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Dear Secretariat,

Thank you for the opportunity to contribute to the discussion on the options paper.

I will comment on some aspects of the paper as I read it through.

Page 9

Your Table A on page 9 does not appear to deal with Public and Private Ancillary funds clearly. I am enclosing a copy of table prepared by Makinson & D'Apice which I think sets out the position more clearly.

Tax Concessions Guide for Associations, Charities & Not-For-Profits

Types of Not-For-Profits	Mutuality Principle (income tax exemption for certain receipts)	Income Tax Exemption	Fringe Benefits Tax (FBT) Exemption (subject to capping threshold)	FBT Rebate	GST Concessions for Charities and Gift Deductible Entities	GST Concessions for Not-For-Profit Organisations	Deductible Gift Recipient (DGR)	Refunds of Franking Credits
Charities	Public Benevolent Institutions (PBI) & Health Promotion Charities	✓	✓		✓	✓	✓	✓ Certain types only
	Charity: Charitable Institutions	✓	✓	✓	✓	✓	✓ Certain types only	✓
	Charity: Charitable Funds	✓	✓		✓	✓	✓ Certain types only	✓
Income Tax Exempt Funds		✓			✓		✓	✓
Typical Association e.g. industry association	✓ Certain types only	✓ Certain types only	✓ Certain types only	✓ Certain types only	✓ Certain types only	✓	✓ Certain types only	✓ Certain types only
Other Not-For-Profits	✓ Certain types only	✓ Certain types only	✓ Certain types only	✓ Certain types only	✓ Certain types only	✓	✓ Certain types only	✓ Certain types only

The entity must be endorsed by the Australian Taxation Office to access this concession

Only certain types of associations and not-for-profit organisations are exempt from income tax. Many associations and not-for-profit organisations are taxable, but may be entitled to special rules for calculating taxable income, lodging income tax returns and special rates of tax; self-assessed entities are included in this category

Public and not-for-profit hospitals and public ambulance services are eligible for this concession

Certain non-government not-for-profit organisations are eligible for this concession

The entity must be a deductible gift recipient to access this concession

The entity must be endorsed by the Australian Taxation Office as a DGR to access this concession. The only organisations that do not need to be endorsed are those listed by name in the tax law, including prescribed private funds

The entity must be an income tax exempt charity, income tax exempt fund, or deductible gift recipient to access this concession

The mutuality principle is applicable to those organisations that are formed by members pursuing a common purpose; some receipts by such organisations are treated as non-assessable for income tax purposes

Only associations that are also public benevolent institutions or health promotion charities are eligible for this exemption

Page 10.

I am not convinced that your propositions advanced are sound. They seem to be selective quotes to suit your proposition which to my knowledge are not complete or necessarily accurate.

E.g.

You quote an attempt by William Gladstone to remove the income tax exemptions without discussing the arguments by which it failed or any discussion of the reasons. The exemptions as I understand it were originally granted legislatively in the United Kingdom by the Assessed Taxes Act of 1798. One could therefore suggest that Gladstone was attempting to change a long standing exemption and was defeated in Parliament on this issue. It is also interesting to note that Gladstone in 1869 became Vice-President of the "Society for Organising Charitable Relief and Repressing Mendicity" thereby showing a rethinking of his political opinion some 6 years later and was subsequently Chancellor of the Exchequer and Prime Minister.

You have chosen to ignore any discussion of the accuracy of the argument about competitive neutrality or even reference it.

There are also some who question the efficiency both in economic terms and quality terms of the government delivering "charitable" works as well.

The current concessions do need to be reviewed but not on the basis of your flawed propositions in items 1, 2, and 3.

Page 11

Paras 3 and 4,

This really evidences a clear lack of accurate knowledge of the costs surely it would be good to know the actual costs.

You have not put the figures you quote in the context of the total budget of the Government it would appear to be about 1.5%.

Para 5

The previous Government and the current Government has approved of the development in our society of Public and Private Ancillary Funds and in fact has only at the beginning of 2012 reviewed and amended the legislation relating to these funds. It would be good to know how the figure was derived and how much related to these funds. This information should be available.

Para 6

The Committee seems to be limited in its scope because of its prohibition on dealing with these unknown issues. To my mind it would be more equitable and proper to deal with its terms of reference after these issues have been resolved as it is now asked to operate with incomplete knowledge.

Page 14

Para 21.

This seems to be a very strange statement not supported by evidence but merely a generalisation which does not represent anything. In fact it seems to be contrary to the Report of the Productivity Commission.

