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This is my submission to the Tax Deductible Gift Recipient Reform Opportunities Discussion Paper. You may publish it publicly as long as you do not disclose my identity or contact details.

For context: I am an individual Australian citizen, and regular 'volunteer,' who has made small donations to a number of DGR organisations. I do not have any conflicts of interest on this topic: I do not donate enough money to DGR organisations for it to significantly affect my taxable income; nor do I work or draw an income from any industry that is affected by DGR (whether for or opposed to groups that have DGR status). I am providing my submission out of civic duty and the desire to ensure the best is done for our society.

I am concerned that a number of the measures in this paper for discussion appear politically and ideologically driven, rather than being of benefit to taxpayers or in line with community expectations. My submission is therefore split into two parts: first a prologue, providing essential information which frames the rest of my submission; followed by direct responses to the consultation questions.

Prologue

- A. I am concerned that the discussion paper frames DGR organisations as “costing” the Commonwealth \$1.31 billion in deductions from donations, without acknowledging that, based on the most recent Census estimates available, the value of work done by volunteers for these organisations was **worth \$43 billion to our economy** in 2006,¹ with the Productivity Commission also reporting that NFP organisations provided \$43 billion to Australia’s GDP in 2006-07.² That means there is more than a **1:33 Return On Investment** when supporting such organisations: for every dollar in donation-related tax deductions, our community gains \$33 back in value to the economy just via the volunteering component. Clearly this is a huge windfall for taxpayers rather than an unreasonable “cost.”
- B. I am concerned that the discussion paper frames DGR organisations as if they are unreasonably benefiting from the deductions from donations, when in fact it is the donors who gain this tax deduction. A survey funded by the Australian Government Department of Social Services in 2016 revealed that 80.8% of adult Australians made donations in the previous 12 months.³ When 80.8% of Australians are financially supporting these organisations, it is reasonable to say:
- The Australian community supports NFPs;
 - The majority of Australians benefit from tax deductions to NFPs;
 - Granting these organisations DGR status is within community expectations;
 - Few people would support actions by the government to make it more difficult for NFPs to gain DGR.
- C. I am concerned by the double standards, which demand that NFP organisations go to more efforts to register for tax deduction eligibility than in comparison to businesses’ automatic eligibility for [work-related] deductions. The issue has been framed to suggest that an NFP organisation is not entitled to DGR status if they cannot prove that their activities are to the benefit and wide spread acceptance of the community (i.e. tax deductions in this context are

¹ <http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/4159.0.55.004main+features1April+2017>

² <http://www.pc.gov.au/inquiries/completed/not-for-profit/report/not-for-profit-report.pdf>

³ https://www.volunteeringaustralia.org/wp-content/uploads/giving_australia_2016_fact_sheet_-_individual_volunteering_accessible.pdf

framed as ‘taxpayer dollars’ and must be accountable as such), however businesses are not required to prove that they benefit the community before enabling others access to ‘taxpayer dollars’ in the form of work related tax deductions.

If tax deductions are now going to be considered a form of welfare that “costs” the Commonwealth (and therefore “taxpayers”) then other payments must be held to the same level of accountability as donations are. For example, do the businesses that provide the below products and services provide benefits to taxpayers and have widespread community support?

- The “cost” to taxpayers of \$23 billion in deductions of individual’s work-related expenses.⁴
 - \$8 billion in deductions for car related expenses.
 - \$2 billion in deductions for travel.
 - \$2 billion in deductions for self-education.
 - \$7 billion in deductions for home office costs and tools, equipment and other assets.
- The “cost” of \$2.3 billion in deductions for managing tax affairs.⁵
- The “cost” of \$30 billion in concessions provided to religious organisations, even when they are involved in commercial activities.⁶
- The “cost” to taxpayers of \$6.15 billion in capital gains tax discounts.⁷
- The “cost” to taxpayers of \$5.5 billion in negative gearing tax deductions.⁸
- The “cost” of countless billions in deductions when corporations claim business expenses as tax deductions.

