National Defibrillation program. The value of the contribution to Australian society was estimated in 2009 to be approximately \$1 million a day or \$365 million per year. This contribution would be substantially more if the other benefits that St John provide to the community such as youth programmes, leadership training of our volunteers and the empowering of our community by the teaching of first aid were also included.

St John agrees, as noted on page 9 on the discussion paper, that concessions 'save governments from making outlays for similar activities' and that 'without incentives, such as tax concessions, the overall level of activity in the NFP sector may be sub-optimal'. The use of the term concessions seems to imply that there is only a cost to Government. However, not providing subsidies to NFPs will lead to increased costs for Governments in having to pay for services no longer provided by the NFP sector.

St John has chosen to respond to a selection of questions most relevant to our charitable status and we have focused on those concerning Fringe Benefits Tax concessions. As a Public Benevolent Institution St John has used the FBT concessions to attract and retain staff and reduce running costs. Our concern is that some of the recommendations may lead to unforeseen consequences which will impact the guiding principles of maximising the social good, providing a supportive environment, fairness and simplicity.

In addition, the Government is rightly encouraging charities and NFPs to improve their corporate governance. St John is a strong advocate of good corporate governance but also notes that FBT salary packaging makes this more achievable with less impact on the surplus required to keep our aims and objectives sustainable.

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

The Australian Charities and Not-For-Profits Commission (ACNC) is now established with the aim of being the regulator for the Charitable and Not-for-Profit sector. It is initially responsible for determining whether an organisation is a charity and will later also examine the charitable status of not-for-profits.

St John's view is that the role of the ACNC will be critical in determining whether an entity is entitled to income tax exemptions. Once the entity has been accepted by the ACNC it should be entitled to income tax exemption.

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?

St John agrees that charities that do not provide private benefits to individuals should automatically be given DGR status. Now the Australian Charities and Not-For-Profit Commission (ACNC) is established, there will be a clear process for determining charitable status and if charities provide benefits to individuals. There is no need to have a separate process for the Australian Taxation Office (ATO). This would reduce paperwork, alleviate administrative pressures and be more effective.

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

St John submits that the current arrangements are onerous. A charity that has already been registered by the ACNC and has appropriate governance standards should not require separate approval for a public fund. A recent example for St John was having to set up a public fund for the Christchurch Earthquake. This was a very time consuming process for St John and also for the Australian Taxation Office. A more efficient system would be for the Australian Taxation Office to determine that it will allow Australians tax deductibility to support a specific disaster, and secondly to allow all existing DGRs to collect funds related to the disaster. This will allow charities to give the public tax deductibility for their donations in a timely manner. This would allow charities to be more responsive to disasters, there would be less administration and it would be more effective.

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

Yes, we agree that the threshold should be increased from \$2 however we suggest between \$5 to \$10 rather than \$25. The cost of the process of issuing and mailing out receipts for donations is burdensome. If the threshold was between \$5 to \$10 it may encourage greater contributions. A threshold of \$25 would discourage contributions and have a negative impact on deductible giving.

Fringe Benefits Tax Concession

The original intention of these concessions was to show support and offer assistance for charities to carry on work that can be more effectively carried on by non-government agencies instead of Government. Public Benevolent Institutions were given increased benefits to help attract staff in these areas.

St John employs over 1,400 people across Australia to support our 15,000 volunteers who provide over 4 million volunteer hours per year. St John also training over 445,000 Australians first aid through both our staff run and volunteer run training courses which are maintained to

best industry standards. In many areas St John finds it difficult to compete with commercial operators and in particular the mining industry which is able to offer higher wages. As a Public Benevolent Institution St John is able to use the Fringe Benefits Tax concessions to attract and retain staff. If the ability to access Fringe Benefits Tax concessions was removed, the impact on St John costs would be significant, and would have a substantial impact on the diverse community needed services that St John offer. It would be left to Government to deliver the services that St John could no longer provide.

The existing caps for FBT concessions have not kept pace with inflation for several years and the benefits have also decreased due to changes in tax rates. St John proposes that the FBT concessions should be indexed in relation to the Wage Price Index in order to ensure that FBT concessions keep pace with changes in wages.

Q32. Should the caps for FBT concessions be increased if meal entertainment and entertainment facility leasing benefits are brought within the cap? 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?