Para 22

My real interest is in Charities so I cannot see any benefit in having an external body probably political/government in determining Social benefit as the history of Charities has always shown they have lead society's and government policies in the areas they have developed e.g. education, aged care ,homelessness as 3 examples .

Question 1.

Fundamentally I believe the existing categories should be maintained though the clarification of the types might help but at this stage we do not have definition of charity it is not proper to elaborate further

Question 2

In general they probably are however until one sees the definition of a charity one cannot have any confidence in expressing a view.

Question 3

A public benefit should follow the reasoning given in Chapter 13 of the Charitable Definitions Inquiry. If they are not charities there should be a standard set of conditions

Question 4

I have no real knowledge of this. However I would observe that simplicity and clarity should be the aim.

Page 15

Para 25. It can also be argued that those "large" started small. History also illustrates that Government is an inconsistent means of providing a greater range of benefits as it then comes within political/budget issues without any consistency and would be detrimental to any long term planning.

Question 5

It is hard to answer this question clearly as the Table B only refers to gross figures and does not break them up into their respective components. This makes it very difficult to comment on if you had provided more information it would be possible.e.g how much relates to PAF's public and private. The current legislation for them has been designed to stop abuses.

Question 6

I think the existing categories should be maintained but perhaps it may need a little tidying up for consistency simplicity and clarity.

Page16.

Para 29 It is a pity that your terms of reference restrict you in such matters as it seems to be completely contrary to Government policy on the Purpose of the ACNC

Question 7

When it is done by the ATO merely adds to red-tape something that Governments today are claiming to reduce. Your comments merely illustrate the poorly drafted provisions that entities have to apply to determine the application. The real answer would be to have these written simply and clearly.

Question 8

I have no knowledge concerning these issues and the suggestion to simplify and consolidated seems sensible but it must be done clearly in the legislation.

Question 9

I do not know when these limits were inserted but it seems strange that it applies at such a low level which is less than average weekly earnings and less than the fortnightly pension for single person. It should be remembered that NFP companies have restrictions on how they can distribute their moneys and therefore it would be reasonable to increase it to say 50% of the annual pension of a single person. I think that the multiple entities could be covered in simple clear legislation.

Question 10

Option 1.1 You have in your terms of reference introduced the term “social good” yet it has not been clearly defined so one can only answer your option in general terms. Basically the current exemptions seem correct but as there is no discussion “Typical Association” and other Not for Profits using the Makinson & D’Apice table.

Option 1.2 I am not aware of the PBI’s or Health Promotion Charities that suffer from the limitations on receipt of franking credit refunds but I think for the social good they all should receive it. As no information has been provided about “Typical Associations” and “Other Not for Profits” again using the Makinson & D’Apice table it is hard to consider this option in detail

Option 1.3 Your comments on this option are hard to determine as we still have not seen a definition of charity or even the Regulations under the ACNC Act.

Option 1.4 Agreed.

Option 1.5 See my comments on Question 9

Page 18

Para 36 The argument that it is a cost to Government revenue does not attempt to take into the greater efficiency that is gained by this allowance.

Question 11 The answer to the second question is Yes

Question 12 Yes but in respect of primary and secondary education No. (However the Government's Gonski Review makes suggestions on these issues which should be incorporated in your review).

Question 13 the answer to the first question Yes. The second question I have no knowledge.

Question 14 If the outcome of this review accepts the PC's recommendations it should be done over a period of time say 10 years and it should be done by type. This would allow a full understanding the effect.

Question 15 There seem to be many views on this topic none of which seems to be satisfactory from the revenue issues that you are required to consider. It would seem unnecessarily complicated to have more than one tier. Perhaps a fixed tax deduction at the rate of 38 per cent would be a proposal to consider but whatever you decide should reflect a tax rate not an arbitrary percentage.

Question 16 In terms of simplicity and clarity it would merely have a negative effect.

Question 17 Perhaps Governments should encourage people to give Governments seem to be in public perception to be takers not givers.

Question 18 The discussion on this issue reveals that are evidences of double dipping which is wrong in principle. Perhaps consideration should be given to exempting gifts that are given from any CGT but not the rest of the Estate.

Question 19 The way the question is phrased it could taken as implying that this would be the only way a donor could give money. It creates many issues many issues some of which are:

- i) Is it the intention to this process to remove the personal relationship between donors and the charities they support?
- ii) How efficient will this system be? Monthly, or weekly. Will it permit credit card donations? What will be the fee charged by this system.
- iii) How will the receipts be issued general purpose for the Charity or a particular aspect of the charity's work?
- iv) How is the personal relationship of the donor and the charity maintained and established?
- v) How much will the Government charge as a fee it is not clear?
- vi) How will this relate to the ATO?
- vii) Will it require more work for a charity to identify the donor and correspond with the donor?
- viii) How will the information be made available on the ACNC website it is suggested mere contact details should be provided. A donor wants to make direct decision about who they give money to the suggestion here impersonalises it for no benefit to each party.