This double standard is all the more concerning when considering that NFP organisations work for the good of the community, whilst businesses are entitled to tax deductions no matter how self-serving their business activities are, nor how offensive or destructive their business activities can be to the community. Tobacco companies, for example, are granted tax deductions while poisoning our people and suing our government for implementing laws to protect our health (such as plain packaging), yet this discussion paper questions the validity of tax deductions for donors supporting NFPs. Why should it be easier for businesses to gain “taxpayer dollars” via tax deductions than for NFP donors?

D. For the above reasons, I am concerned that this discussion paper has been tainted by a political agenda. Rather than acknowledging the value NFPs provide to our society - as they and their volunteers work to address issues in our society - some politicians see them as a threat because they raise awareness on topics that might be politically damaging for them. In many cases these NFPs are doing work that one could argue are in fact the government’s job to fix - addressing issues of homelessness, poverty, domestic violence, environmental issues, etc. From the perspective of ‘value to the community’ it makes no sense to hamstring or silence these NFPs.

Responses to Consultation Questions

Issue 1: Transparency in DGR dealings and adherence to governance standards.

1. No, an organisation should not need to be a charity to receive DGR status. There are many not-for-profit organisations that, while they may not be a “charity,” do benefit our society. DGR status

⁴ <http://www.smh.com.au/business/the-economy/top-workrelated-expense-deductions-the-ato-is-eyeing-this-tax-time-20170628-gx0gny.html>

⁵ <http://www.abc.net.au/news/2017-05-22/tax-deductions-for-advice-should-be-capped/8546170>

⁶ <http://www.smh.com.au/comment/easter-is-a-good-time-to-revisit-taxexempt-status-of-religious-organisations-20160323-gnpzj.html>

⁷ <https://theconversation.com/election-factcheck-qanda-does-the-government-spend-more-on-negative-gearing-and-capital-gains-tax-discounts-than-on-child-care-or-higher-education-61009>

⁸ <https://theconversation.com/election-factcheck-qanda-does-the-government-spend-more-on-negative-gearing-and-capital-gains-tax-discounts-than-on-child-care-or-higher-education-61009>

allows them to apply for grants from various benevolent funds and trusts which would otherwise be restricted from giving to these organisations (if they didn't have DGR status).

It is worth noting that DGR status does not in itself entitle any organisation to funding, as any donor will conduct their own critical assessment before choosing whether or not to make a donation or grant. Furthermore, there is a registration process to gain DGR status, and a complaints process to weed out any organisations that act in bad faith. Therefore, there are already checks and balances in place.

2. As mentioned in the discussion paper, 8% of DGR organisations will be affected (2,240 organisations), mostly “environmental and cultural organisations, some ancillary funds, public funds for persons in necessitous circumstances, some public ambulance committees, volunteer based emergency service public funds, some museums, and some school building funds.”

I believe that many of these are small, volunteer-run organisations, operating with little support, which don't have the resources to deal with increased bureaucracy and red tape. I would like to ask if the people making the suggestions expressed in the discussion paper have ever volunteered in such an organisation? Do you have any idea of the practical realities: when people are trying to run a small NFP in addition to work and life commitments, the organisation's 'workforce' is made up largely or entirely of other volunteers with the same restrictions, and there isn't any money to outsource the workload?

It is not to the benefit of the community to add to their workload, which might dissuade people from creating NFP organisations to address issues in our society.

The tax concessions given via DGR are a tiny fraction of the financial contributions provided to businesses through tax concessions; businesses are given such financial contributions through tax concessions simply for existing as a “business,” without any real scrutiny or requirement to ensure their activities benefit society. (Indeed, businesses are allowed to be entirely self-serving). This is a clear double standard, and it does not make sense to make things harder for non-profits when they make such a valuable contribution and we all gain from their efforts.

Issue 2: Ensuring that DGRs understand their obligations, for example in respect of advocacy.

