

Professor Simon Batterbury

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Senior Adviser
Individuals and Indirect Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600
Via Email: DGR@treasury.gov.au

Tax Deductible Gift Recipient Reform Opportunities Discussion Paper

This is a submission regarding the consultation paper which proposes potential reforms to Deductible Gift Recipient (DGR) tax arrangements.

The document singles out environmental organisations (ENGOS) for particular scrutiny. As you will know, previous scrutiny of ENGOS was through *The House of Representatives Standing Committee on the Environment's* inquiry on the Register of Environmental Organisations (REO inquiry). This was widely criticised. It appears that this new paper is simply more of the same attack on legitimate organisations that have legitimate challenges to state and corporate activity within their remit.

During the REO inquiry process, the federal Environment Department and the Australian Charities and Not for Profits Commission (ACNC) appeared before the committee. These are the entities responsible for managing environmental organisations on the REO and the ACNC more broadly manages the not for profit sector.

Both the department and the ACNC said there were no significant problems with the current management systems for charities and DGR listed entities. The ACNC said that it has the appropriate enforcement powers to regulate charities.

In spite of this, a number of conservative politicians and some within the CO₂ generating mining and fossil fuel sectors unhappy with the protests they have received against environmentally damaging activities, continue to demand that environmental groups have their DGR status revoked. Given that the Treasury paper is re-visiting some of the issues raised in the majority report from the REO inquiry, it is very difficult to see this as anything other than a further, politicised effort to attack ENGOS and their work. **Environmental organisations do far more than plant trees and conserve Australia's environments: they have a legitimate role in exposing and indeed tackling government and private sector actions, such as surface coal mining, coal seam gas, and large scale mining carried out by multinationals. This is because coordinated responses are needed that bring into play the views and considerations of all Australians, who are often willing to support the needs of local residents, many of them Indigenous, threatened by such projects - and the natural environments that are otherwise without a voice.** Re-opening the issue seems unneeded and unwanted.

There is no doubt that there could be improvements in the management of Deductible Gift Recipient (DGR) listed organisations, which should be managed by a single entity rather than multiple government departments (ACNC?).

Response to specific questions

4. *Should the ACNC require additional information from all charities about their advocacy activities?*

There is a process already in place that allows members of the community (as well as a range of vested and politically motivated interests) to lodge complaints about the activity of individual charities. Additionally, the ACNC has identified ‘political activity’ as one of the five key areas it will prioritise in the next two years to further develop guidelines regarding behaviour which may put an organisations charity status at risk.

Asking thousands of organisations to provide additional information on their advocacy activity is unrealistic. It seems strange that the federal government, which is interested in streamlining delivery of services, would propose increasing Red Tape in terms of how charities are managed.

12/ Stakeholders’ views are sought on requiring environmental organisations to commit no less than 25 per cent of their annual expenditure from their public fund to environmental remediation, and whether a higher limit, such as 50 per cent, should be considered? In particular, what are the potential benefits and the potential regulatory burden? How could the proposal be implemented to minimise the regulatory burden?

This issue was canvassed at great length during the REO inquiry. There are many thousands of organisations already working on ecological remediation activity and some DGR listed ENGOs also carry out significant ‘hands on’ ecological work as part of their activity, like ACF, EV and Wilderness organisations. Why would the government force ENGOs to limit or unduly constrain their activity? Once again this could only be seen as being politically motivated.

ENGOs carry out a range of activities, including research, community outreach and education, and advocacy. I have been involved in research myself, some of it offshore. The original HoR report proposed that ENGOs be limited in what percentage of their funds could be used on advocacy. This rewording of the recommendation from the majority report of the REO inquiry is just an attempt to make limiting ENGO activity seem less politically motivated.

Many ENGOs carry out remediation work, and understand the necessity of this work. However, it must be understood that in an era of climate change, there are **many critical ecological threats that require advocacy and community campaigning if Australia is to address major ecological issues in a meaningful way**. The biggest is climate change from anthropogenic actions, including our coal mining. Some are aquatic (ocean acidification, farm runoff pollution, overfishing, etc). Some, such as species extinction are “ecological” and holistic – relating to wide scale, not specific, pressures such as cumulative habitat loss. The science on this is clear. Many of these threats cannot be addressed in any conceivable way solely through “on-ground” activity, and require better and tighter regulations and laws governing or restricting developments and current industrial, agricultural and other activities. Forcing ENGOs to spend a percentage of their funds on environmental remediation is shortsighted. If the Treasury wishes to propose reforms to the management of DGR listed organisations, it should as part of this process reaffirm advocacy as being an entirely valid and necessary activity of charity.

13/ Stakeholders’ views are sought on the need for sanctions. Would the proposal to require DGRs to be ACNC registered charities and therefore subject to ACNC’s governance standards and supervision ensure that environmental DGRs are operating lawfully?

Charities are already subject to substantial annual reporting requirements. If a member of the public believes that a charity is engaging in inappropriate activity, they can make a complaint to the ACNC.

I do not support the introduction of specific sanctions for environmental DGRs. The Minerals Council of Australia have been calling for sanctions, but this is clearly politically (and economically) motivated.

Nonviolent protest is a cornerstone of sustaining a healthy democracy, which is what we have at present. Recommendation 75 in the Treasury paper is especially relevant to this question:

1. *The Committee recommended that administrative sanctions be introduced for environmental DGRs that encourage, support, promote, or endorse illegal or unlawful activity undertaken by employees, members, or volunteers of the organisation or by others without formal connections to the organisation.*

Impossible to manage. According to ACNC data assessed also by FoE, environmental charities employ around 10,000 staff and have close to 200,000 volunteers (which is a measure of the good standing of these groups in the eyes of the community). How could any organisation keep track of what all its volunteers do in their own time, let alone track the activities of people 'without formal connections to the organisation' – presumably Australian citizens of all persuasions? This is clearly part of a long and concerted campaign to limit the activities of ENGOs. If ENGOs were to be 'sanctioned' (eg have their DGR listing cancelled) because of the activity of volunteers or people 'without formal connections to the organisation' it would rightly be seen as being politically motivated.

As noted earlier in this submission, both the federal environment department and the ACNC said during the REO inquiry that there were no significant problems with the current management systems. The ACNC said that it has the appropriate enforcement powers to regulate charities. So why is Treasury even asking this question?

Conclusion

Like Friends of the Earth and other organisations I support in my personal and professional life, I urge you to put aside the recommendations in the paper which are clearly politically motivated, particularly Qs 4, 11, 12 and 13. I am a Professor of Political Ecology in the UK as well as affiliated to U. of Melbourne here in Australia where I worked for many years, and this type of action fits well with an exploitation of "political opportunity" to meet scarcely-transparent political ends – closing down democratic lobbying, monitoring and protest at a time when it is most needed.

A legitimate and non-politicised review of the governance arrangements for not for profits, however, will be broadly welcomed.

Simon Batterbury, PhD



Writing in a personal Capacity.

Inaugural Professor and Chair of Political Ecology, Lancaster Environment Centre,
Lancaster University, UK

Principal Research Fellow, University of Melbourne.