St John argues that there should be separate caps for meal entertainment and entertainment facility leasing benefits and not brought under the total FBT cap. The meal entertainment and entertainment facility leasing benefit when used in conjunction with other benefits does assist charities to attract and retain staff. Many charities already set their own caps on meal entertainment benefits and entertainment facility leasing benefits. St John recommends that there should be a \$10,000 cap per meal entertainment benefit and a \$10,000 cap for entertainment facility leasing benefits thus capping the total benefit at \$20,000 per operating entity.

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?

Meals consumed while travelling for business purposes should be exempt. This is already the case for overnight stays but should also apply for day business trips.

Q 34 Should there be a requirement of 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?

St John agrees that it would impose an unacceptable compliance burden on employers if they were required to deny FBT concessions from employees with multiple employers. We understand that this applies to a very limited number of employees. Such a change may also

have an unintended consequence through impacting on employees who change employers throughout the year.

St John recognises that the Government wants to restrict the FBT caps where an employee can have multiple concurrent employers (sometimes more than two). Consideration should be given to this being controlled through the employees individual tax compliance as FBT entitlements are a mandatory reporting item on Payment Summaries and this would be a more efficient process rather than putting the compliance burden on the charity or NFP organisation.

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, it should be removed as it is unfair and also complicated. The minor benefits exemption should be available to all employees. This meets the discussion paper's criteria of fairness and simplicity.

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?

Whilst there are a number of challenges with administering the FBT concessions, St John does not support any of the alternatives proposed in the discussion paper. Each of these are discussed in this section of the paper.

Option 3.6 Phase out capped FBT concessions and replace with alternative government support

It would be a huge administrative burden if charities were required to apply directly to government to replace these FBT concessions.

St John also agrees with the statement in the report that it would impact charities autonomy and independence from government. St John is an independently funded organisation which values its independence and ability to attract quality staff.

Option 3.7 Alternative tax based-support mechanisms.

Refundable tax offset payable to eligible entities.

The option discusses a recommended amount of \$2,800 per employee. It is difficult to set an amount as the current concession is dependent upon the marginal tax rates of employees. Currently, employees earning a higher income would receive higher benefits as they are on higher marginal rates and pay more tax. The proposed rate of \$2,800 per employee would mean that most employees in the sector would be worse off.

A Direct tax offset for employees of eligible entities.

This would be similar to the offset for workers in remote regions and mature age workers tax offset. However there would be difficulty with determining the actual tax offset as it is related to many factors such as marginal rates, other assessable income and deductions and whether the individual leaves or remains with the same employer throughout the year.

St John understands that only one third of eligible entities are accessing these Fringe Benefits. Many employees elect not to use these fringe benefits because they impact other areas such as HECs repayments and child support payments. If the proposal was to provide direct tax offsets to all employees of charities there would be a significant increase in costs to government. There would also need to be an extended phasing in of the different concessions so charities and employees were not considerably impacted by the change.

Conclusion

The tax concession paper discusses alternatives to the Fringe Benefits Tax Exemptions however it is not yet understood what impact these alternatives will have on the not-for-profit sector, employees and the benefits that Australia receives from charities.

St John is concerned that a change to the way fringe benefits concessions are provided will have a detrimental impact on the charitable and Not-for-Profit sectors. If staff are not adequately compensated by government or through the tax system for the loss of the fringe benefits tax concession it will have a negative impact both on the charity and the individuals. There is also a concern that increasing the number of not-for-profit organisations receiving this benefit will have serious cost implications for the government. St John recommends a study be conducted to determine the financial and economic effect of the proposed recommendations to charities, not-for-profit organisations and the community.

St John strongly supports the continuation of the flexible benefit concessions and recommends that they be indexed. St John does not support any of the alternatives to the current FBT concessions as proposed in the discussion paper. The impact of any of these alternatives or the

removal of FBT concessions will have a substantial impact on the Not-for-Profit sector, leading to governments having to deliver services currently undertaken by not for profits.

St John welcomes the opportunity to comment on the tax concession paper. I am happy to discuss any aspect of this submission.

A handwritten signature in black ink, appearing to read 'Peter LeCornu', written in a cursive style.

Peter LeCornu
Chief Executive Officer
St John Ambulance Australia

