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Federal Treasury's *Tax Deductible Gift Recipient (DGR) Reform Opportunities Discussion Paper*

My Background

My connection with charities and not-for-profits is limited to 3 organisations – the first is a charity that provides assistance to young people including training to assist them get jobs. The second is an aboriginal dance group; and the third an environmental group. I believe they all do great work and I provide them with financial support as far as I am able.

Looking back, I recall days at university. As well as studying for a degree, the days were marked by student protest about all sorts of things; those focused on university matters, and those focused on events and happenings in the wider community.

One of my contemporaries helped organise a protest that focused on the appalling conditions “enjoyed” by aboriginal people in rural NSW at the time. For a couple of months their protest set the issue on the front pages of national newspapers. That young man later became Chief Justice of NSW, and further down the track Chairman of the ABC. In addressing remarks to an audience of school leavers one year, he commented that of all the things he had done in life the one of which he was most proud was not rising to Chief Justice but that which he did when he was a young student at university.

Our society has a long history of people who were prepared to buck the system, stir for change: from the Eureka Stockade, Womens Suffrage movement, the action to Save the Franklin, and so on.

My motive

To me it seems this Discussion Paper, this inquiry, is being propelled by political interests: those of the current Australian Government, those of organisations such as the Minerals Council, gas explorers, those that want to log our old-growth forests without hindrance.

The intent is to shut down the lobbying and protests of environmental groups so that big business can rape and pillage the land unfettered. For example, Tasmania's Tarkine is one of the last truly wild places on our planet and our mining and logging interests oppose efforts to keep it safe and hopefully declared as a national park. Its beautiful beaches, rugged mountains and Australia's largest temperate rainforest are home to unique wildlife and an ancient Aboriginal cultural landscape. If big business has its way the Tarkine would be destroyed. Without DGR environmental groups to speak out for it, what chance would it have for survival.

The Right to Political Free Speech

We might not have the broad-based right to free speech that citizens have in the USA, but time again the High Court has determined that we do have a right to political free speech. The High Court has also determined (cf *AidWatch Inc v Commissioner of Taxation*) that engaging in political debate is an essential part of advocacy work and is in the public interest; and that it is “indispensable” for charities to have the right to advocate, to ensure “representative and responsible government”.

It is broadly accepted within the community that charities (both religious based and non-denominational) have a right to advocate for their client base. Who else would speak out for the poor, the disabled, pensioners, and even the wilderness, against ill-conceived government policies.

The Discussion Paper raises concerns that some DGRs may be involved in advocacy activities without the knowledge of their donors!!! This assumes we are morons and are not aware that we are supporting advocacy undertaken by the charities to which we choose to donate our hard-earned money. One of the very reasons we do support these charitable organisations is to do the good work we can't do ourselves, and in the case of environmental groups to carry out the campaigns we cannot realistically participate in ourselves.

The Cost to Commonwealth Revenue

The Treasury Discussion Paper talks of 'generous tax concessions' in relation to DGRs and charities. Are these concessions any more onerous on the Commonwealth purse than the tax concessions given to superannuation, or to the beneficiaries of discretionary family trusts? Or for that matter to businesses at large who are allowed to claim all sorts of deductions before they pay tax.

And of course, there is the mining sector which is driving this push against DGRs. The Treasury Discussion Paper states, "the cost to the Commonwealth of deductions from donations to DGR organisations is \$1.31 billion in 2016-17 rising to an estimated \$1.46 billion in 2019-20... Given the generous tax concessions they receive, it is appropriate to require DGRs to be transparent in their dealings and to adhere to appropriate governance standards."

And what is the cost to the Commonwealth of the subsidies that the mining sector receives annually – items like fuel subsidies, tax write-offs for capital works, accelerated depreciation for mining company assets, R&D tax concessions, and the generous State Government subsidies (direct and indirect). How many billion dollars? Are we approaching \$10 billion? \$15 billion? How much is government throwing at the Indian miner Adani?

Is it also appropriate to require the mining sector to be transparent in their dealings and to adhere to appropriate governance standards? How many times have mining companies here in the Illawarra breached the environmental laws and codes under which they are supposed to operate. And nationwide?

And this concern with cost to revenue fails to take into account the savings to government and the community. Is there any analysis in the Treasury discussion paper of the financial benefits, or the social and environmental benefits of the services provided by DGRs and charities to the community at large? These are benefits that would otherwise have to be borne by government revenue. This is the same sort of cost-benefit analysis that is undertaken when considering the tax concessions given to superannuation.

Mandated 25% - 50% of Environmental Charities Donations Spent on Environmental Remediation

Why? Just to make it more difficult for the environmental charities? I object to being forced to allocate any of the donations I make to an environmental charity to fund the clean-up of the mess caused by others. If a company is extracting sandstone from a quarry then part of their obligation ought to be to remediate the land; either by turning it into parkland, or lakes for sporting and

recreational use. The environmental groups don't cause the damage. It is big business that destroys our assets; it's their responsibility to fix their mess.

One only has to look to the corrupt behaviours of NSW politicians and their business cronies to feather their own nests at the expense of the surrounding communities who are affected not only by the mining works but also by the aftermath.

I expect environmental groups to advocate to stop business (with the help of government) destroying the natural environment.

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

I don't believe so. There are already significant reporting requirements. Charities also are accountable to their supporters and donors. Advocacy is one of the key objects of any charity. If this non-sensical requirement becomes law, will the Tax Office also require all public and private companies that claim tax concessions on their expenditure to provide additional information about their lobbying activities.?

A formal rolling review program and the proposals to require DGRs to make annual certification?

Again, what's the point? Merely to tie up charities time into pointless administration. I object to my donations being wasted on such useless waste of resources. Let the charities get on with their mission to implement their values for community benefit.

This proposal seeks to tie up and divert charities' resources into time-consuming administration, which will frustrate members and donors that monies specifically donated to support the organisation's purpose are not being utilised in accordance with the donors' intent and wishes.

There are already onerous ACNA reporting requirements in place. ACNC has the power to de-register dormant charities or those not acting in accord with regulations; when de-registered they lose their DGR status. There is no need for any further regulation.

A general sunset rule of five years for specifically listed DGRs?

Again, why on earth? Just to make life difficult for charities and environmental DGRs? I object to such a waste of resources and my donations. If a charity has not infringed the regulations then it is ridiculous. If a charity has then there is already a process to remove their status.

When I donate money to charity I expect that as much as possible of the donation is spent for the purpose I have donated – not to be wasted on unnecessary administration or regulation. Are we going to employ another team of bureaucrats to police the new regulations?

Conclusion

I support the continuation of a strong and efficient charity and Deductible Gift Recipient sector. I can determine from all those that exist to direct my donations to the ones I believe best carry out their aims, and to the ones that best match my beliefs. As I mentioned at the outset, I support 3 different groups each with a different focus.

As far as the environmental group is concerned I believe it is important that there are such groups dedicated to protecting the environment and drawing citizens attention to the drawbacks on proposed development and rape of our natural resources. That such groups advocate for their causes should be of no surprise; it is fundamental to their educative role.

Treasury's discussion paper appears as though it were drafted by the minerals and mining sector.

Faithfully,

John Keane

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