

## Consultation questions

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

- **whether it is intended to have 'income' ie profit**
- **it is for public benefit**

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?

- **nfp housing organisations should be specifically exempt**

3 Should additional special conditions apply to income tax exemptions? For example, should the public benefit test be extended to entities other than charities, or should exemption for some types of NFP be subject to different conditions than at present?

- No comment

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

- No comment

5 Should other types of NFPs also be able to claim a refund of franking credits?

- No comment

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

- No comment

7 Should the ATO endorsement framework be extended to include NFP entities other than charities seeking tax exemption?

- **Yes, sporting, arts, science, agriculture, religious, education**

8 Should the income tax exemptions for State, Territory and local government bodies be simplified and consolidated into the ITAA 1997? Which entities should be included?

- **Yes, all.**

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?

- **yes**

10 Please outline any other suggestions you have to improve the fairness, simplicity and effectiveness of the income tax exemption regime, having regard to the terms of reference.

- **Update the 'charitable' definition to capture 'social good' more accurately. The current language is archaic.**

11 Should all charities be DGRs? Should some entities that are charities (for example, those for the advancement of religion, charitable child care services, and primary and secondary education) be excluded?

- No comment

12 Based on your response to Q11, should charities endorsed as DGRs be allowed to use DGRs funds to provide religious services, charitable child care services, and primary and secondary education?

- No comment

13 Would DGR endorsement at the entity level with restrictions based on activity address the behavioural distortions in Australia's DGR framework? Could unintended consequences follow from this approach?

- **It would be similar to organisations who lobby, whose donations for such excluded activities do not attract eligibility for a tax deduction for the donor, although a donation to the same organisation for another activity might.**

14 If DGR status is extended to all endorsed charities, should this reform be implemented in stages (for example, over a period of years) in line with the PC's recommendations, or should it be implemented in some other way?

- **In line with PCs recommendations**

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?

- No comment

16. Would having a two-tiered tax offset encourage giving by higher income earners?

- **yes**

17. What other strategies would encourage giving to DGRs, especially by high income earners?

- **Ideas from Peter Singer's book – *The Life you Save***

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

- No comment

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

- **yes**

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?

- No comment

21. Do valuation requirements and costs restrict the donation of property? What could be done to improve the requirements?

- No comment

22. Is there a need to review and simplify the integrity rules?

- No comment

23. Are there additional barriers relevant to increasing charitable giving by corporations and corporate foundations? Is there anything the Working Group could recommend to help increase charitable giving by corporations and corporate foundations?

- No comment

24. Are the public fund requirements, currently administered by the ATO, either inadequate or unnecessarily onerous?

- No comment

25. Are there any possible unintended consequences from eliminating the public fund requirements for entities that have been registered by the ACNC?

- No comment

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

- **Yes \$200**

27. Outline any other suggestions you have to improve the fairness, simplicity and effectiveness of the DGR regime, having regard to the terms of reference.

- No comment

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?

- **End the exempt benefits and bring in competitive wage structures**

29. Also assuming that the current two-tiered concessions structure remains (see Part B), what criteria should determine an entity's eligibility to provide rebateable benefits to its employees? Should this be restricted to charities? Should it be extended to all NFP entities? Are there any entities currently entitled to the concessions that should not be eligible?

- **End the exempt benefits and bring in competitive wage structures**

30. Should there be a two-tiered approach in relation to eligibility? For example, should all tax exempt entities be eligible for the rebate, but a more limited group be eligible for the exemption?

- **End the exempt benefits and bring in competitive wage structures**

31. Should salary sacrificed meal entertainment and entertainment facility leasing benefits be brought within the existing caps on FBT concessions?

- **yes**

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?

- **Not separate**

33. Are there any types of meal entertainment or entertainment facility leasing benefits that should remain exempt/rebateable if these items are otherwise subject to the relevant caps?

- **No**

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?

- **ATO manage directly with employee who pays income tax once over limit**

35. Should the rate for FBT rebates be re-aligned with the FBT tax rate? Is there any reason for not aligning the rates?

- **yes**

36. Should the limitation on tax exempt bodies in the minor benefits exemption be removed? Is there any reason why the limitation should not be removed?

- **yes**

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

- **No. It is a distortion and complicates wages by creating an inconsistently applied variation**

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

- **Yes!**

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

- **Yes**

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?

- **It should not distort wages. The public benefit services should be funded, the wages should be competitive.**

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

- No comment

42. If FBT concessions are to be phased out or if concessions were to be limited to non-remuneration benefits, which entity types should be eligible to receive support to replace these concessions?

- **Public benefit test – proper government funding.**

43. Does the existing fundraising concession create uncertainty, or additional compliance burdens, for NFP entities that wish to engage in fundraising activities that fall outside of the scope of the concession?

- No comment

44. Would a principles-based definition of the types of fundraising activities that are input-taxed reduce the compliance burden for entities that engage in fundraising?

- No comment

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

- No comment

46. Are there any other issues or concerns with the operation of the GST concessions in their current form?

- No comment

47. Would an opt-in arrangement result in a reduced compliance burden for charities that would otherwise need to apply apportionment rules to supplies made for nominal consideration?

- No comment

48. If an opt-in arrangement is favoured, would the preference be to treat the supplies as taxable or input taxed? Why?

- No comment

49. Is there an alternative way of reducing the compliance burden associated with apportionment for supplies made for nominal consideration?

- No comment

50. Should the gaming, catering, entertainment and hospitality activities of NFP clubs and societies be subject to a concessional rate of tax, for income greater than a relatively high threshold, instead of being exempt?

- **Yes**

51. What would be a suitable threshold and rate of tax if such activities were to be subject to tax?

- 50% company tax rate

52. Should the mutuality principle be extended to all NFP member-based organisations?

- No comment

53. Should the mutuality principle be legislated to provide that all income from dealings between entities and their members is assessable?

- **No**

54. Should a balancing adjustment be allowed for mutual clubs and societies to allow for mutual gains or mutual losses?

- No comment

55. Is existing law adequate to address concerns about exploitation of the mutuality principle for tax evasion? Should a specific anti-avoidance rule be introduced to allow more effective action to be taken to address such concerns?

- No comment

56. Are there any areas in which greater streamlining of concessions could be achieved?

- No comment

57. Do you have any ideas for reform of NFP sector tax concessions within the terms of reference that have not been considered in this discussion paper?

- **Remove religion from attracting charitable or DGR status**