



17 December 2012

Manager  
Charities Unit  
Indirect, Philanthropy and Resource Tax Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

To whom it may concern

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

Greenfleet welcomes the opportunity to make comment on the discussion paper.

Greenfleet is a nationally recognised leader in the environmental sector being the first organisation in Australia to establish biodiverse forests as carbon sinks. We believe that is important to provide incentives to stimulate donations to the charitable sector and high calibre personnel to administer and deliver charitable services.

Operating in an increasingly complex regulatory environment has meant that the nature of our operations have become increasingly 'business' like as the expectations of the community and business require us to meet nationally accepted standards. Greenfleet's operating business principles demand that we should be efficient and effective, just as efficient, effective and sophisticated, if not more so than any for profit organisation working in the same space. However our mission remains unchanged – to create a low carbon future for Australia.

We have made comment to selected questions in the following pages and would welcome any discussion or incentive that provides greater incentives for greater contribution to the environmental sector. Please feel free to contact Greenfleet at 03 9642 050 at anytime

Yours faithfully

A handwritten signature in blue ink, appearing to read "Sara Gipton".

**Sara Gipton** | CEO



## CONSULTATION QUESTIONS

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

For simplicity and ease of administering any registered charity should be automatically income tax exempt.

In terms of NFP's if it is beneficial to the community then tax exemption should also apply to those parts of its business that are aligned its core purpose.

*Q 4 Does the tax system create particular impediments for large or complex NFPs?*

Greenfleet's core mission to create a low carbon future for Australia has remained unchanged since its inception in the year 2000. Since that time however, an increasingly complex regulatory environment has meant that the nature of our operations have become increasingly 'business' like as the expectations of the community and business require us to meet nationally accepted standards. Greenfleet's operating business principles demand that we should be efficient and effective, just as efficient, effective and sophisticated, if not more so than any for profit organisation working in the same space.

We remain concerned that becoming more efficient and effective in an increasingly complex regulatory environment may be interpreted as operating purely for commercial purposes and thus threaten our charitable status either in the eyes of regulators or as perceived by our donors. Our core mission remains the unchanged.

We believe that as long as our operations remain aligned and consistent with our mission, then our charitable status should remain unchanged.

*Q 6 Should the ability of tax exempt charities and DGRs to receive refunds for franking credits be limited?*

Greenfleet believes that there is no justification for changing the current arrangements under which charities and income tax exempt DGRs can claim a refund of franking credits.

The current regime has increased the level of income being distributed to community organisations, as well as focusing investment portfolios on Australian companies paying Australian taxes. These outcomes help maximise community benefit in Australia both directly and indirectly. Dismantling the current system would impact heavily on dividend income flowing through foundations to the community.

Charities which have investment portfolios built up over the years from bequests would face a similar reduction in income. This would reduce the financial capacity of charities at a time when the demand for their services continues to rise. It is especially significant for those charities which use the income from investments to fund their core activities which do not attract funds from the donating public and grant makers, such as professional development of



staff, maintenance, infrastructure replacement, administration and the other costs of running an organisation.

If the grant making capacity of philanthropic trusts and the financial capacity of service provision charities is reduced as a consequence of an inability to claim franking credits, the burden of responding to the unmet community needs would fall upon government.

While the Discussion Paper does show growth in tax expenditure on refundable franking credits, the figures are not disproportionately large. It should be noted that limiting the ability of charities to claim a refund is effectively a de facto reimposition of taxation on tax-exempt entities. It would also significantly reduce the capacity of philanthropic trusts to assist them through the reduction in income available to distribute. Any revenue recovered by Treasury would be offset by increased demands on the public purse from both charities and their clients.

*Q 15 Would a fixed tax offset deliver fairer outcomes? Would a fixed tax offset be more complex than the current system? Would a fixed tax offset be as effective as the current system in terms of recognising giving?*

Greenfleet believes that a fixed offset becomes more onerous on an individual donor and does not support its introduction.

A fixed tax offset would fulfil some criteria of “fairness” by providing the same level of tax benefit to all regardless of income. However, it does not follow that implementing a greater tax incentive for lower income earners will lead to an increase in donations from low income earners. While Greenfleet appreciates the logic of a scheme whereby everyone receives an identical benefit from their gifts, it seems far more rational in a system where wealth is unevenly distributed to provide the greatest incentive to those with the most capacity to give. Increasing the incentives for those with less wealth will not increase their capacity to give. Changing the effective tax benefit for donors to a flat rate at a lower level than the highest marginal tax rate would result in a disincentive for higher income earners – the very people who are in a position to give at higher levels. This may in fact result in a decrease in giving at the high net worth end which would be a negative consequence for the continued growth of giving and the philanthropic sector.

