

ROYAL GUIDE DOGS TASMANIA

16 December 2012

NFP Sector Tax Concession Working Group Secretariat
The Treasury
Langton Crescent
PARKES ACT 2600

By email: NFPReform@treasury.gov.au

To Whom It May Concern:

Re: Royal Guide Dogs Tasmania submission to the Not-For-Profit Tax Concession Working Group

Royal Guide Dogs Tasmania is the sole specialist service provider for Tasmanians who are blind or vision impaired. Royal Guide Dogs Tasmania provides a broad range of services designed to ensure optimum participation rates in all forms of community, including social, educational and vocational.

Since 1964, Royal Guide Dogs Tasmania has provided services, free of charge, throughout the state. Only 13% of funding is received from government, with the remainder being generated through philanthropy, investment income and lotteries.

There are two attachments to this document:

- a. A submission addressing the key issues of pertinence to Royal Guide Dogs Tasmania; and
- b. A spreadsheet containing more succinct responses to the specific questions detailed in the Discussion Paper.

Royal Guide Dogs Tasmania endorses much of the commentary contained in the submission tendered by National Disability Services. In particular, Royal Guide Dogs Tasmania supports the contention that taxation concessions do not represent a cost to government, rather the concessions enable NFPs to provide services, with access to the support structures of philanthropy and volunteerism, which are generally not available to governments.

Royal Guide Dogs Tasmania has extensively addressed the issue of FBT within its submission and believes that properly indexed FBT is crucial in attracting and retaining quality staff (at all levels of remuneration) to the NFP sector, particularly in the delivery of disability services.

It is acknowledged that this is a complex area in need of careful consideration in order to meet the various needs of the NFP sector and government, and to ensure that the concessions deliver tangible outcomes for people in need, as opposed to providing an unfair competitive advantage for some NFP

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organisations over commercial operators in some specific areas. Whilst Royal Guide Dogs Tasmania does not possess the necessary expertise to comment in detail on every aspect of this Discussion Paper, we have attempted to address the issues of specific relevance to our organisation and to the blindness and vision impairment sector more broadly.

Please do not hesitate to contact me if you require any further information regarding our submission.

Kind Regards,

(by email)

Dan English
Chief Executive Officer

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Submission in response to Discussion Paper: Fairer, simpler and more effective tax concessions for the Not-For-Profit Sector

Royal Guide Dogs Tasmania welcomes this opportunity to provide comment on the Discussion Paper released by the Not-For-Profit Sector Tax Concession Working Group in November 2012.

Royal Guide Dogs Tasmania is the sole provider of specialist services for people who are blind or vision impaired in Tasmania. Royal Guide Dogs Tasmania is a not-for-profit entity, registered for GST, a deductible gift recipient and a public benevolent institution.

Not-for-profit organisations play an integral role in Australian communities, providing a range of essential social services, including disability services. The blindness and vision impairment sector is typified by not-for-profit services. Unlike many disability service providers, however, the majority of blindness and vision impairment organisations receive minimal government funding and are reliant on their own fundraising, investment and business operations in order to provide services that enable people who are blind or vision impaired to enjoy greater independence and participation in their communities.

As such, the Discussion Paper released by the Not-For-Profit Tax Concession Working Group is of particular relevance to Royal Guide Dogs Tasmania and the blindness and vision impairment sector more broadly.

Cost to Government

Royal Guide Dogs Tasmania strongly endorses the position articulated by National Disability Services that tax exemptions and other concessions provided to NFP organisations, particularly disability organisations, are **not a cost** to Government.

Blindness and vision impairment organisations are almost exclusively charitable organisations; not-for-profits who provide essential services to ensure enhanced participation rates for people who are blind or vision impaired. The services provided by organisations such as Royal Guide Dogs Tasmania are evidenced to significantly reduce cost to governments at all levels¹.

The services provided by Royal Guide Dogs Tasmania and other like organisations in the blindness and vision impairment sector would otherwise need to be provided by Governments, invariably at significantly higher costs.

¹ Access Economics: Clear Focus: The Economic Impact of Vision Loss in Australia in 2009 (June 2012)

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It may be argued that, in some parts of the disability sector, changes to the NFP tax exemptions and concessions would be cost neutral to government, as what it takes away with one hand, it will be required to provide with the other. This is not the case with the blindness and vision impairment sector.

Tax concessions are not a cost to government. Taxation is rightly applied to personal income and company profits. It should not be applied to organisations providing services that would otherwise need to be funded by government, often at considerably greater expense.

As has been evidenced in other reform agendas, it is simplistic and incorrect to believe that the government funds all disability services and therefore reforms reflect only a cost or saving to government.

