

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

By email: nfpreform@treasury.gov.au

17 December 2012

Dear Sirs

**Response to N-F-P Sector Tax Concession Working Group Discussion Paper –
Fairer, simpler and more effective tax concessions for the not-for-profit sector.**

We appreciate the opportunity to comment on the Discussion Paper on tax concessions for the not-for-profit sector.

The Helen Macpherson Smith Trust was established in 1951 under the Will of the late Helen M Schutt. The Trust is a Charitable Fund in perpetuity and distributes grants to charitable institutions situated in Victoria. The Trust has made grants across all sectors of the community totalling approximately \$98 million since establishment and the Trust's funds stand at \$87 million today. Details about the Trust and its grantmaking can be found on our website at www.hmstrust.org.au

This submission focuses on the Consultation questions in the Discussion Paper that have particular relevance and likely to impact upon the level of future grantmaking into the community sector by this Trust.

1. Income Tax Exemption and Refundable Franking Credits.

Q6: Should the ability of tax exempt charities and DGRs to receive funds for franking credits be limited?

No, the current imputation credit regime as it applies to charities should not be changed as it greatly assists the support that charities, such as ours, are able to provide to the community. Limiting the ability of income tax exempt entities to claim a refund of franking credits would discriminate against these entities and implies that charities are less worthy than the many more holders of assets on which franking credits are earned.

Limiting or eliminating the refund of franking credits would substantially reduce the level of support that this Trust provides to charitable institutions. For example, should access to the franking credits not have been available in the 2012 year, grants by the Trust would have been reduced from \$5.5 million to \$4.0 million and in 2011, from \$5.5 million to \$3.0 million.

The current imputation credit regime does focus the investment strategies of this Trust in support of Australian listed stocks and it is likely that a higher proportion than would otherwise be the case of assets are invested in Australian companies paying taxes in Australia. Without the franking credit refund, it is probable that the Trust would invest a proportion of assets in international markets seeking to maintain reasonable yields and to protect capital.

Should the ability to obtain franking credit refunds be restricted, and say this be offset by a cut in the company tax rate, the community will suffer as the distributions from the Trust would be curbed. In this scenario, the price of company shares may rise due to the cut in the tax rate but the Trust's income would fall without the franking credit refund. As the Trust is unable to distribute capital under the terms of the Will, any increase in share prices does not lead to an increase in income available for distribution from the Trust.

The Trustees of this Trust are concerned that, should access to the refund of franking credits be restricted, then it will reduce our capacity to meet the increasing requests that have totalled \$41 million over the last two years alone for our assistance from community organisations. The consequence of this reduction in available funds will result in greater demand on other sectors, such as Federal and the State governments, to support the increasing community needs.

Denying charities, such as ours, access to franking credit refunds, is effectively re-imposing income tax on income tax exempt entities.

2. Deductible Gift Recipients

Q 11: Should all charities be DGRs?

No, we don't see a need for all charities to be DGRs. It should be optional for those charitable funds that wish to apply, and such process should be relatively simple. We are mindful that if there were a change in law to permit a substantial gift or bequest to be given to our Trust as a DGR recipient it could be very beneficial to the interests of the community by leveraging our grant-making capacity to society.

If DGR status is granted to charities, such as ours, we assume that it would be necessary to register as a fundraiser with the relevant State body or bodies. These

bodies have a variety of regulatory requirements and as such, the fundraising legislation needs to be harmonised and simplified to reduce regulatory burden.

3. Fringe Benefits Tax Concessions

Q 28, Q29, & Q 30: FBT Exemptions

As a charitable Fund, this entity is not currently entitled to Fringe Benefits Tax Concessions. We believe it appropriate that all charities should be eligible for the \$17,000 level exemption. Salaries in the not-for-profit sector are generally below those in the commercial sector and this change could assist all charities to attract and to retain quality employees who would otherwise be lost to not-for-profits.

Q36: Should the limitation on tax exempt bodies in the minor benefits exemption be removed?

Yes, it is unfortunate that income tax exempt bodies are required to pay Fringe Benefits Tax on minor benefits. This is inequitable when compared to tax paying entities.

The lack of this exemption should be corrected and the exemption extended to income tax exempt bodies.

We would be pleased to provide any further information to the Working Group and look forward to the outcomes of these discussions.

Yours sincerely,



Andrew Brookes
Chief Executive