Basically this is not correct in principle and should be rejected totally.

Question 20 Workplace giving if it is to work in a very wide sense requires a workplace to be given a benefit so that it is cost neutral to the workplace.

Questions 21 & 22 I have no direct knowledge of the current procedures but I note you advise that they are confusing and not simple so therefore any change should make for simplicity and clarity.

Question 23. The issue that arises is that corporations are often criticised for making donations to Charities by their shareholders who maintain they would prefer to choose who donations should be given to. Whether this in fact actually happens no-one can prove. Your comments about corporate foundations are hard to follow in the light of their obligations under current legislation which I think are reasonable.

Question 24 As they are currently administered I think they are basically reasonable but why the ATO requires the TFN's of each director or Trustee I do not follow or understand.

Question 25. One can only assess this when the unknown regulations of the ACNC are available and have been determined.

Question 26 Yes and with a formula to increase this limit every 10 years.

Question 27

Option 2.1 No

Option 2.2 Yes

Option 2.3 Probably

Option 2.4 No as this would be subject to Government whims and would be very hard to explain to the community and would subject Government to arguments that it is using it as a flexible revenue raising tool.

Option 2.5 PAFs are relatively recent developments and it is only in 2012 that a revision has taken place. As indicated above I do not support a tax offset .

Option 2.6 See answer in question 18.

Option 2.7 Whilst it may conceptually reduce transaction costs. It creates too many other issues (see comments on Question 19) to be useful for the DGRs and also enables the Government to charge a fee which becomes an additional cost to the DGR (something that is implied in the paper). However it would be proper for the ACNC to provide the relevant details for donors to make a payment.

Option 2.8 this sounds sensible but it would be necessary to allow for public comment to ensure that anomalies are not repeated,

Option 2.9 This again depends on their relationship with the ACNC and its unknown regulations

Option 2.10 Whilst it is good. It would be necessary to ensure that persons who make regular monthly/weekly contributions of say \$10.00 or persons giving over the \$25.00 in year are not disentitled .

Pages 34-47

.I do not profess any real expertise or knowledge of this so I will not comment in detail on your comments and questions.

- i) I find the uncapped meal and entertainment facility leasing a strange anomaly which should capped or an amount added to the existing limitations
- ii) The exemption for practice, study, propagation of religious beliefs by religious practitioners seems to be an anomaly and should be the same as that for PBI's.
- iii) The rebate for certain NFPs see my comment i).
- iv) It is not clear how one defines live-in employees of religious institutions.
- v) Is it equitable that there is a reduction of Medicare benefits when these arrangements are in place,
- vi) Multiple caps seems to be contrary to the purpose of the legislation and it should be on the employee to comply with this
- vii) It would seem sensible to align FBT rebates with the FBT tax rate.
- viii) Para 160. The evidence of Government matching such costs is not reflected in its current practice and this is an unacceptable proposition.

Pages 48-52

Basically I agree with your proposition that there is little concern however a tidying up of the fundraising concessions seems to make sense for simplicity and clarity. However it is difficult to comment further until the Fundraising Review is public.

I think the current concessions should apply.

Pages 53-58

I believe that reforms should be developed along the lines suggested by the lines of "Review of Business Taxation (1999) Final Report (Recommendation 5.6). It is impossible to for me to comment further without understanding the full scope of the sector and its types of entities which is not available in the discussion paper.

Next Steps

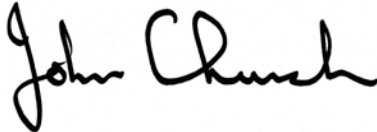
Para 227. I assume the costings have been worked on the basis of Question 11 if that is so there would be a simplification of great value.

Para 229. As we do not know what charity is yet it would be hard to answer this question.

There are still some outstanding papers that could possibly impact on the discussion paper namely “Review of Fundraising Regulation” and “Review of Companies Limited by Guarantee” it would be good that your further consultation take them into account and I trust you will be publishing progress report on the development of your final report .

One plea is that any legislation is “be clearly drafted and simple in its construction”.

Yours Faithfully,

A handwritten signature in black ink that reads "John Church". The signature is written in a cursive style with a large initial 'J' and 'C'.

John Church
17th December 2012