As examples:

1. The recent Productivity Commission report into Disability Care and Support recommended the introduction of a National Disability Insurance Scheme and undertook extensive econometrics to determine the cost of the scheme. The Productivity Commission, subsequent to the release of its final report, was forced to admit that it had comprehensively failed to consider the contribution of philanthropy, social enterprises and NFP investments in supporting the services provided for people with disabilities throughout Australia.
2. More recently, the Australian Government was lauded for the passing of the Equal Remuneration Order. It was stated that this would bring salary parity for some of Australia's lowest paid workers, many of whom are female and work in sectors associated with not-for-profit employers. Despite the rhetoric, the reforms themselves fail to provide any relief for the lowest paid workers (the ERO provided for a 0% increase for people on Level 1 of the relevant awards).

Federal and State Governments have subsequently announced that they will meet their respective share of the costs associated with implementation of the ERO. This is exceptional news for those NFP and disability organisations that are funded in full or primarily by Government, as their options to meet the significant increases across the affected Award would be very limited.

However, again governments have comprehensively failed to acknowledge the impact of the ERO on organisations funded primarily though a combination of philanthropy and their own means, such as most of those organisations in the blindness and vision impairment sector. These organisations will receive little or no compensation from government, with the exception of marginal increases on any limited government funding that they may enjoy. The remainder of the significant cost increases associated with this decision will have to be

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met from their own sources including fundraising, social enterprises and investment income.

Royal Guide Dogs Tasmania is concerned that Taxation may be the next area of reform that fails to recognise the important contribution of philanthropy and self-funding of NFPs, resulting in changes based on an assumption that disability services provided by NFPs are exclusively funded by government.

Royal Guide Dogs Tasmania implore the Working Group to recognise that governments are not the exclusive funding source for all NFPs who provide disability services.

Therefore tax reforms that diminish current entitlements and seek to offset them through alternative government support will have a disproportionate negative impact on NFPs who are required to self-fund or significantly supplement their service provision through social enterprise, investment income and philanthropy.

Income Tax Exemptions

The Discussion Paper states “income tax law provides an exemption from income tax for various NFP entities.” The Paper goes on to state that in the absence of an exemption those entities would be required to pay tax on their income including income from businesses, investments and capital gains.

It could alternatively be argued that in the absence of those exemptions, NFPs would not exist (indeed could not exist) and that what would remain would be companies, who by definition are required to make profits to return to owners or shareholders. If the services provided and roles undertaken by NFPs, particularly those in the disability sector, were profitable, companies would already compete in those sectors to provide those services or undertake those roles. In the disability sector, those services provided by For Profit companies are few and far between.

There are some anomalies within the NFP sector that should be addressed in relation to income tax exemptions. This relates to where a NFP competes directly with for profit entities, utilising its NFP status to gain a competitive advantage without direct benefit to a specified target group within the community. For example, where an NFP enters a market in direct competition with commercial providers (eg aged care) but does not deliver tangible social outcomes (eg significantly reduced costs or enhanced service provision).

Royal Guide Dogs Tasmania does not believe that changes should be made to current income tax exemptions as they apply to NFPs in the disability services sector.

RGDT supports the current income tax exemptions for disability service providers.

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Refunds of Franking Credits

Entities endorsed as tax exempt charities or DGRs can claim a refund of franking credits on franked distributions from Australian companies. This refund, introduced in 2001, ensured that income from dividends was treated equally with other income, in that it was not taxed again in the hands of the recipient.

Royal Guide Dogs Tasmania receives a refund of franking credits of approximately \$20k per annum. With approximately \$1.5M currently invested in Australian equities and \$3M invested in cash or near cash, Royal Guide Dogs Tasmania budgets for approximately \$200k per annum in investment income, to which refund of franking credits adds approximately 9% per annum. Royal Guide Dogs Tasmania has accumulated this investment portfolio exclusively through the accumulation of bequest income.

The majority of our Association's expenditure is recurrent salary and associated on costs. Since 2008/09, Australia has experienced significant tightening of the economy across most sectors, with the notable exception of mining. This has resulted in a squeeze on NFP sector funding in all its forms, including government, philanthropy and investment income. Royal Guide Dogs Tasmania is no exception. And yet, the primary contributor to maintenance and growth of recurrent income streams has been our investment income, which contributes almost in its entirety to operations. Capital growth in our cash and equities portfolios has been based exclusively on bequest income.

Into the future, our investment portfolio is the only reliable source of operational income growth to meet a burgeoning demand for services amidst a constrained economy, particularly in Tasmania, typified by rising unemployment, cuts to government funding and indexation, and significant reductions in household disposable incomes, resulting in attendant reductions in charitable contributions.

The removal of, or significant changes to, the provision of franking credit refunds would have an immediate and significant impact on service provision for Royal Guide Dogs Tasmania. It is likely that this would be indicative of the situation for many NFPs in the blindness and vision impairment sector.