Since the taxation statistics continually show that the largest donations are made by those with taxable incomes of over \$1 million, and also that “the more one earns, the more one claims as a tax deductible donation”. It seems logical that if the Government wishes to promote donations to DGRs, it should not curtail the benefit which results for those with the most capacity to give.

Furthermore, Greenfleet believes that the introduction of an alternative system, whether a fixed tax offset system or a hybrid, would at this stage be unnecessarily onerous and complicated for the not-for-profit sector which is already dealing with extensive and unprecedented change. This is particularly important since charities and not-for-profits, like any organisation which manages finances, are dependent on the accounting and auditing profession as well as upon the good services of a myriad of volunteers. Changes to the system would add to auditing and accounting costs both directly and indirectly.



The current system of tax deductions is, as the Discussion Paper states, simple, transparent and effective. It has also resulted in large gifts to DGRs. Greenfleet sees no reason to make any changes to a system which is working as intended, for the sake of recovering a relatively small amount of foregone tax revenue.

*Q 16 Would having a two tiered tax offset encourage giving by higher income earners?*

Greenfleet believes that any changes to tax offset has the potential to create confusion and by default become a disincentive for individuals to donate.

While acknowledging the disparity in tax relief it is those with higher incomes that have the disposable income to donate in greater amounts however this disparity applies equally to every other type of deduction. We do not understand why the charitable sector should unfairly bear the weight of reduced deductibility compared to other sectors that are the source of tax deductions.

Changing the level of deductibility is not in our opinion going to create a significant increase or change in the giving patterns, nor amounts, for those on lower income levels due to the availability of disposable income in the first place but will create disincentives for high income earners making discretionary donations.

*Q 18 Should testamentary giving be encouraged through tax concessions and what mechanisms could be considered to address simplicity, integrity and effectiveness issues?*

We believe that the Government should

- Provide additional tax support for donations of property, particularly for gifts that are strategically significant to the recipient organisation and the wider community sector.
- Encourages 'living bequests' by clarifying that they are deductible under the income tax gift provisions, and ensuring that any taxable capital gain at least excludes the value of retained rights or benefits; numerous prospective donors have shown interest in this reform should it be available in Australia.
- Recognize philanthropic support offered through 'bargain sales' or 'part gifts' of property to eligible community organisations by at least recognizing the discount provided as a gift for tax purposes; similarly, this reform is of interest to many Australian donors and is used almost daily in the USA.
- Provides an income tax deduction or rebate for management costs incurred in relation to land subject to a conservation covenant or a binding conservation management agreement.
- Excludes payments for conservation activities from taxable income where associated costs are not claimed, and



- Acts urgently to ensure tax support is available for all covenants and conservation gifts, including those made with Government agencies.

*Q 19 Would a clearing house linked to the ACN Register be beneficial for the sector and public?*

People giving prefer to give directly to a charity. There is no need for a clearing house. The superannuation clearing houses are underutilised and were not required as is evidenced by lack of take up. The cost and investment to implement has not been justified.

A free market finds a way and creates mechanisms if a need arises. The service is currently provided by organisations such as EverydayHero, who are reputable, known and trusted. The systems are already in place and adding a level of administration is unwarranted.

*Q 20 Are there any barriers which could prohibit the wider adoption of workplace giving programs in Australia? Is there anything the Working Group could recommend to help increase workplace giving in Australia?*

Workplace giving is influenced by the availability of the option to staff by individual organisations. We believe that the corporate conscience needs awakening to provide greater opportunity for employees to make deductions. Barriers to entry are the obvious investment required by the HR & IT departments to modify or incorporate this functionality into the payroll systems however, as most modern payroll systems deal with other payroll deductions easily, we do not see administration as a barrier.

We note that some corporations limit the number of organisations that their staff can salary sacrifice to. As for superannuation, we feel that there should be no limit on the choices that staff can make when directing their own wages to relevant charities.

*Q 26 Should the threshold for deductible gifts be increased from \$2 to \$25 (or to some other amount)?*

Greenfleet strongly opposes the changing of any level or threshold for deductible gifts.

Any disincentive that changes people's perception about giving and creates doubt must not be implemented. Most organisations that are accustomed to receiving multiple small gift amounts have systems in place to accommodate receipting requirements. The potential shortfall in donations that could reasonably be expected by any change to the threshold would more than overtake the administration costs of receiving the funds in the first place.

