



Response to

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

**Discussion Paper
Not-for-profit Sector Tax Concession Working Group**

December 2012

The Australian Neighbourhood Houses & Centres Association (ANHCA) welcomes the opportunity to respond to the Consultation Paper “Fairer, simpler and more effective tax concessions for the not-for-profit sector” released by the Not-for-Profit Sector Tax Concession Working Group November 2012.

Context

For a number of years the Neighbourhood Houses and Centres Sector (NH&C) across Australia have shown that many neighbourhood houses and centres have been prevented from accessing philanthropic and corporate funds because they find it difficult to qualify for Deductible Gift Recipient (DGR) status. They have been unable to qualify for DGR status as a result of the narrow application of the DGR test by the ATO when assessing against the diversity of activities undertaken by Houses & Centres.

The DGR Research & Advocacy Project (which began in Victoria in 2006) has as its main aim to enable greater access to deductible gift recipient (DGR) tax benefits for Neighbourhood Houses and Centres across Australia. It has the added purpose of ensuring the national NH&C sector is an active participant in the wider debate of Charity Tax law reform.

Over a number of stages, the DGR Research & Advocacy Project has:

- enabled the NH&C sector to formally build its knowledge and understanding of DGR taxation laws and endorsement process;
- provided for Federal Parliamentarians an increased understanding of the importance of NH&Cs as community development organisations and their need for access to DGR;
- increased the level of collaboration of the NH&C state peak members of ANHCA (the National peak).

Through a briefing paper ‘Prevention is better than cure...’ the NH&C Sector has been calling upon the Federal Government to amend the current Deductible Gift Recipient (DGR) tax laws and bring them into line with modern practices.

The DGR Research & Advocacy Project is currently managed by the Australian Neighbourhood Houses and Centres Association (ANHCA – the national peak body) although it was initiated and managed by the Victorian peak body - the Association of Neighbourhood Houses and Learning Centres (ANHLC).

In light of this previous work, the ANHCA submission focuses primarily on Chapter 2 of the Discussion paper - Deductible Gift Recipient (DGR) status.

Chapter 2 Deductible Gift Recipients (DGRs)

Question 11 Should all charities be DGRs?

ANHCA strongly supports the extension of DGR to all charities.

Currently, DGR status is firmly embedded in the notion of charity. The current DGR endorsement category ‘welfare and rights’ does not provide for services and programs intended to **prevent** poverty and disadvantage. Rather it provides DGR status to organisations that qualify as Public Benevolence Institutions (PBIs) with a dominant purpose of:

*“the **direct relief** of poverty, sickness, destitution, suffering or misfortune and for the benefit of the community, or a section of it”*

This notion of service delivery (ie dealing with the problem after it has happened) is antithetical to the concept of community development which seeks to build capacity and minimise the chances of problems occurring.

NH&C outcomes research by RMIT,¹ along with research from key welfare agencies such as the Australian Council of Social Services (ACOSS)² and Jesuit Social Services³ have documented that a community development/community strengthening approach, rather than a welfare approach, produces substantial and long term results in the health and wellbeing of society.

The Neighbourhood House & Centre Sector across Australia actively applies socially inclusive strategies as a means of addressing disadvantage and a 'whole of community' approach aimed at strengthening individuals, families and communities. In 2010 ANHLC (Victoria) commissioned a report from Access Economics which provided the following finding:

Modernising the structure of DGR as per the Productivity Commission's recommendation (PC, 2010:179) would help to eliminate arbitrary elements of the current DGR application process, which too often give rise to apparently inconsistent decisions. Importantly, it would also ensure that charities that contribute to community wellbeing but are not currently eligible for DGR status are no longer placed at a competitive disadvantage in terms of accessing funding from philanthropic sources.

