



3rd December 2024

Treasury
Langton Crescent
Parkes ACT 2600
charitiesconsultation@treasury.gov.au

Dear Treasury,

Draft Taxation Administration (Community Charity) Guidelines 2024

Thank you for the opportunity to respond to the Draft Taxation Administration (Community Charity) Guidelines 2024.

Stand Like Stone Foundation is one of five community foundations in South Australia, established in 2004, it is integral to growing sustainability and supporting charitable work throughout the Limestone Coast (south-east of South Australia). The Limestone Coast includes seven Local Government Areas, an area of around 20,000 km² with a population of approximately 68,000.

As a community-driven organisation we maximise the distributions to our community, delivering over \$2.3M in grants, including \$557K in scholarships over 20 years. Annually, we regularly grant in excess of the required 4% of net assets from the Public Ancillary Fund (averaging 9% over the last 7 years).

We use our first-hand knowledge of local issues to support, protect and grow the communities in our region and are uniquely placed to be responsive and agile in the event of natural disaster or community need. Stand Like Stone is an essential part of the social infrastructure of our region and our role as a trusted steward of community assets is one that we take very seriously.

The restrictions of operating under DGR2 conditions have been challenging, costly and time consuming. We are keen to see the new community charity deductible gift recipient (DGR) framework make it simpler to give to and support our local community.

There are sections of the draft guidelines that we seek further clarity on, as well as recommending amendments to facilitate uncomplicated giving to our local communities.

Section 13(1) Minimal Annual Distribution

A community charity must make distributions of amounts that are in total equal to at least 4 per cent (minimum annual distribution) of the market value of the charity's net assets (excluding land) as at the end of the previous financial year.

Recommendations: We recommend revising this clause to the value of **net investment assets** and widening the minimum 4 percent annual distribution definition to include the expenses that the community charity incurs, in the course of undertaking its charitable purpose.

By allowing the use of net investment assets, a building owned by the community charity for the purpose of undertaking its charitable purpose (offices etc for the community foundation) would be excluded from net assets, however a building owned and generating income is included as a net asset.

Section 13(2) and 13(3) Minimal Annual Distribution

A community charity must distribute at least \$8,800.

Opinion: This requirement will unreasonably affect small rural/regional community charities that are in the early stages of growth with net assets less than \$220,000. Community Charities in their formative years need a reasonable timeframe to become established prior to distributing funds.

Recommendation: We recommend aligning distribution requirements under section 13(3) to that of Public Ancillary Funds, which are not required to make a distribution in their first four years following establishment (refer Taxation Administration (PuAF) Guidelines 2022 section 15(3)).

Section 25 Asset Portability

Under section 25, a community charity may transfer assets to another community charity, under certain circumstances, and with the agreement of the Commissioner. However Section 25 requires that ALL net assets are transferred to the receiving community charity.

Stand Like Stone has thirty seven sub-funds. Clause 25 inhibits our ability to flex to community need in porting a sub-fund to another community charity, either new or existing. The ability to be agile and flex to community need is vital to maximise giving flexibility and impact.

Recommendation: We recommend amending Section 25 to reflect the use of sub-funds as a vital management tool of the community foundation structure and enable portability of a sub-fund to a community charity. This will permit efficient portability and increase the flexibility of giving (within the agreed confines of the Community Charity Deductible Gift Recipient Framework).

Further, this approach is consistent with Public Ancillary Fund requirements which recognise the existence of sub-funds and enables the transfer of ALL of the net assets of a SUB-FUND to another ancillary fund, without the need to transfer other assets in the Public Ancillary Fund.

Recommendation: As the transfer of assets will occur within the Community Charity DGR Framework, we recommend removing the obligation to seek the “agreement of the Commissioner” to transfer assets to another community charity.

DGR1 Community Charity as intermediary entity

There is a growing network and cooperation between the five community foundations in South Australia.

There are benefits of collaborating on critical charitable projects where assets/funds may be pooled to attract significant external funding (that would otherwise be inaccessible to an individual community foundation) resulting in greater benefit for communities.

This collaboration will be severely inhibited under Clause 25.

An example of this is the 'School Readiness' fund in Foundation SA, with the purpose of supporting local family and child programs. We need the ability for Foundation SA (or similar) to receive funds and then port the funds to each of the regional South Australian community foundations (possibly also CC's).

Rather than a donor needing to give multiple donations to different community charities, Foundation SA (or similar) acts as a central repository to receive and port these funds, to the regionally based community charities for the purpose of granting to their community.

The rural/regional community charity then uses its local knowledge and connections to enable greater and more effective impact.

We also seek the ability to port funds into a pool of funds for an eligible collective activity or purpose. An example of this could be the South Australian community foundations working collaboratively to support the work of First Nations communities.

DGR Categories – Disaster Relief Fund

Community charities will require, a declaration of an event as a disaster to be made under section 30-45A of the ITAA 1997 before it can make distributions for the purpose of providing relief to people in Australia in distress, as a result of a disaster.

As a rural/regionally based community foundation, the communities we serve experience regular natural disasters, such as wildfire and storms, many of which are not declared as a disaster by the Commonwealth Government, however they have significant impact on our local communities.

Whilst we recognise that where a disaster is not declared, provision of relief 'might be covered' by another DGR category, as a community foundation we are uniquely placed to be responsive and agile in the event of natural disaster.

The interval between a disaster occurring and a natural disaster declaration, delays our response and inhibits our ability to support our communities at a critical time to enable effective and impactful recovery.

Recommendation: We recommend a review of the requirement for a disaster to be 'declared', therefore allowing a Community Charity to fundraise when a disaster commences.

DGR Categories – Scholarship Funds

We seek clarification on Scholarship Funds: a fund which provides scholarships on the basis of merit or equity and which is open to a geographical area of at least 200K people.

Access to education in rural and remote areas is challenging for reasons of accessibility, limited number and variety of courses available locally, distance to educational institutions, as well as additional costs associated with travel and accommodation if there are no courses available locally.

Scholarships, grants and bursaries provide financial support and it is not inherent to the meaning of scholarships to be in an area of 200K people. Reasons of equity and merit also exist within smaller communities and in many cases access to education is far more challenging in less dense, remote and rural populations.

Recommendation: We recommend consideration of removing or lowering the limitation of a scholarship fund to an area containing 200K people.

Community foundations are unique models that prioritise community-led initiatives and enable meaningful local impact, often operating with limited resources, therefore, it is critical that regulatory requirements can be effectively and efficiently implemented and facilitate straight forward giving in our local community.

Thank you for the opportunity to comment on the draft guidelines and considering our recommendations. We are available to provide further information and assistance as required.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Georgie McKay'.

Georgie McKay
Chair
Stand Like Stone Foundation