We recognise that is an administrative burden in issuing receipts for these payments. We recommend that this burden be easily overcome by no longer requiring receipts for small donations, say less than \$25. This approach is consistent with other small deductible amounts (eg journals, small stationery etc).



We do not understand why there would be difference in treatment between the two types of deductions – those related to generating income and those charitable donations.

*Q 28 Assuming that the current two tiered concessions structure remains (see Part B), what criteria should determine an entity's eligibility to provide exempt benefits to its employees?*

Greenfleet believes that all registered charities be able to automatically access at the minimum the rebateable concession. Greenfleet however believes that for simplicity and transparency to all a single offering and standard criteria should be introduced.

*Q 32 Should the caps for FBT concessions be increased if meal entertainment and entertainment facility leasing benefits are brought within the caps? Should there be a separate cap for meal entertainment and entertainment facility leasing benefits? If so, what would be an appropriate amount for such a cap?*

These items should simply be incorporated into the cap. The potential to misuse this category is overwhelming and again does not equate with the fair and simple tax concession definition. There should not be a separate cap.

*Q 34 Should there be a requirement on eligible employers to deny FBT concessions to employees that have claimed a concession from another employer? Would this impose an unacceptable compliance burden on those employers? Are there other ways of restricting access to multiple caps?*

Greenfleet feels that this approach is neither feasible nor fair. It would raise additional complexity for payroll functions within the not for profit sector.

There is no easy way to be able to easily nor accurately assess whether an FBT concession has been claimed and for how much from a previous employer other than by employee declaration perhaps as part of their tax file number declaration. If this amount is incorrectly applied or calculated the blame and burden would fall unfairly to the employer. As for other tax obligations, we believe that this matter is better dealt with at the tax return level of staff.

*Q 37 Is the provision of FBT concessions to current eligible entities appropriate? Should the concessions be available to more NFP entities?*

Again, Greenfleet is in favour of simpler rules for all. Therefore if granted 'registered charity status' an organisation should automatically be granted DGR status and relevant FBT status.



*Q 38 Should FBT concessions (that is, the exemption and rebate) be phased out?*

In an ideal world the need to offer these inducements as part of the overall salary package to attract and keep staff in the industry should not be required. The offering of competitive salaries meeting current benchmarks would be enough but there is an increasing gap between salaries paid in the private sector versus those paid in the public and not for profit sector. As the NFP as a whole pays significantly less in employee salary packages than the private sector it is a necessary tool that is required to ensure the industry can indeed attract employees and talent.

*Q 39 Should FBT concessions be replaced with direct support for entities that benefit from the application of these concessions?*

Greenfleet strongly objects to any move to a direct funding approach. We are proudly an organisation that exists without relying on the vagaries and changes that government grants can create. Any attempt to move to a direct funding model would create significantly more bureaucracy and red tape. Government budgets are constantly under review and subject to change. To be at the mercy of budget downgrades and cuts will provide unbetrayer and instability across the sector and will create more harm than it could ever hope to achieve in good will.

We also see this option as economically inefficient as the bureaucracy in distributing these funds would cost more per \$ distributed than the current regime. We do not believe that this additional cost would provide a productivity improvement or increase the effectiveness of the entities receiving the distributed funds.

*Q 40 Should FBT concessions be replaced with tax based support for entities that are eligible for example, by refundable tax offsets to employers, a direct tax offset to the employees or a tax free allowance for employees?*

Greenfleet feels that the tax offset to an employer does not provide transparency and allows for the funds to be used as a proxy incentive or bonus system. We understand that there would be no requirements to disburse the funds to the employees nor to distribute funds in a manner that is equitable. We believe that it will further add to the complexity of the FBT rules.

*Q 41 Should FBT concessions be limited to non-remuneration benefits?*

The purpose of the FBT concessions is to compensate poor remuneration for charitable staff when compared to private companies. As noted above, there is an widening gap between salaries paid in the private sector versus those paid in the public and not for profit sector. If the FBT concession is limited to non-remuneration benefits then the position of many staff to actually meet their living obligations and standards would be significantly affected resulting in the likely exodus from the sector. The suggested approach will remove an incentive for valued



professionals to work in the not for profit sector and further compromises the ability of the sector to attract staff of high calibre thus increasing the gap mentioned above. If it is removed, the Government can expect and significant increases in claims for pay across the sector, and thus will need to provide additional funds accordingly.

Furthermore, the ability to offer salary sacrifice arrangements is not the sole prevail of the NFP industry. Salary Sacrificing is considered a normal part of salary arrangements in many organisations. To claim that the removal of FBT concessions would reduce complexity for organisations in this area is simplistic and untrue.