Royal Guide Dogs Tasmania does not support any changes to the rules regarding refunds of franking credits for income tax exempt charities and DGRs.

Deductible Gift Recipients

The Australian Government could argue that the cost to revenues in the 2011-12 financial year, through deductions claimed on gifts to DGRs, was \$910M. It could equally be argued that the savings to government through the

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provision of services by NFPs, as opposed to government agencies, far exceeded this amount.

As a very simplistic example, an experienced specialist service provider employed by Royal Guide Dogs Tasmania to provide orientation and mobility services for blind and vision impaired children receives a base salary of \$55k per annum plus four weeks annual leave. A person providing the same service employed by the Tasmanian Government would receive a base salary of \$80+k per annum plus 13 weeks annual leave. Both would possess the identical post-graduate qualification. The only difference in their remuneration would be that the Royal Guide Dogs Tasmania employee may enjoy the benefits of personal use of a motor vehicle, whereas the government employee may not (this is discussed further below in relation to Fringe Benefits Tax Concessions).

The example above could be considered typical of the comparisons between provision of service by government versus provision of similar or equal services through an NFP. Therefore to argue that the “cost” to government of deductible gifts was \$910M is a misrepresentation of the reality of service provision. This “income” that would have otherwise been derived from taxation of individual taxpayers would otherwise have been used to make a small contribution to the overall cost of providing those services, which in the absence of DGR status NFPs, would have to be provided by government at substantially increased costs.

The Discussion Paper tabled by the Not-For-Profit Sector Tax Concession Working Group refers extensively to the costs to government associated with NFPs, in particular the \$4 billion of quantifiable support provided through tax concessions, however, there does not appear to be a thorough or considered discussion of the benefits accrued to government through the savings provided by NFPs, particularly in the disability services sector, that would otherwise have to be provided by government.

For NFPs in the blindness and vision impairment sector, philanthropy is their primary income source. Royal Guide Dogs Tasmania is concerned that changes to the threshold for deductible gifts will have an immediate and negative impact on income derived from charitable donations.

Royal Guide Dogs Tasmania does not support the proposal to raise the threshold for deductible gifts from \$2 to \$25.

Royal Guide Dogs Tasmania is, however, concerned by the proliferation of bodies registered as collection points for DGR organisations. This has occurred in the guise of making it easier for donors to choose who their preferred charities are, however, what has resulted is those services retaining the income for increasing periods of time prior to passing it on to the relevant DGR. This is perhaps an area worthy of further investigation.

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Fringe Benefit Tax Concessions

As discussed above, Royal Guide Dogs Tasmania staff often receive significantly lower remuneration levels compared to professionals with similar or equal qualifications employed by governments or similar professionals in the private sector. One of the primary measures of offsetting these differences has been the application of Fringe Benefit Tax (FBT) concessions.

The majority of employers in the blindness and vision impairment sector are endorsed as FBT exempt employers and use FBT provisions to offer salary packaging to incentivise and, therefore, ultimately in order to attract and retain staff in a competitive labour market. It is acknowledged that the salary packaging is of greatest benefit to those on higher salaries, however, all employees are able to effectively increase the value of the remuneration through the current FBT exemptions available to endorsed NFPs.

Salary packaging is of significant relevance when negotiating with staff who could otherwise be disinclined to undertake employment with NFP employers where the remuneration levels are less competitive than in the private sector. It could equally be argued that in positions that command higher levels of remuneration, there is an even greater disparity between remuneration of NFPs and the private sector, therefore the benefits of FBT concessions are of even greater benefit to NFPs.

The value of these concessions has, however, been significantly eroded since the current caps were introduced in 2001. It is also felt that the value of the caps has been eroded by the broader inclusion of some entities, including some government agencies. There has, however, been no increase in the FBT since its introduction in 2001, despite the fact that salary costs have grown considerably during this period, thus reducing the net positive impact for staff in endorsed organisations.

Royal Guide Dogs Tasmania recommends that FBT caps should be reviewed in accordance with inflation rates between 2001 and 2012.

Royal Guide Dogs Tasmania recommends that FBT caps should subsequently be adjusted annually in line with the Fair Work Australia national minimum wage adjustments.

The Working Group has raised concerns, stating that there is considerable anecdotal evidence regarding excessive use of the uncapped exemptions for meals and entertainment, however, the amount of people employed by endorsed organisations, particularly in the disability sector, that are on salaries substantial enough to “abuse” this particular component is exceptionally small. It would perhaps be more appropriate to limit some of the organisations that are entitled to the FBT concessions, which would in turn remove much of the potential for this exemption to be abused to such an extent that it is cause for specific concern.

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Royal Guide Dogs Tasmania would be very concerned at any changes to this exemption based purely on “anecdotal evidence” that could only apply to a very small number of highly remunerated individuals, when the current concession contributes effectively to the ability of NFPs to attract and retain staff of a high calibre despite lower overall remuneration potential.

