



Submission to the Treasury

Tax Deductible Gift Recipient (DGR) Registers Reform

17 February 2023

Introduction

The Australian Environmental Grantmakers Network (AEGN) welcomes the opportunity to provide feedback on the exposure draft of the *Treasury Laws Amendment (Measures for Consultation) Bill 2023: Deductible Gift Recipients Registers Reform*.

In summary, our submission:

1. Welcomes the transition of responsibility for the provision of Deductible Gift Recipient (DGR) endorsement for environmental organisations away from the Department of the Environment and the abolition of the Register of Environment Organisations.
2. Recommends the responsibility for providing DGR status be shifted to the Australian Charities and Not-for-profits Commission (ACNC) rather than the Australian Tax Office (ATO);
3. Recommends the removal of the requirement for environmental DGRs to have a gift fund (or public fund), on the basis that the boards of environmental charities are well placed to be accountable for ensuring donations are spent in accordance with the organisation's environmental purpose;
4. Recommends the amendment of the conduit policy requirements, as they have potential to restrict positive collaborative work between environmental DGRs;
5. Recommends the next phase of reform seek to extend DGR status beyond the current categories in line with the findings of the Productivity Commission in 2010 and the Not-For-Profit-Sector Tax Concession Working Group in 2013.

About us

The AEGN was established in 2009, in response to a need identified within philanthropy for a range of educational and networking functions to support environmental grantmaking. The AEGN plays an important role in growing well informed philanthropy and encouraging effective grantmaking in the environmental area. The AEGN has been listed on the Register of Environmental Organisations (REO) since November 2009.

Our 180 members are individuals, trusts and foundations that use their philanthropy to support climate change and environmental organisations achieve their charitable purpose.

They value their role contributing to the health of the environmental charity sector, including promoting collaboration between organisations. As trusts and foundations they must operate in accordance with charity and trust law and provide gifts in accordance with their trust deed. Most of our members are obliged to only make grants to organisations holding DGR status in accordance with the requirements of Private and Public Ancillary Funds.

Our background in charity and tax reforms

The AEGN and its members have been active participants in previous government inquiries into charitable tax concessions, commencing with the 2015 Standing Committee on the Environment's inquiry into the Register of Environmental Organisations (REO).

We recognize that philanthropy is crucially important for climate change and environmental charities. State, Territory and Federal Governments provide very low levels of funding for these organisations. Where government funding is available it tends to be restricted to achieving narrow program outcomes. The tax concession framework is one of the primary vehicles for the Australian Government to support the important work of the charitable sector. The AEGN advocates for reforms that relieve environmental charities from unnecessary administrative burden and expand the opportunities for philanthropy to support a diverse and growing sector.

The most recent opportunity to reform the tax concession framework was the 2017/18 Treasury inquiry into DGR tax arrangements. We supported the proposal that environmental DGRs be required to have charitable status and are pleased this reform has been completed. This process also flagged the abolition of the REO with DGR endorsement responsibility shifted to the ATO. While this was not progressed at that time, we are pleased to see activity in this direction by the current government.

Comments on the exposure draft

We support the proposal to abolish the REO and transfer DGR endorsement responsibility away from the Department of Environment as a means of reducing the time involved in getting DGR status (currently around two years) and removing the potential of political interference in this process. The exposure draft provides this responsibility to the ATO. We recommend the Australian Charities and Not-for-profits Commission be empowered to take on this responsibility as they already register charities, Public Benevolent Institutions and Health Promotion Charities (of which the latter two gain access to DGR).

In addition, there are other aspects of the exposure draft that we believe should be improved.

Firstly, under the current system, environmental DGRs are required to have a public fund committee to oversee the income from tax deductible donations. The 2017/18 Treasury process flagged the relaxation of public fund requirements as a means of reducing administrative complexity. However, the exposure draft requires DGRs to maintain gift funds (and for existing public funds to become gift funds).

As charities, all environmental DGRs are required to pursue their charitable purpose and meet high governance standards. Their boards are accountable for ensuring activities are consistent with their charitable purpose and that all funds, regardless of their source, are used and

managed responsibly. Environmental organisations could be relieved of a significant administrative burden if boards were accountable for ensuring donations are used in accordance with their environmental purpose and they were not required to separately manage a public fund or gift fund.

Secondly, the exposure draft requires environmental DGRs to “have a policy of not acting as a mere conduit for the donation of money or property to other organisations, bodies or persons”.

In our view, it is unclear what the harm is in relation to the act of being a conduit to another organization so long as the funds are being used consistently with the charitable purpose of the organization that received the donation. The conduit policy could be amended to allow for DGR organisations to maintain contractual documents with genuine partners to demonstrate that the charitable purpose is maintained.

Thirdly, the exposure draft does not address one of the key systemic problems with DGR. Organisations that don't fit neatly into one of the 50 plus categories for DGR status find they can't access DGR at all. Of particular concern to the AEGN are Indigenous organisations that are not eligible for DGR as they operate across environment, culture, economic and social spheres in a way that is incompatible with the single-issue based structure of DGR categories.

We therefore encourage the government to see this exposure draft as a first step in a longer journey of positive reforms to the tax concession system. The 2010 Productivity Commission inquiry and the work of the Not-For-Profit Tax Concession Working Group both recommended progressively expanding the availability of DGR to charities beyond the current categories.

Conclusion

Australia's environment is in a precarious position with declining biodiversity and natural resources and more frequent and severe climate change impacts. The growing sense of urgency and desire for action within the community is incompatible with the current tax concession system. We encourage the government to revise the Bill to ensure it strikes the right balance between ensuring accountability and administrative load.

Your sincerely,

A handwritten signature in black ink, appearing to read 'AMANDA MARTIN', with a stylized flourish at the end.

Amanda Martin

CEO