Submission to

The Treasury

Tax Deductible Gift Recipient (DGR) Registers Reform

MARCH 16

COMMUNITY COUNCIL FOR AUSTRALIA

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Introduction

This submission briefly outlines some of the key issues for Australia's not-for-profit sector in response to the proposal to transfer administration of the four unique DGR categories from portfolio agencies to the Australian Tax Office (ATO) as outlined in the Treasury Laws Amendment (Measures for Consultation) Bill 2023: Deductible Gift Recipient Registers Reform.

CCA is supportive of this reform.

This CCA submission has been prepared with CCA members (see listing of CCA members, Attachment A) as well as other key organisations working within the broader not-for-profit sector.

It is important to note that this submission does not over-ride any policy positions that may be outlined in any individual submissions from CCA members. This is especially true when talking about charitable status and DGR eligibility as several CCA members currently comply with different codes of practice, different regulators, have different DGR entities, and are listed on different registers in relation to their Deductible Gift Recipient (DGR) status.

CCA believes the current regulations relating to DGR are long overdue for reform, and while the proposal to transfer four registers to the ATO is welcome, there are other significant reforms needed if DGR is to operate fairly across the charities and not-for-profit sectors.

CCA welcomes this opportunity to provide comment on the discussion paper and is willing to engage in further discussion about any of the issues raised in this submission.

The Community Council for Australia

The Community Council for Australia is an independent non-political member-based organisation dedicated to building flourishing communities by enhancing the extraordinary work undertaken by the charities and not-for-profit sector in Australia. CCA seeks to change the way governments, communities and not-for-profits relate to one another. It does so by providing a national voice and facilitation for sector leaders to act on common and shared issues affecting the contribution, performance, and viability of NFPs in Australia. This includes:

- promoting the values of the sector and the need for reform
- influencing and shaping relevant policy agendas
- improving the way people invest in the sector
- measuring and reporting success in a way that clearly articulates value
- building collaboration and sector efficiency
- informing, educating, and assisting organisations to build sustainable futures
- providing a catalyst and mechanism for the sector to work in partnership with government, business and the broader Australian community to achieve positive change.

Our success will drive a more sustainable and effective charities and not-for-profit sector in Australia making an increased contribution to the well-being and resilience of all our communities.

Current situation – the context

The not-for-profit sector

The NFP sector encompasses over 600,000 organisations - from large to very small - and employs well over 1.3 million staff (around 11% of all employees in Australia). Australia's 55,000+ charities collectively turn over more than $160 billion each year and hold around $300 billion in assets.

These facts tell only a small part of the story. The real value of the NFP sector is often in the unmeasured contribution to Australian quality of life. NFPs are at the heart of our communities, building connection, nurturing spiritual and cultural expression, and enhancing the productivity of all Australians. Collectively, they make us a more resilient society.

For many decades there was no consistent regulation of charities in Australia other than the one-off requirement for those seeking any form of taxation concession to register with the Australian Taxation Office. For many, the process of working with the Australian Taxation Office to gain charitable status was a negative experience. Once registered, most charities never had any further contact with any regulator.

The Australian Charities and Not-for-profit Commission (ACNC) is the first time the NFP sector has had an independent regulator dedicated to providing a one stop shop approach to charity regulation and enhancing their capacity. The ACNC has already proved to be a positive step towards red tape reductions, increased transparency, and enhancing trust in the community. The national charities register has also provided invaluable information to millions of Australians including potential donors.

At a broader level, the recent history of the NFP sector is framed by growth and reform, but new issues and challenges are emerging. The level of volunteering and number of people donating to charities is lower than in previous years. Cost of living and wage pressures are squeezing many charities. The discretionary revenue available to governments to support the work of charities is effectively falling in real terms against a backdrop of increasing demands and higher community expectations. Competition for fundraising and services has increased.

The level of uncertainty across the charities sector is having a negative impact on medium and longer term strategic planning, and reducing investment in organisational capacity. This translates into diminished effectiveness and limited expenditure on organisational activities that increase the quality and responsiveness of services provided to communities.

Given the size of the sector and its critical role in our community, the Federal Government can achieve real economic and social benefits if it chooses to strategically invest in strengthening charities and supporting more efficiency and effectiveness in their regulation.

Overview of key issues

CCA supports the proposed reform of DGR to transfer the four registers from portfolio agencies to the Australian Taxation Office (ATO).

CCA also makes the following additional comments about DGR and the need for further reform.

The goal of DGR concessions

The goal of the DGR process should be to encourage community involvement, engagement, and ownership of issues they are concerned about. Encouraging citizens and civil society to own their issues of concern is not only good public policy, but also very good economic policy. Governments around the world acknowledge the benefit of community involvement and actively seek to promote philanthropy.

In the past, governments and The Treasury have tended to define donations to DGR charities in negative terms. Foregone revenue through tax concessions afforded by DGR status are seen as a cost to government, rather than a benefit. The implication is that charities receive 'generous' concessions resulting in government losing significant revenue. There is little acknowledgement that the level of DGR benefit is entirely dependent upon the level of community support for DGR organisations.

The Treasury tends to extrapolate the real cost to government of DGR concessions based on an assumption that every dollar given to a DGR charity or other organisation would otherwise have been taxable revenue. This assumption is compounded by the failure to factor in the significant transfer costs of having government collect, administer, and redistribute funds back to the community. The implication that every dollar given to a DGR charity represents a loss in revenue is grossly inflated.

