



everyone's family

Tax Deductible Gift Recipient Reform Opportunities

Submission to the Treasury

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Contact person:

Ben Watkinson
Company Secretary
The Smith Family
Level 9, 117 Clarence St
Sydney NSW 2000
Ph: 02 9085 7100
Email: ben.watkinson@thesmithfamily.com.au

Introduction and context

The Smith Family welcomes the opportunity to comment on the Treasury discussion paper on Tax Deductible Gift Recipient Reform Opportunities.

The Smith Family's comments are provided in the context of recognising that changes in the regulations relating Deductible Gift Recipients (“DGR”) may well be appropriate, such changes must not adversely impact either the sector as a whole or its participant organisations. This is particularly important in relation to governance arrangements, given the large diversity in organisations which ultimately will be subject to them in terms of scope, size, structure and geographical dispersion.

Background on The Smith Family

The Smith Family is Australia's largest education-oriented charity and delivers programs in 94 communities across all states and territories. In 2015-17 we supported 127,000 disadvantaged children, young people and their parents/carers. This included over 14,000 from Aboriginal and Torres Strait Islander backgrounds. The Smith Family supports over 37,000 students on a long-term *Learning for Life* scholarship aimed at improving three key long-term outcomes for the young people we support, namely: school attendance, school completion and engagement in employment, education or training post-school.

The organisation is a company limited by guarantee and operates in every Australian state and territory. It has Public Benevolent Institution and Deductible Gift Recipient status, and is an Income Tax Exempt Charity, and has a strong focus on sustainability and, as such, has aimed to ensure its income is drawn from a range of sources. In 2015-16, The Smith Family's annual income was just over \$91 million. 21.2% of this was sourced from Government funding, 69.5% came from fundraising (donations and corporate support) and bequests, 5.4% came from the VIEW (Voice, Interests and Education of Women) Clubs of Australia and 3.9% came from The Smith Family's recycling operations and other income.

Comments on the discussion paper

The discussion paper proposes a number of reforms which aim to strengthen governance arrangements, reduce administrative complexity and help ensure that an organisation's DGR status is up to date. The Smith Family's responses are limited to comments on those proposed reforms which we believe require clarification or amendment. The numbering of sections below reflects the numbering used in the discussion paper.

Issue 1 – Transparency in DGR dealings and adherence to governance standards

One of the key roles of the Australian Charities and Not-for-profits Commission (“**ACNC**”) over time is to provide a ‘one stop shop’ for the not-for-profit sector in terms of registration and reporting, and the provision to the community of information on both the charitable sector and registered organisations. Subject to a phasing in period, requiring current DGRs to be registered as charities with the ACNC is consistent with that intent and would serve ultimately to increase the community's levels of confidence and trust in the sector.

Issue 2 – Ensuring that DGRs understand their obligations, for example in respect of advocacy

The ACNC is well-placed to provide support for charities in understanding their legislative and regulatory obligations in ensuring that their activities are directed towards achieving their charitable purpose.

We do not support the singling out of advocacy activities for additional reporting. Advocacy is an effective way for charities to achieve their purpose, and indeed it is likely that many supporters would expect charities to advocate on behalf of their constituency.

Issue 3 – Complexity for approvals under the four DGR registers

The Smith Family supports the taking of steps to simplify the administration of the various DGR registers and the application process for charities to access DGR status. An opportunity exists now not only to bring the four DGR registers under the control of the Australian Taxation Office (“**ATO**”), but also ultimately to phase them out entirely, provided that a pre-requisite for being granted DGR status is registration as a charity with the ACNC as proposed under Issue 1 above.

In line with the ‘one stop shop’ approach, the DGR registration process could be simplified even further by conducting it through the ACNC rather than the ATO, with a requirement that the ACNC acts as a filter by making recommendations to the ATO on which organisations should be granted DGR status. The ATO's role could then be reduced to reviewing the recommendations and making its determinations on an exception basis.

Issue 4 – Complexity and red tape created by the public fund requirements

The Smith Family supports the removal of the public fund requirements for charities. The present arrangements are unnecessarily complex, and it is suggested that any required segmentation of funds can be achieved by other means within modern accounting systems.

Issue 5 – DGRs endorsed in perpetuity, without regular and systemic review

Under present arrangements charities are accountable to the ACNC and are required to submit annual information statements and other material to it in order to maintain their registrations. Requiring a specific certification in the information statement that a DGR charity continues to meet the eligibility requirements for ongoing DGR status is a reasonable approach.

Issue 6 – Specific listing of DGRs by Government

Requiring DGRs to be listed as charities with the ACNC and simplifying the application process for the granting of DGR status as contemplated by proposed actions under other issues in the discussion paper will address some of the needs of both current DGRs and new applicants.

There is additional complexity surrounding organisations which are specifically listed in the *Income Tax Assessment Act 1997*, yet there seems to be little reason for differential rules to continue to apply to them. The introduction of a sunset period during which specifically-listed organisations would need to apply for their registrations to be transferred to one or more generally available DGR categories would allow ultimately for specific listings to be removed from the legislation, and make all organisations subject to the same listing rules with the ACNC.

Conclusion

The discussion paper notes that the Government makes a substantial contribution to the not-for-profit sector through the provision of DGR status as a means of encouraging philanthropy. This has the effect of increasing the social return on its investment by the level of that philanthropy.

The Smith Family supports a range of proposed actions outlined in the discussion paper which are focused on improving transparency and reducing red tape and administrative complexity as means of promoting community confidence in the integrity and value of the sector.

A key means of achieving this outcome is to continue the development of the ACNC as the 'one stop shop' for charities, but recognising that while this will result in savings in many areas of government from the centralising of certain responsibilities, it will only succeed if the ACNC is appropriately resourced to undertake its broadened role from those savings.

The Smith Family would welcome the opportunity to discuss these matters more fully or to provide further information where this may be requested.