4. No, registered charities should not have to provide information about their advocacy activities, for the below reasons:

- a) Charities are already subject to substantial annual reporting requirements.
- b) I don't believe a good case has been made to restrict DGRs advocacy activities.
- c) It is an unfair high bar that is not set for other organisations. Businesses and other organisations are not required to provide information about their advocacy activities (and it should be noted, that many businesses and business people pay tax deductible 'membership fees' to organisations highly involved in advocacy, and also gain tax deductions for using PR and advertising services when advocating for themselves), so why should NFP's be required to provide this information?
- d) As mentioned, extra paperwork and bureaucracy for small NFPs is untenable.
- e) In many cases the cost of the extra workload for government bodies to process this information outweighs any potential value.
- f) If a member of the public believes that a charity is engaging in inappropriate activity, they can make a complaint to the ACNC.

However, I do believe there is a distinction to be made between an NFP that largely relies on the efforts of volunteers and acts in the interests of 'the many' versus those that are professionally

run (with significant budgets and staffing costs) and primarily represent the interests of business people and/or businesses for self serving reasons. The Institute of Public Affairs is one such organisation that has DGR status for reasons I don't quite understand, as questioned in detail in this ABC article: <http://www.abc.net.au/news/2012-02-24/hamilton-the-shadowy-world-of-ipa-finances/3849006>. I am concerned in cases when DGR aids wealthy individuals and businesses to astroturf, funding 'fronts' that then advocate on their behalf for their own profit. Perhaps DGR organisations above a certain size should provide increased transparency about their funding, same as political parties?

Issue 5: DGRs endorsed in perpetuity, without regular and systematic review

9. I disagree with bringing in annual certification and regular review as the increased cost to the taxpayer for government to implement this process outweighs any potential value from doing so. The majority of DGRs are doing the right thing, and there is a complaints process to deal with those who don't.

10. If there is such a review, the first organisations to be reviewed should be those that gain most of their donations from businesses and/or business people and/or directly or indirectly advocate for business interests. There is a risk that these organisations may be involved in astroturfing - operating in self interest for businesses rather than for the good of the community. For example, the tobacco industry covertly funds a range of NFP front groups - from pseudo 'scientific research' organisations, to smokers rights groups, and hospitality and retail industry groups - to create propaganda and generate activity that advocates for outcomes that benefit the tobacco industry. Today in Australia there are some dubious astroturfing 'research' organisations, 'think-tanks,' and other organisations whose activities benefit various business' interests rather than those of our community. For example: Institute of Public Affairs, Australian Environment Foundation, Australian Climate Science Coalition, etc, which have been involved in activities that deny climate change, campaigning and lobbying against renewable energy, financed in part by the mining industry.

However, much as the above practices are distasteful, it would be difficult, expensive and time consuming to - within a widespread annual review process - determine the difference between genuine community-orientated NFPs and those that are part of astroturfing. Even if you cancelled the DGR of astroturfing organisations it would not make any real difference to them: they could simply switch their funding model away from "donations" towards a membership or service fee which would still provide a tax deduction as a business expense for the businesses they serve. The only organisations that would be worse off are the genuine NFP's who get burdened with the extra red tape of compliance and don't have the deep pockets or resources to draw on.

Issue 6: Specific listing of DGRs by Government

11. This would incur an enormous amount of time and effort from charities to re-apply, and for this paperwork to be processed by government - and this would be a waste of taxpayer dollars. The current system already includes regular reporting for charities and a complaints process to help identify any doing the wrong thing.

Parliamentary Inquiry into the Register of Environmental Organisations

12. There should be *no restriction* on the advocacy activities of environmental organisations. They should be able to spend as much or as little of their budget as they feel necessary on advocacy. It is a baffling overreach by the government to try to stifle them.

In 2010 the High Court ruled that groups with tax-deductible status also have the right to engage in political debate and advocacy. The judgement described the freedom to speak out on political issues as "indispensable" for "representative and responsible government". The court pointed out that there is no rule that excludes "political objects" from charitable purposes. Instead, the key consideration is whether

the organisation “contributes to the public welfare”. The Productivity Commission, in its 2014 Access to Justice report, found advocacy was an efficient use of resources: Advocacy addresses systemic issues rather than just individual cases. Thus “by clarifying the law it can also benefit the community more broadly”.

