
From: Brian and Sue <brsjpage@bigpond.com>
Sent: Monday, 8 August 2011 2:52 PM
To: PAF Reforms
Subject: reforms of public ancillary funds

Attention Treasury PuAf Reforms

I have made previous comments to the proposed changes to rules for establishing and maintaining a Public Ancillary Fund as a DGR. I have received the Draft Public Ancillary Guidelines December 2011.

I wish to make brief comments on these. Most matters such as Accounts, Financial Statements, Investment Strategy, Investment Limitations etc are totally reasonable, prudent and reflect the responsibility of trustees to act properly and to act wisely.

I note Part 3 Transitional Rules, Distributions, page 14 of the draft guidelines 2011.

This talks about a corpus minimum aim of \$220,000.

I note Part 2 Operation of a Public Ancillary Fund, 19.1 which deals with the minimum distribution of \$11,000.

In initial drafts, a distribution rate of 5% was envisaged. 5% of \$220,000 is \$11,000.

BUT if a distribution rate of 4% is now applied, then the arithmetical connection between corpus minimum and distribution rate is or should be $\$220,000 \times 4\%$ which is \$8,800.

If \$11,000 is still the minimum distribution then the corpus minimum surely is calculated as \$275,000.

The draft Guidelines must or should reflect this arithmetical connection.

And, one must ask what is a reasonable guideline setting for minimum distribution or rate of distribution and which in effect applies basically to PuAF's run on the Invested Capital model with only interest or income distributed.

- a) the minimum rate of 4% seems reasonable and applicable as it reflects typical real interest rate returns over time which might at this time be about 6% on a term deposit in any Australian Bank but was as low as 4.1% at the peak of the recent Global Financial Crisis say April 2009 but which might soon again be tested at this difficult time of sovereign debt.
- b) If a minimum corpus level is required, \$220,000 is preferred and being more reasonable, and at a minimum distribution at the rate of 4%, \$8,800 is a more reasonable and arithmetical logical distribution.
- c) However, one must note the significant difference between the setting up of a Private AF eg a wealthy individual placing a large amount of money into a PAF. In the case of a PuAF associated say with a Community Foundation, it is in the main unlikely that the PuAF is settled with anything like \$220,000 (or \$275,000). Many begin with say \$5,000 or less. It may take time for the corpus to grow as is partly envisaged in the draft guidelines but perhaps not realistically.
- d) In regions in country and rural Australia, with low populations compared with major cities, maybe populations in a region say less than 50,000 persons, it may take a much longer time for the corpus minimum to be achieved (particularly the very high level of \$220,000 as proposed).
- e) Regional Australia is generally not progressing as the rest of Australia. Its community needs are increasing, not diminishing. Most indigenous are in regions. Much population is aging putting stress on care and health needs. Regional uptake of advanced and further education is much lower. Much charitable donations actually are stripped out of regions to cities. The regional situation and increasing divide between city and country is a factor that must be considered in this legislation. There must be a real fairness to regions and their efforts to provide charitable support in their own region. As they say 'charity begins at home'. This is social justice issue an issue of fairness to all Australians, of equity and equality of opportunity.

- f) The recent press about the Dr Johnson report into Federal Funding (\$3.5 billion a year) is a moot point. The press quotes "The history of commonwealth policy for indigenous Australians over the past 40 years is largely a story of good intentions, flawed policies, unrealistic assumptions, poor implementation, unintended consequences and dashed hopes" "Strong policy commitments and large investments of government funding have too often produced outcomes which have been disappointing at best and appalling at worst". "Individual success stories notwithstanding, the circumstances and prospects on many individual Australians are little better in 2010, relative to other Australians, than those which faced their counterparts in 1970. Indigenous people are now calling for an end of welfare ("your welfare killing our mob") ("calls for real education, no handouts").
- g) Building community capacity, engagement on the ground, local knowledge and a focus on real outcomes is needed. Perhaps the indigenous situation reflects a flawed situation in the big government, big business, big unions and big charities model?, which seems to have a core outcome, institutionalising welfare!, based on the indigenous reality. I ask that the draft guidelines do take considerations of these comments and that an unintended consequence of guidelines which might be to inhibit or discourage regions to establish PuAF's. This would thus discourage local community involvement on the ground and uninintended outcome might be similar to the indigenous situation mentioned above, eg no positive real outcomes and entrenchment of welfare and poor educational standards of regional people. The indigenous situation clearly shows that the current model is so bad and broken, that other options must be explored and recognised as necessary which do involve local communities in innovative and sustained ways..
- h) It is this context that I argue that consideration is taken of the real situation in many rural regions as briefly outlined here and;
- i) That a minimum corpus or distribution level in dollar terms be realistic eg below \$220,000 corpus and below \$11,000 pa minimum distribution (donations plus trustee fees) and perhaps \$100,000 and \$4,000 (based on 4%) respectively might be more realistic and achievable and less discouraging to regions trying to support their communities with effective charitable outcomes.
- ii) That the ATO regulations for DGR Trusts associated with Community Foundations might be better served by being given 'doing DGR status' similar to that of the Foundation for Regional and Rural Renewal, and to not simply be a conduit for donations to doing DGR's but being able to act as doing DGR's. One must also bear in mind the paucity of doing DGR's in regions (other than local auxiliaries of big charities collecting donations and sending these to capital cities) which in turn severely crimps local capacity and available funds for local charitable works sorely needed to service the growing community charitable need in regions.
- iii) That the regulations might more clearly indicate support for invested capital PuAF's or whatever the ATO DGR model is chosen.

Thank you for the opportunity to make further input to the contnuing community consultation.

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