Royal Guide Dogs Tasmania does not support changes to the meal entertainment and entertainment facility leasing concessions.

Royal Guide Dogs Tasmania believes that serious consideration should be given to reviewing which organisations are entitled to FBT concessions, particularly where they compete directly with for-profit entities that do not benefit from relevant tax exemptions.

These changes may also address the issues of competitive neutrality that arise where eligible entities compete directly with businesses that are not able to access FBT concessions, however, this is rarely the case in the disability sector.

The perceived need to offer fringe benefits apparently imposes considerable compliance burdens on eligible entities. This is readily disputed, particularly given the rise in organisations offering salary sacrificing services at little cost to organisations or individuals.

The FBT cap is recognised as a mechanism to enhance the competitiveness of remuneration within the NFP sector, therefore there is no requirement to maintain any façade that commercial rules should apply. Removing the grossing up mechanism would show the actual income benefit at the personal marginal taxation level, rather than at the adopted maximum marginal rate, thus making reporting for entities such as Centrelink, Family Support Payments and Child Maintenance payments, fairer and more transparent.

Royal Guide Dogs Tasmania recommends removing the grossing up mechanism in order to reflect the actual income benefit for employees when reporting to external agencies.

There is, however, no mention of the administrative burden resulting from the strange disconnect between the taxation reporting periods (aligned with the financial year) and FBT reporting periods. Similarly aligning the reporting period to the normal financial year would reduce the compliance burden on eligible entities.

Royal Guide Dogs Tasmania recommends that the reporting period of FBT concessions should be aligned with the personal taxation reporting period consistent with the normal financial year (July – June).

The discussion paper raises concerns about some individuals benefitting from multiple caps. It is not felt that this is widespread in the disability sector, or in

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the blindness and vision impairment sector more specifically. Royal Guide Dogs Tasmania believes that placing restrictions on individuals receiving multiple caps would increase the administrative burden on organisations, increase costs of service and provide a disincentive to people undertaking part-time employment with a number of employers for work which is often poorly paid.

Royal Guide Dogs Tasmania does not support any reforms that would limit employees from benefitting from FBT caps from multiple employers.

As discussed above, one of the few incentives that NFPs, particularly in the disability sector, are able to offer has been the private use or occasional use of a motor vehicle. Recent changes to the FBT rules have made this less attractive and any move to reduce the attractiveness of this option or to increase the administrative burden associated with this would be a significant disincentive to organisations and employees in the sector.

Royal Guide Dogs Tasmania recommends that incidental use of a motor vehicle be exempt from FBT liability. Further, it is recommended that the Working Group consider how a separate cap for private use of a motor vehicle, in addition to the current FBT concession.

Again, the Discussion Paper has raised the issue of cost to government, citing a cost of providing the FBT concessions to PBIs at \$1.3 billion, however, without attendant figures reporting the savings to government in paying competitive salaries to provide the services currently provided by PBIs, this is a gross misrepresentation of the “cost” to government.

Royal Guide Dogs Tasmania is concerned at the frequent reference of “cost to government” throughout the Discussion Paper.

Royal Guide Dogs Tasmania recommends that if “cost to government” is to be used as the basis for significant reforms to tax concessions available to the NFP sector, then equal weight should be afforded to calculating and reporting the savings provided to government by provision of services through NFPs, particularly in the disability sector, prior to any reforms being recommended or implemented.

Several alternative suggestions have been provided for reforming FBT concessions. Royal Guide Dogs Tasmania is concerned that none of the reform options presents a significant advantage of the current system, despite its current limitations. Regardless of the reforms, two things are imperative:

- a. It is critically important that disability organisations are not disadvantaged through any taxation reforms.

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- b. It is essential that the reforms are not based on an assumption that government funding for NFPs will fill the void created by diminished or removed concessions, as this will not apply equitably for all organisations, particularly those in the blindness and vision impairment sector, who are primarily self funded.

Royal Guide Dogs Tasmania does not support replacing FBT concessions with direct funding, refundable tax offsets, direct tax offsets, or tax free allowances.

Goods and Services Tax Concessions

Royal Guide Dogs Tasmania believes that the current structure of GST concessions for NFPs is appropriate and supports the disability sector to deliver on its collective mission.

Royal Guide Dogs Tasmania recommends that no changes should be made to the current GST concessions for NFPs.

Eligibility for Tax Concessions

It is not the role of Royal Guide Dogs Tasmania to comment on who should or should not receive tax concessions of any type or form, with the exception to note that tax concessions should not be provided where they are utilised by a not-for-profit to gain competitive advantage over commercial entities in the provision of services of a similar or like nature, with no significant benefit to a specified group of the community.

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