

Submission

To: Tax White Paper Task Force
The Treasury
Langton Crescent
PARKES ACT 2600

From: Tabitha Lovett, General Manager – Philanthropy Services,
Equity Trustees Limited

Date: 4 June 2015

Subject: **Tax White Paper Process – Tax Discussion Paper**

1 Introduction

Equity Trustees Limited welcomes the opportunity to comment on the Tax White Paper Process (**Tax Discussion Paper**).

Equity Trustees was established in 1888 by an Act of the Victorian Parliament to provide trustee and executor services. The company also provides financial services including portfolio management, managed funds, superannuation and philanthropy. We act as trustee for over 450 charitable trusts (around 30 alongside independent co-trustees) with over \$1.8 billion in charitable trust monies under management.

In summary, in this submission we wish to highlight the importance of retaining important structural components of the existing taxation framework, in particular the dividend imputation system and the refund of imputation credits.

Equity Trustees is a member of the Financial Services Council (**FSC**) and has contributed to the FSC's submission to Treasury on the Tax Discussion Paper.

Many of the co-trustees of the charitable trusts for which we are corporate trustee have expressed concern regarding any proposed changes to the refund of imputation credits and have requested we submit a submission which they can endorse. Those co-trustees have signed the attached cover letter.

Equity Trustees is a member of **Philanthropy Australia** and endorses its submission to Treasury. We have set out below a summary of the matters raised in Philanthropy Australia's submission for which we are in agreement.

2 Dividend Imputation and Refundable Franking Credits

As the Tax Discussion Paper states, and by way of background, dividend imputation was introduced in 1987 to relieve double taxation. This is achieved by ensuring that distributed corporate profits face only one layer of tax, equal to the marginal tax rate of the resident shareholder that receives a share of the profits through dividends.

In 2000, the then Treasurer, the Hon Peter Costello MP, introduced reforms to the dividend imputation system to make imputation credits refundable for some taxpayers, including registered charitable and deductible gift recipient organisations. These are commonly referred to as 'refundable franking credits'.

Registered charitable organisations including charitable trusts and ancillary funds are income tax exempt and are eligible for a refund of the full value of franking credits from the Australian Taxation Office (ATO).

Equity Trustees and our fellow co-trustees are strongly in support of the concept that existing dividend imputation and refundable franking credit arrangements should be retained, and that no changes should be introduced which may have an adverse impact upon philanthropy, and by extension the charities and charitable causes that philanthropy supports.

The reasons for this are twofold:

2.1 Refundable Franking Credits and the Income Tax Exemption

First, there is a principle that because the charitable income of philanthropic trusts, foundations and ancillary funds are applied for public rather than private benefit they are entitled to an income tax exemption.

Philanthropic trusts and foundations generate income in various ways, but most commonly it is by investing their corpus in a variety of asset classes including equities, property, fixed interest and cash. Any returns from these investments, in the form of capital gains, dividends, rents, or interest, are exempt from income and capital gains tax. These returns can then be applied to support important charitable causes in the community.

The availability of refundable franking credits is relevant in the case of dividend income, and is consistent with this income tax exemption. That is because refundable franking credits ensure that no income tax is paid either directly or indirectly by the philanthropic trust or foundation.

If refundable franking credits were no longer available, then this would in effect impose a 'philanthropy tax' as philanthropic trusts and foundations would no longer be fully income tax exempt as they would be indirectly paying tax on some of their income through the corporate taxation system.

This would offend the principle that where funds are applied for charitable purposes for the public benefit, they should be income tax exempt.

Equity Trustees' – Submission Tax White Paper Process – Tax Discussion Paper

As Philanthropy Australia emphasizes in its submission – in the case of philanthropic trusts and foundations, the debate around the dividend imputation system does not involve questions about double taxation. Rather it involves questions about whether these organisations are entitled to be fully income tax exempt rather than just partially.

2.2 Refundable Franking Credits and Support for Charitable Causes

When announcing the introduction of refundable franking credits in 2000, the Hon Peter Costello MP, stated that:

‘The Government’s announcement will provide a significant financial boost (around \$50 million annually) to charities and they will therefore be in a position to provide more services and assistance to their beneficiaries.’

This was in recognition of the fact that the availability of refundable franking credits makes more funds available to support charitable causes in the community

Based on ATO data between 2001-02 and 2013-14, refundable franking credits have provided a cumulative total of over \$5.2 billion dollars to philanthropic trusts and foundations and other charities.

In 2013-14 the value of refundable franking credits claimed was just under \$560 million. This is \$560 million which has been available to be applied towards supporting charitable causes in our community.

If refundable franking credits were no longer available, this would mean a significant reduction in income to philanthropic trusts and foundations and the charities and charitable causes of more than half a billion dollars per year.

Franking credits are treated at trust law as income and as such they are distributed each year to achieve the charitable objectives of each trust. Therefore the real impact on the broader community would not impact on the trust and foundations’ corpus but of greater concern, would have a devastating impact on the broader community, given that this income from franking credits would not be available to fund charitable causes through grants and donations each year.

Case Study: The Felton Bequest

By way of illustration of the practical impact this would have, take the example of a large Victorian based philanthropic trust for which we are trustee called the Felton Bequest.

The Felton Bequest divides its income each year between the National Gallery of Victoria (**NGV**) and projects assisting women and children in distress. The Felton Bequest has acquired approximately 15,500 works of art for the NGV and it continues to have a profound impact on the Gallery to this day for the benefit of all the community who enjoy free access to its collections. This is complemented by the projects it funds for women and children, recently funding Domestic Violence Victoria to assist the Government via its Inquiry into domestic violence.

The Felton Bequest received \$655,377 in refundable franking credits for the 2014 financial year. This equated to 31% of income available for granting. Therefore if

**Equity Trustees' – Submission
Tax White Paper Process – Tax Discussion Paper**

refundable franking credits were no longer available, based on 2014 figures, granting would be reduced from \$2,121,843 to \$1,466,466.

Further, the Felton Bequest like many of the larger philanthropic trusts we manage, often award multi-year grants and changes to imputation credits and the resulting loss of income available would compromise the trusts' ability to honour those forward commitments to the detriment of beneficiaries providing important services in the areas of welfare, education and health.

3 Conclusion

Equity Trustees and our co-trustees who are signatory to this submission are of the firm view that the existing dividend imputation and refundable franking credit arrangements should be retained, and that no changes should be introduced which may have an adverse impact upon philanthropy, and by extension the broader community it supports.

We believe any such changes would be contrary to the Australian Government's intention to support the not-for-profit and charity sector through the growth of philanthropy and would have an impact on not only those most in need and marginalised but also on education, health, medical research culture, the arts and innovation all of which are Government priorities and which philanthropy supports.

If you have any questions or require further information please do not hesitate to contact me on (03) 8623 5379.

**Tabitha Lovett
General Manager, Philanthropy
Equity Trustees Limited**