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Sent: Tuesday, 22 November 2011 12:45 PM
To: NFP Reform Consultation
Subject: Definition of Charity etc.

Congratulations for tackling a long overdue review and, hopefully, rationalisation, of the NFP sector and attendant issues particularly Taxation and “intent”

I would like to comment on both of the above as well as provide a general observation gleaned from my experience over many years involvement in both the NFP sector and 36 years in the ATO.
“Charitable”

I believe the Charities Bill 2003 and the recent discussion papers approach the issue of positing what is a charity quite thoroughly and make good sense. I also take up the comment made in the Treasury Not-For – Profit Newsletter No. 2 that a charity could (must in my view) embrace activities based on prevention as well as relief.

To repeat a word picture provided by a speaker at a conference I attended “ ...it might be charitable to park an ambulance at the bottom of a hill to pick up the injured as they fall but isn’t it far more effective to build a fence around the summit to stop people falling”

The word “charity” itself is, in my opinion, a hangover from the old English class system and, in my experience, is a mark of shame to many of the very people who need help. Use a new more embracing and inclusive word that covers both prevention, cure and relief. Such a word may be “philanthropy” or “assistance activity” or simply “support”.

So my plea in considering a new definition is both nomenclature and intent (as both go together). The 2010 Senate Inquiry referred to “identifiable benefit” but the Charities Bill 2003 refers to “dominant purpose that is charitable”

Perhaps a better more inclusive approach might be to refer to “an identifiable purpose that encompasses either or all of prevention cure or relief of.....”

Summarising; “support activities” (my preference) should include not only binding a wound but where possible, preventing the occurrence.

Taxation is another vexing issue bedevilling both the genuine NFP sector, the ATO and Australia in general. However, first I would make the following points.

If we begin with the view that the work done in the NFP sector is an indispensable and inherent part of what makes the Australian norm and that lifts us above most, if not all, comparable first world nation states then we need to nurture and encourage the sector to flourish. This is indeed a challenge as from my experience society today does not provide anywhere near the flood of volunteers that once populated the sector. My experience suggests that the baby boomers that one might normally expect to “volunteer” in retirement are not like their parents and don’t; and Gen X and Y are significantly disinterested. I don’t say this lightly but the substantial work I do in “community renewal” proves to me that “wifery” reigns supreme in suburbia these days.

Further, add the governance complexities for NFP and responsibilities put in place by government regulation and litigation encouragement it is now the case that to get people to take on positions such as Treasurer or Secretary or any COM position is quite difficult.

If all this wasn’t hard enough to get staff and in particular CEO level people is also quite difficult as they are required to have quite copious knowledge of many regulations etc. and they are paid a pittance.

I qualify my remarks by pointing to large NFP’s who get high level people with high level salaries and Committees full of highly educated and committed people – and I say that these organisations, *whilst obviously important*, must *never* be the measuring stick. They are most untypical and the thousands of smaller NFP’s are the real problem area and are struggling.

So – taxation could and should play a significant role by alleviating problems and simplifying the sector.

In essence, I would begin with the premise that if a NFP is accepted as operating *exclusively* to provide support for an approved benefit that NFP *and its direct employees* is/are exempt from all

taxation other than GST. It would be required to submit annual returns to (either the Commission or the ATO) demonstrating its compliance and so on. *If "direct employees" received a tax free income this would be a lot easier than increasing their pay by around the 30% being talked about now.*

Clearly taxation issues would require some more work so as to ensure that casual tutors, and lots of little other tax returns were not brought into play – and there could be limits to the tax free status of salaries – say up to \$50,000 – after that tax at marginal rates.

For taxation to be both efficient and effective it needs to be essentially simple and clear – and add value.

One final point for good measure.

The most valuable thing a new standing authority could achieve is to provide practical assistance in governance to the thousands of NFP organisations – make it as easy as possible for us to attract volunteers into these positions.

Thanks for listening and if I can be of any assistance I volunteer!

Les Heimann