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1 August 2017

**Re: Discussion Paper: Tax Deductible Gift Recipient Reform Opportunities (15 June 2017)**

Dear Senior Adviser,

Many thanks for the opportunity to respond to this Discussion Paper.

I have several interests in the topics raised in the Discussion Paper:

1. Several years ago my wife and I established a Private Ancillary Fund (PAF) for the purpose of protecting the natural environment and its ecosystems. We did this because of our grave concerns about the damage being done to the natural land and marine environments, the severe risks this poses for earth's animal and plant species, including for human health and even survival, and the failure of governments across the world to take adequate action to prevent further environmental damage and remediate existing damage. Each year we use the funds from the PAF to support approximately 20 charities with deductible gift recipient (DGR) status which collectively pursue a wide range of activities, all of which we consider to be both necessary to protect (in the widest sense) the environment and appropriate for the PAF. For example, some of our donations support activities that protect particular land and marine environments and species, while others are directed to activities that seek to influence the policies and actions of governments and businesses. It is extremely important to my wife and me that the PAF is able to donate money to a wide range of organisations each of which is able to do what it does best to protect the natural environment.
2. I am active with my time and efforts in supporting various environmental organisations, many of which have DGR status. For instance, a couple of months ago I spent the weekend on Bush Heritage's Scottsdale property removing old fences and I have assisted various organisations over the last year to prepare submissions to government enquiries.
3. I am Vice President of the Climate and Health Alliance (CAHA), an alliance of approximately 30 health care organisations that assists health care providers to be more environmentally sustainable in their activities and better prepared to deal with the health effects of climate change, provides education about the effects of environmental damage and climate change on human health, and promotes action to reduce greenhouse gas emissions and enable society to cope with the unavoidable effects of climate change. CAHA is a registered charity but has been denied DGR status as either a health organisation or an environmental organisation for what seem to me to be completely illogical and inconsistent reasons.
4. I am a Past President and continuing active member of the Public Health Association of Australia, an organisation that has a long history of developing and promoting policies that protect the environment in order to protect human health.

To begin, I fully support the submission made by the Australian Environmental Grantmakers Association, of which our PAF is a member.

In addition, I wish to make the following points:

1. I fully recognise that organisations must act lawfully and within their constitutions and that they should be appropriately transparent and accountable. I am however completely opposed to administrative and reporting requirements being imposed on environmental organisations with DGR status that are unnecessary and burdensome. It is essential that such organisations be assisted by government to use their funds and other resources for the purpose of protecting (in its broadest sense) the environment. No administrative changes should be introduced that will cause resources to be directed away from this. I note here the comment in paragraph 32 that the majority of registered charities are small and meet their obligations; in which case it is important not to introduce completely unnecessary requirements.
2. I fully support any changes that will make the application and approval process for DGR status less complex, more consistent, more transparent and more responsive to the wide range of activities that support the environment.
3. I consider paragraph 15 of the Discussion Paper to be vague in its claims about advocacy. What specifically are the concerns referred to? Who is making them? What evidence is there of advocacy activities being out of step with community expectations? Changes are being proposed later in the Discussion Paper without any evidence being provided to support them. This is inappropriate.
4. I consider paragraph 15 of the Discussion Paper to be misleading regarding the purposes of environmental DGRs. The paragraph states that environmental DGRs ‘... must have a purpose of protecting the environment’ but this is an inadequate summary of the legal requirements, captured in footnote 14, which clearly establishes broader and other purposes for environmental DGRs.
5. Paragraph 29 is guilty of the same problems I have raised in points 4 and 5.
6. Further to point 4, the Income Tax Assessment Act refers to ‘the protection and enhancement of the natural environment ...’ and I wish to point out that protection and enhancement can be achieved, in fact can only be adequately achieved, by a very wide range of activities. Of course ‘on the ground and in the water’ activities such as tree planting and removal of plastics from the ocean are important but such remediation activities alone will not adequately protect our natural environment. Society must also take steps to stop damaging the environment and to achieve this it is necessary for governments (and where appropriate businesses and individuals) to adopt legislation, policies, programs and actions that prevent further environmental degradation and promote recovery and remediation. Just as in other areas of public policy, it is necessary and appropriate for informed and concerned citizens and organisations to participate in the legislative and policy development process through for instance education, campaigns and advocacy directed at the public and politicians. I see nothing wrong with organisations with DGR being involved in such activities. Indeed, I see it as a democratic right and one which governments should be assisting rather than resisting because of the benefits that such organisations can bring to public policy and society.

7. Regarding question 4, I see no reason to regard a DGR-approved organisation's advocacy activities as different in any way from its other activities that protect (again in the broadest sense) the environment. Advocacy is a legitimate part of many organisations' activities and has a valuable and socially necessary role to play in protecting the environment.
8. Regarding question 7, I support any measure that would simplify and make more transparent, appropriate and consistent the application and approval process for DGR status.
9. Regarding paragraphs 73 and 74, it is difficult to know why, from an environmental point of view, the Committee felt it would be appropriate to require environmental organisations with DGR status to direct at least 25% of their annual expenditure to environmental remediation. What justification is there for privileging environmental remediation above other environmental activities? Such a requirement would require some funds to be spent inappropriately (i.e. not where they could do most benefit) and require some organisations to change their whole purpose and ways of working. As noted by the Australian Environmental Grantmakers Association, the Charities Act focuses on a charity's purpose, not its specific activity. This seems entirely appropriate to me as it encourages the organisation to define its purpose and then match its activities to that purpose, not the other way round.
10. Regarding question 12, as will be obvious from my preceding comments, I can see no justification or logical reason to require environmental organisations with DGR status to commit 25% (or any other amount) of their annual expenditure to environmental remediation. It is contrary to the requirements of the Income Tax Assessment Act and cannot be justified in terms of environmental benefit. To require funds to be spent on a specific activity such as this is also inconsistent with the requirements placed on non-environmental organisations with DGR status. I strongly encourage the ATO to reject this proposal.

Many thanks for considering this response.

Yours sincerely,

Peter Sainsbury