Interestingly, governments never suggest that money used to employ people in businesses (and therefore written off as non-taxable expenses) represent a generous concession to business or foregone revenue to government. Similarly, no-one suggests that because the Minerals Council of Australia writes off the expenses associated with their lobbying of politicians that they are receiving generous concessions to engage in political advocacy. The companies that support the Minerals Council of Australia write off their contributions as expenses in the same way individual donors to DGR organisations might claim deductions.

Unlike most businesses, which seek to benefit owners, when a charity provides programs or services to a community it often enables governments to reduce their costs by not having to provide those programs and services, thereby creating very real savings. Charities also often provide services at less cost than equivalent government services.

Even using the Treasury's flawed assumptions about the costs to government, if the total DGR concessions amount to less than $2 billion each year, that is still only approximately 1% of the total annual turnover of the charities sector.

Ideally, governments would reframe any reform of DGR within a context that explicitly acknowledges the benefits as well as possible costs, and highlights that providing DGR status enhances our communities.

The current DGR processes are dysfunctional and need reform

CCA supports the view that the complexity of the current DGR arrangements make it an almost unworkable system, particularly for small charities.

As CCA has pointed out in several previous submissions, the process to obtain DGR status can be very lengthy and expensive. CCA has previously been quoted at least 12 months of work and a legal bill of $30,000 to obtain DGR status.

The way DGR status is administered with the ATO determining most eligibility as well as having four separate Departmental registers and a wide range of specific listings by Treasury Ministers reflects a dysfunctional, confusing, and costly approach to obtaining DGR status. It favours large charities over small, rich over poor, those with strong political connections over those with weak.

Not one review of the current DGR system has ever supported its continuation. It needs to be reformed.

All DGRs should be charities and all charities should be DGR

It is difficult to justify the current distribution of DGR eligibility which reflects the arbitrary and ad hoc way DGR eligibility has developed. In some cases, for instance, DGR is only given for a specific period even though the charitable organisation is ongoing and pursuing the same purpose in the same way.

It makes good policy sense that all donations made to registered, complying charities should be tax deductible. This is the practice in comparable countries like the UK and Canada.

Given there is a well-functioning regulator determining charitable status through an effective process, and given charitable status is embedded in the notion of public benefit, DGR should be directly associated with charitable status.

This position has been supported by the Productivity Commission and the Not For Profit Tax Concessions Working Group. This position has also been strongly supported by CCA for many years.

Conclusion

CCA strongly supports the need for reform of DGR and supports the proposal as outlined in the Treasury Laws Amendment (Measures for Consultation) Bill 2023: Deductible Gift Recipient Registers Reform.

The level of counter-productive regulatory and compliance activity, and lack of consistent independent application of tax concessions has a negative impact on the productivity and effectiveness of charities and not-for-profit organisations. This is particularly true for smaller local charities that have limited time, energy, and resources to fight through the layers of red tape and compliance activity associated with gaining DGR status.

Any reform of DGR needs to be informed by a clear policy goal. For CCA, the goal is clear – encourage stronger citizen and civil society engagement in their community through enhancing the capacity to recognise and support community contributions through charities. The more our communities own their issues and put their own resources towards addressing them, the more productive and resilient our society will be.

Current Membership – Community Council for Australia *(Attachment 1)*

Adult Learning Australia

Alannah & Madeline Foundation

Alliance for Gambling Reform

AMP Foundation, Nicola Stokes, General Manager (CCA Board Director)

Arab Council Australia

Australian Conservation Foundation

Australian Council for International Development, Marc Purcell, CEO (CCA Board Director)

Australian Environmental Grantmakers Network

Australian Scholarships Foundation

Australians Investing in Women

Barnardos Australia, Deirdre Cheers, CEO (CCA Board Director)

Brave Foundation

Brotherhood of St Laurence

Camp Quality

Carers Australia

Centre for Social Impact

Chain Reaction Foundation

Christians Against Poverty

Community Bridging Services (CBS)

Community Broadcasting Association of Australia

Community Colleges Australia

Connecting Up

Drug Arm Australia

Ethical Jobs

Everyman

Exodus Foundation

Feanix Foundation

Fitted for Work

Foundation for Alcohol Research and Education

Foundation for Young Australians

Fragile X Association of Australia

Good Samaritan Foundation

Good2Give

Hillsong Church, George Aghajanian, CEO (CCA Board Director)

InfoXchange

Justice Connect

Kilfinan Australia

Learning Links

Life Without Barriers, Claire Robbs, CEO (CCA Deputy Chair)

Lock the Gate

McGrath Foundation

Menslink

Mission Australia

Missions Interlink

Non Profit Alliance

Our Community

OzHarvest

Philanthropy Australia

Pro Bono Australia

Public Interest Journalism Initiative, Anna Draffin, CEO (CCA Board Director)

Queensland Water & Land Carers

Ronald McDonald House Charities

RSPCA Australia, Richard Mussell, CEO (CCA Board Director)

Saba Rose Button Foundation

SARRAH

Save the Children

Settlement Services International

Smith Family

Social Ventures Australia, Suzie Riddell, CEO (CCA Board Director)

St John Ambulance Australia

Social Leadership Foundation

Starlight Foundation, Louise Baxter, CEO (CCA Board Director)

Sydney Children's Hospital Foundation

Ted Noffs Foundation

The Centre for Volunteering

Variety – the Children's Charity of Victoria

Volunteering Australia, Mark Pearce, CEO (CCA Board Director)

Wesley Mission

Workplace Giving Australia

World Vision Australia

World Wide Fund for Nature Australia