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The Treasury  
Langton Crescent  
PARKES ACT 2600

Via e-mail  
[ppfreview2008@treasury.gov.au](mailto:ppfreview2008@treasury.gov.au)

9<sup>th</sup> January 2009

Dear Sir,

Re: Improving the Integrity of Prescribed Private Funds – Consultation Paper Release

• **Position Statement**

Since being endorsed as a tax concession charity, on the 17/2/06, we have donated \$31 million in 16 months to 30/6/08 and approved/paid distributions to DGRS of \$1,980,000, and have budgeted to distribute a further \$2.3 million this financial year. Revenue “foregone” by the Government was \$9.3 million, noting that this “foregone” revenue is the franking credits received in the year after the donation was made (30% of \$31m).

Our Foundation has nil employees and the only expense charged is for external accounting and auditing charges. I would average a minimum 10 hours per week unpaid work for our Foundation, ensuring our donations go directly to charitable organizations which maximize the effect of each \$1, i.e., low overheads.

• **Response/Submission**

Having studied the Discussion Paper on the above subject we wish to make the following submission; basically we support the submission put forward by Philanthropy Australia with the following additional comments:

1A) Mandatory minimum distribution rates.

The 15% rate put forward by the ATO is not sustainable and the PPF would see its capital base eroded in most years, eventually leading to an impracticably low capital base, completely defeating the ideals of the donors. Many PPFs are building up their capital base in the first years and the 10% of all new donations distributed in the following year leads to a short term, one-off increase in the % distribution of the PPF. This inflates the estimate of 15% used by the ATO. The Australian Future Funds’ estimated real return is 4.5 - 5.5% with an investment base several hundred times greater than many PPFs.

From personal experience I would challenge the ATO’s assertion that most donors are private individuals on the 45% highest marginal tax rate. I would suggest that most donors, like us, have income streamed through a Pty. Ltd. company on a 30% tax rate. This income used for donations would have remained in the Pty.Ltd. company if not used as a donation to the PPF, therefore the “subsidy” would be 30%, not 45%; a 50% overstatement by the ATO.

### 1B) Valuation of Assets

We have annually valued our assets, which is necessary to follow current guidelines and whilst not bound by them we believe it is essential to know where the capital base is in relation to approved capital base. I think PPFs not valuing assets would have trouble obtaining an unqualified Audit Certificate.

### 1C) Minimum PPF

We think this should be \$1 million obtained over a 3.5 year accumulation plan, possibly with a maximum expense level, with allowance for market fluctuations, i.e., \$1 million in shares in 2007 may be \$500,000 in 2008-2009, but eventually the market will recover.

### 1D) Contact Details of PPF to the Public

Will result in PPFs being swamped with applications they will not be able to handle.

### 2) Fit and Proper Person

Should not be restricted to professional trustees, which would destroy a significant number of PPF donors' intentions of having both themselves and their family involved.

### **• Conclusion**

In conclusion there may be some need to have stronger powers to stop the minority maverick PPFs but don't 'throw out the baby with the bath water'.

We would suggest that in lieu of income being allowed to be retained to maintain the capital in line with CPI, this rule be deleted and unrealized capital gains used to maintain the capital base, i.e., all income distributed the following year.

We would not have set up a PPF knowing that it would have a limited life because of the suggested 15% distribution rate. We also would not have donated \$31 million in this time frame. Maybe a donation of \$500,000 to \$1,000,000 maximum would have been made.

The appeal of a PPF was to have an ongoing vehicle for charitable purposes which future generations of our family could be involved in.

Therefore we support a minimum 5% distribution.

Yours faithfully

Peter White  
Director  
Peter & Lyndy White Foundation Pty. Ltd.