Economic impact of expanding Deductible Gift Recipient eligibility, *Scoping Study*
a report by Access Economics for ANHLC, September 2010, page 5

The current application of conferring DGR through PBI in the welfare and rights category is currently experienced within the sector as inconsistent to the point of appearing arbitrary. This generates the sense of injustice which pervades the sector in relation to this issue as political influence, historic chance, access to expensive legal advice and luck of the draw when an application is being processed appear to prevail over contemporary understandings of effective practice, transparency, consistency and good policy.

While the Consultation Paper has focussed on competitive neutrality between the not for profit sector and the commercial sector, the current operation of PBI functions to deny competitive neutrality within the not for profit sector.

ANHCA supports Changemakers Australia's argument that:

The current design of the system is too complex. In addition, its application is inconsistent and Changemakers has heard of many examples where a particular 'class' of charity contains some with and some without DGR. Community organisations rightly feel aggrieved when they see similar organisations with DGR, but they have been refused.

Extending DGR background paper, Changemakers Australia, September 2012, page 4

Chapter 4 Goods & Services Tax Concessions

Question 45 Should current GST concessions continue to apply for eligible NFP entities?

ANHCA supports the current GST concessions for TCCs for non-commercial supplies other than accommodation. These GST exemptions are applied by small NFPs like NH&Cs to enable them to keep many of their programs and activities low cost.

Additionally, ANHCA supports the application of the ATO Goods and Services Tax ruling, GSTR 2000/27, where the provision of adult and community education courses that are 'likely to add to employment related skills' are GST-free.

¹ Humpage, RMIT 2005, *Building Victorian Communities: Outcomes of the NH&LC Sector*

² ACOSS 2006, *Redefining Charity Law for the New Millennium*

³ Jesuit Social Services 2006, *Falling Off the Edge*

Chapter 6 Next Steps

ANHCA firmly supports the principle outlined in the 2009 report on Australia's Future Tax System (the Henry Review) as follows:

Tax concessions for NFP organisations should be simple transparent, reflect community needs and values, and encourage activities that provide broad public benefits.

Australia's future tax system, Report to the Treasurer, Part Two, volume 1, page 206

ANHCA has also argued for the adoption of a statutory definition of charity that goes beyond the existing common law. Hence, as a member of ACOSS, we draw your attention to the following statement by ACOSS made in their draft submission provided to us:

ACOSS supports developing a system of tax concessions based on the concept of 'charity' so long as this policy is developed in line with a broadened definition of charity. The value of this approach is in the clarity and consistency that would be applied to tax concession for charitable organisations. Many of the most fraught issues canvassed in the Discussion Paper would diminish significantly if charities were able to access tax concessions on a more equitable and transparent basis.

Quoted from ACOSS Draft Submission, page 5

The Australian Neighbourhood Houses & Centres Association (ANHCA) has coordinated this response with its state member organisations:-

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| Local Community Services Association (LCSA) | New South Wales | 250 Houses & Centres |
| Community Centres and Family Support Network Association of Queensland (CC&FSNAQ) | Queensland | 162 Houses & Centres |
| Community Centres SA | South Australia | 96 Houses & Centres |
| Tasmanian Association of Community Houses (TACH) | Tasmania | 34 Houses & Centres |
| Association of Neighbourhood Houses and Community Learning Centres (ANHLC) | Victoria | 380 Houses & Centres |
| Linkwest | Western Australia | 72 Houses & Centres |

About ANHCA

ANHCA represents over one thousand (1,000) Neighbourhood Centres, Community Houses, Learning Centres, Neighbourhood Houses and Community Centres nationally, which are member organisations of their state and territory peak/representative bodies.

ANHCA is the largest community development infrastructure in Australia.

Neighbourhood Houses and Centres (NHs&Cs) are not-for-profit community owned and managed organisations all of which share a community development and socially inclusive approach to the delivery and provision of services and activities for socially isolated and disadvantaged local communities.

85% of NH&Cs in Australia are independently incorporated associations with volunteer committees or boards of management; 60% have a total gross income less than \$250,000 and 52% do not employ any full time staff.

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