



Australian Government



Australian
Charities and
Not-for-profits
Commission

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Senior Advisor
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The Treasury
Langton Crescent
PARKES ACT 2600

Submitted online to DGR@treasury.gov.au

SUBMISSION TO THE CONSULTATION ON TAX DEDUCTIBLE GIFT RECIPIENT REFORM OPPORTUNITIES

The Australian Charities and Not-for-profits Commission (ACNC) Advisory Board welcomes the opportunity to provide a submission to the consultation on tax deductible gift recipient (DGR) reform. This submission is separate and distinct to the submission made by the ACNC previously. This submission will briefly outline some of the key issues for the charity sector in response to the reforms proposed by Treasury.

Summary of the ACNC Advisory Board's submission

The ACNC Advisory Board supports the submission drafted by the ACNC to Treasury's DGR reform discussion paper. In the context of these reforms, there are two issues the ACNC Advisory Board would highlight for further consideration: the contribution DGR provisions make towards a vibrant civil society and the importance of an independent charity sector.

The ACNC Advisory Board

The ACNC Advisory Board advises the ACNC Commissioner on a range of matters. The functions and powers of the ACNC Advisory Board are set out in the *Australian Charities and Not-for-profits Commission Act 2012* (the ACNC Act).



The Board is appointed by the Minister and currently consists for six 'general members' with expertise across the not-for-profit sector, law, taxation and accounting. The Board also has four 'ex-officio members' who have been appointed to the Board because they hold a specified office. The current ACNC Advisory Board members are:

Advisory Board members

- Mr Tony Stuart (Chair)
- Ms Fiona McLeay (Deputy Chair)
- Ms Gina Anderson
- Professor David Gilchrist
- Mr Martin Laverty
- Professor Myles McGregor-Lowndes OAM

Ex-officio members

- Ms Cindy Bravos
- Ms Linda Mallet
- Mr Dini Soulio
- Mr Dale Webster

ACNC's submission

The ACNC Advisory Board supports the position and issues raised by the ACNC in their submission to Treasury's discussion paper on DGR reforms. Simplifying the DGR process will help to reduce red tape for the charity sector and enable charities to use their resources more effectively for their cause. Furthermore, reforming the current regulation of DGRs into a streamlined and consistent regulatory framework will provide greater levels of transparency in DGRs. Together, these changes will encourage greater levels of public trust and confidence in the charity sector.

As noted in the ACNC's submission, the reforms proposed by Treasury will likely have an impact on ACNC's resourcing. The ACNC Advisory Board encourages these reforms to take into full consideration the necessary resources required by the ACNC in order to implement these measures, in addition to meeting their current obligations.

DGR provisions support civil society

In the context of these DGR reforms, the ACNC Advisory Board wishes to affirm the importance of the DGR provisions in supporting charities, and more broadly a vibrant civil society. The DGR provisions cannot be viewed simply as an economic benefit to the charity sector or a cost to revenue. More importantly, the DGR provisions represent the Government's support for the work that charities do and also encourages individuals to participate in civil society. A strong and vibrant civil society in Australia encourages greater social cohesion and enables communities to address social issues impacting their daily lives without Government intervention. It also enables the provision of a greater scope and range of community services than government budgets would otherwise accommodate. It is critical these social benefits are the centre of any agenda to reform the DGR provisions.

The independence of the charity sector

The ACNC Act states that the second object of the ACNC is 'to support and sustain a robust, vibrant, independent and innovative Australian not-for-profit sector'. This object recognises that a vibrant and independent charity sector is important for a well-functioning civil society.

Consultation question number 12 of the discussion paper raises an important issue around the independence of charities and their ability to direct their resources appropriately towards their mission. In relation to the second object of the ACNC Act, the ACNC Advisory Board is concerned that any restriction on how a charity utilises their resources, regardless of which sector they operate in, may be an unjustified interference with the independence of the sector. Current charity law imposes no obligations on charities to spend their funds in accordance to the specific wishes of government or their donors. Registered charities should have the freedom to allocate their resources appropriately, including towards advocacy work that supports their cause, as long as they meet the requirements of the *Charities Act 2013* and the ACNC Act.

This proposal also has implications for the ACNC's regulatory framework. The ACNC has played an important role in building the capacity of the charity sector and encouraging good practice. The ACNC Advisory Board has concerns that the introducing measures that would require the ACNC to audit a charity's expenditure on certain activities would shift the regulators focus from purpose to activities and may result in the ACNC operating in direct conflict with its second statutory object.

The ACNC Advisory Board encourages Treasury to consider the broader implications on civil society and the ACNC if measures are introduced to regulate how a charity may utilise their funds over and above the requirement to apply funds consistent with a charitable purpose.

Conclusion

The ACNC Advisory Board supports reforms to the regulation of DGRs that would result in a reduction in unnecessary red tape for the charity sector. Any proposed reforms, however, should ensure that the independence and health of Australia's civil society is protected.

A handwritten signature in black ink, appearing to read "Tony Stuart". The signature is written in a cursive style with a long horizontal line extending from the top of the first letter.

Tony Stuart
Chair
ACNC Advisory Board

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