It makes absolutely no sense to impose on environmental NFP’s a requirement to do environmental remediation. As an example, here is a hypothetical: if you ran a NFP that wished to reduce the amount of litter, you could approach the problem in a number of ways:

- a) Round up volunteers to pick up litter “on the ground.” This would be a never ending task, as for every bit of litter you picked up more would be deposited each day.
- b) Run a public education campaign to try to convince people not to litter in the first place.
- c) Campaign businesses to improve their waste reduction (with changes in packaging of their products), to reduce the amount of waste created in the first place.
- d) Campaign politicians to address the issue (with legislation, policing, waste infrastructure, green jobs, and public education campaigns) to reduce waste and litter, and to clean it up if and when it does occur.

In Australia we have over the past 50 years used a mix of the above strategies to successfully reduced the amount of litter in our communities. Different environmental groups choose different strategies, or a mix of strategies, based on their available resources to achieve these outcomes.

It is quite frankly ridiculous to say that environmental groups should concern themselves primarily with only the first of these strategies, when it is likely to be the least effective strategy in the long run. If the goal is to reduce litter, then they should be free to choose the best strategy to achieve this goal - whether it is environmental remediation or advocacy. The whole community benefits from these activities.

This inquiry - targeting environmental groups - appears politically motivated rather than being about protecting taxpayer dollars. The bitter irony is that the ‘environmental remediation’ the inquiry recommended that environmental organisations stick to is often only needed due to the damaging activities conducted by businesses such as those represented by The Minerals Council (a powerful lobby group, representing mining operators, which has publicly tried to get environmental organisations stripped of DGR status). So presumably the government is happy for environmental organisations to clean up the mess that others make, but doesn’t want them to have a voice in preventing environmental destruction in the first place?

When the cashed up Minerals Council (funded by the mining industry, to advocate on their behalf) runs a campaign against the DGR status of environmental groups, it is clearly for self-serving purposes rather than anything to do with concern over “tax” or “taxpayer money.” I hope you take this into consideration when you review the Minerals Council’s submission.

13. I do not support the introduction of sanctions specifically for environmental DGRs. This suggestion appears politically motivated.

The suggestion that NFPs be penalised where their staff, volunteers, members or even people ‘without formal connections to the organisation’ were involved in ‘illegal’ activity is far too broad. Businesses are not held accountable to this level, so why should NFPs? This is overreach.

Unfortunately throughout history there are countless examples of times when the government of the time and/or businesses undertook wrongful actions (even outright corruption and law-breaking) and it is only thanks to the local communities who organised themselves into groups to protest against those

actions that Australia has managed to conserve so much of its natural wonders and beauty. The laws, rights, and protections that we have today did not get created without protest. Non-violent protest and advocacy are an important part of democracy.

If laws are broken by a NFP, just as a minority of businesses and individuals sometimes break the law, we have a justice system to deal with that. Environmental NFPs should not be unfairly targeted with an extra set of rules just for them.

On the topic of consequences for NFPs that break laws, I would like confirmation that any rules you make will be implemented to all organisations across the spectrum. For example, it is well documented within the *Royal Commission into Institutional Responses to Child Sexual Abuse* that the Catholic Church used its wealth and power to protect abusers and silence victims of abuse. Religious organisations are given \$30 billion worth of tax concessions per year, and they use some of this wealth to push their own religious agenda to politicians, the media, and the public - and some, like the Catholic Church, have been found breaking the law. Thus far only some individuals have been charged, while the organisation itself continues to operate as usual, with access to children in their vast school system. There is meant to be separation of Church and State, so how is it that these religious organisations are still allowed to operate schools when they've been proven to have acted illegally in the abuse of children? It's something I don't understand, however I do concede it is not an issue of "tax"; similarly if any environmental DGR were to break a law it is not the place of the ATO or DGR registry to address it - rather it would be addressed by our justice system.

In summary,

While there is no doubt that reform of DGR governance is needed, any changes must make things easier for NFPs, not harder. NFPs provide a huge amount of value to our society, and should be acknowledged as such. It is concerning that this discussion paper seems to be politically influenced: framing DGRs as an expense in 'lost revenue', and targeting environmental groups in an attempt to silence their advocacy activities. Any attempts of DGR reform should not be skewed by such morally repugnant ideology. Going forward I hope you take a more balanced independent approach.

Regards,

A Concerned Australian Citizen