

Submission on the Not-for-Profit Sector Tax
Concession Working Group Discussion Paper

Engaging for Reform



Community Alliance
South Australia ●

17th December 2012

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Submission on the Not-for-Profit Sector Tax Concession Working Group Discussion Paper (November 2012)

**“Fairer, simpler and more effective tax concessions
for the not-for-profit sector”**

To the NFP Sector Tax Concession Working Group Secretariat,

The Community Alliance SA Inc. (the Alliance) is an incorporated association comprised of a large number of community member groups from around the State. The Alliance aims to put the people back into planning and development in South Australia.

The Alliance is a community service organisation (a not-for-profit association established for community service purposes). Our activities are altruistic, aimed at helping the wider community.

However, Australian Tax Office documentation states that the income of an organisation such as ours is not exempt from taxation if its main purpose is lobbying or political. As we understand it, lobbying can refer to groups such as the Alliance that are trying to change the way the Government acts and to change the law, in the interests of the community or general public.

The basis of our submission to you is that providing income tax exemption for community service groups whose main purpose is lobbying would be fairer, simpler and more effective, thereby maximising the social good,

and that the next best solution would be to significantly increase the tax free threshold for these organisations.

For details, please see our responses to consultation questions 1, 2 and 9 on the following pages.

Thank you for the opportunity to comment on ways to improve the way in which tax concession support is provided to the not-for-profit sector.

Dr Helen Wilmore
Treasurer

Tom Matthews
President

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Q 1 What criteria should be used to determine whether an entity is entitled to an income tax exemption?

AND Q 2 Are the current categories of income tax exempt entity appropriate? If not, what entities should cease to be exempt or what additional entities should be exempt?

Currently, community service organisations (not-for-profit societies, associations or clubs established for community service purposes) are exempt from income tax, with one exception – those established for political or lobbying purposes.

FAIRNESS

Tax exemption for lobbying groups would be fair

The Alliance believes the exception is unfair, does not treat like with like, and is not aware of any good rationale for the differing treatment. Lobbying can be altruistic, aimed at helping the wider community, including trying to change the way the Government acts and to change the law, in the interests of the community or general public.

The Review's Guiding Principle of fairness includes the statement that "Concessions should be available having regard to purposes and activities rather than arbitrary legislative requirements". The Alliance believes that, even if a group's activities are political or lobbying, the purposes can be for the benefit of the community or general public. The exception from tax exemption for lobbying groups seems to be an arbitrary legislative requirement, perhaps aimed at closing some loophole in the tax legislation, but which now slugs community service groups.

SIMPLICITY

Tax exemption for lobbying groups would be simple

Tax exemption for lobbying groups would bring them in line with all other community service organisations – the exemptions would be simpler. It would also negate the need for a group's members to assess whether the group's "main purpose is political or lobbying", which could potentially change from year to year.

EFFECTIVENESS

Tax exemption for lobbying groups would maximise the social good, by helping to enable the NFP lobbying groups to achieve their community and altruistic purposes.

Organisations such as ours are "manned" by volunteers raising relatively small amounts of money by holding events such as raffles and fundraisers at the local movie theatre etc. These activities are hard work and time-consuming and do not bring in funds that reflect the effort and labour put in (in the sense that paid employment would). Nevertheless, bringing in funds is necessary if community service groups are to have the resources needed to lobby to bring about changes for the social good. Paying tax on assessable income can then strip away vital funds needed to carry out an organisation's activities.

The Alliance believes this exception should be removed, thereby helping the NFP sector to achieve their community and altruistic purposes, and providing the maximum social benefit.

Tax exemption for lobbying groups would help to "recognise giving in Australia"

Having a proportion of funds removed from a community service organisation in the form of income tax can greatly reduce the hard-working volunteer's feeling of satisfaction in helping others, potentially resulting in less motivation to volunteer in a fund-raising capacity for the organisation.

Perhaps even more crippling is the burden of compliance with the income tax obligation. Relatively few 'treasurers' of community service organisations would be capable of managing the

complexities of the non-profit company tax requirements. Those groups considering becoming established for political or lobbying purposes may well abandon the idea for this reason alone.

It is not fair that a community service group should have these burdens simply because it is principally involved in lobbying.

Exemption would help provide a supportive environment for community service organisations whose main purpose is lobbying, encouraging more giving of volunteer time and also more financial support by the wider community for fundraising efforts.

Tax exemption for lobbying groups would be more efficient

Most community service organisations whose main purpose is lobbying would, we think, have relatively low taxable income.

However, we believe the current compliance costs and administration costs to the organisations themselves are likely to be very high. As outlined above, the costs (financial and human) are very likely to distort decisions by such lobbying groups, to the extent that they may even abandon the idea of becoming established in the first place.

We believe that providing them with tax exemption would have little impact on tax revenue for the Government.

Tax exemption for lobbying groups would give more structural coherence and transparency

Applying exemption from tax to community service lobbying groups would provide greater support to those groups, allowing them to carry out their intended lobbying in the interests of the wider community, thereby increasing structural coherence.

The Alliance has been unable to find a clear explanation of the rationale for the lack of tax exemption for community service lobbying groups. The Discussion Paper states that one of the rationales for providing income tax concessions to the NFP sector is that “income tax is only borne by individuals in a society and is imposed on entities as proxies for individuals. As charities and other NFPs are formed for purposes of public benefit, rather than the private benefit of individuals, it is argued that they should not be within the income tax regime.” Surely this applies equally to those community service NFPs whose main purpose is lobbying.

Every member of the general public we have discussed this with (outside of legal or accounting professionals) has been incredulous and even outraged that a group such as ours might have to pay income tax. Providing tax exemption would provide transparency and an understanding of the reasons behind tax concessions to the broader public.

Q 9 Should the threshold for income tax exemptions for taxable NFP clubs, associations and societies be increased? What would a suitable level be for an updated threshold?

Although the Alliance believes that community service organisations whose main purpose is lobbying should be exempt from income tax, the next best solution would perhaps be to significantly increase the tax free threshold for these groups.

The current level of \$416 can give a huge amount of uncertainty to such organisations, as to whether for any particular financial year they will have to lodge a tax return. This low threshold means that many such organisations (or their treasurer) would in any event have to go through the difficult process of calculating the taxable income (including applying the mutuality principle), to discover whether they need to lodge a tax return or not.

As stated above, the mere thought of having to go through this process may be enough to deter many ‘potential treasurers’ from being involved in the organisation, and deter many potential lobbying community service organisations from becoming established.

Perhaps a threshold of somewhere in the region of \$10,000 would be more appropriate.