



ACT
Government

Commerce and Works

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

Sent via email: NFPReform@treasury.gov.au

Submission in response to the Discussion Paper titled "Fairer, Simpler and more Effective Tax Concessions for the Not For Profit Sector"

This submission has been prepared by the Australian Capital Territory ("ACT") Government with the assistance of Ernst & Young in response to the abovementioned Discussion Paper released by the Not For Profit ("NFP") Sector Tax Concession Working Group ("the Working Group") in November 2012.

The ACT Government welcomes the opportunity to respond to the Discussion Paper.

This submission is divided into two parts:

1. Appendix A outlines the background information on the ACT Government, its Directorates and its interaction with the NFP sector. This section provides a general overview of the advantages that the ACT government is obtaining (and the benefits that the ACT Government is able to provide) as a result of the NFP tax concessions, as well as the major impacts on the ACT Government as a result of proposed changes to NFP Tax Concessions.
2. Appendix B addresses the specific questions raised in the Discussion Paper from the perspective of the ACT Government. Note that only those questions relevant to the ACT Government have been addressed. Questions not relevant to the ACT Government have deliberately been omitted.

We look forward to discussing this submission further with the Working Group and Treasury at your earliest convenience and note that the Discussion Paper indicates that the Working Group will conduct targeted consultation with interested stakeholders. Representatives of the ACT Government, together with Ernst & Young, would welcome the opportunity to be included in the targeted consultation process both prior to the finalisation of the Working Group's report to Government in March 2013 and any subsequent consultation process.

If there is any aspect of this submission on which the Working Group or Treasury would like more information, please contact me on (02) 6205 3819 or Stephanie Males of Ernst & Young on (02) 6267 3911.

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Yours faithfully

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Appendix A

Background information on the ACT Government and the relevant services it provides

The ACT Government has a number of roles in relation to the ACT and its residents. Broadly, these roles include the enactment of laws for the benefit of those within the ACT as well as administering those laws.

To administer the laws of the ACT the ACT Government is divided into a number of Directorates. Each of these Directorates has specific aims and services it delivers. A number of the Directorates are able to access the tax concessions raised in the Discussion Paper. As a result the ACT Government has approximately 3,500 staff that take advantage of FBT concessions available to the relevant parts of the ACT Government. The ACT Government also administers a number of funds which have Deductible Gift Recipient ("DGR") status. Furthermore, the ACT Government finds itself in a unique position whereby it interacts with a number of other organisations within the NFP sector in the delivery of its services. It is these roles and characteristics which make the ACT Government well qualified to provide this submission to the Working Group.

The ACT Government provides a broad range of services with only some aspects of its business attracting the concessions raised in the discussion paper. As a result this submission will outline the areas of the ACT Government which are most relevant to the discussion paper. These areas are:

- ▶ The Health Directorate
- ▶ The Justice and Community Safety Directorate, focussing on the Emergency Services Agency
- ▶ The Community Services Directorate

Below is a brief outline of the relevant Directorates, the services they provide and the impact of the relevant concessions on the way they deliver their services.

1. Health Directorate

The Health Directorate ("ACT Health") sets health policy and plans the delivery of health services, while ensuring these services meet community needs. The Health Directorate also funds a range of non-Government organisations to provide vital healthcare services to the people of the ACT and surrounding region.

1.1. Community services provided by ACT Health

ACT Health aims to achieve good health for all residents of the Territory by planning purchasing and providing community-based health services, hospital and extended care services, managing public health risks and promoting health and early care interventions. The Mental Health, Justice Health and Alcohol and Drug Services components of ACT Health work with its community partners to provide integrated and responsive care including supported accommodation services and community based service responses. Similarly the Rehabilitation Aged and Community Care components work to ensure that community based services are in place to better provide for the acute and post acute health care needs of all members of the community.

1.2. Benefits of the NFP Concessions currently available to ACT Health

ACT Health utilises two key concessions in delivering healthcare and health related services to the ACT and surrounding areas. The concessions are:

- ▶ FBT Concessions; and
- ▶ DGR Concessions

1.2.1. FBT Concessions

As the operator of a public hospital ACT Health is entitled to an FBT exemption of up to an annual cap of \$17,000 per employee for the endorsed public hospital components of ACT Health. This cap relates to the grossed up value of the fringe benefits provided but does not include meal entertainment and entertainment facility leasing benefits.

Staff working in the functions that make up the public hospital as endorsed by the Australian Taxation Office ("ATO") are able to take advantage of the FBT concession through salary packaging arrangements. Meal entertainment and entertainment facility leasing benefits are included in the items which staff are able to salary package. Between 70 percent and 80 percent of eligible staff access the concession through salary packaging.

The availability of the FBT concessions strengthens ACT Health's status as an employer of choice which helps the organisation to attract the best and most experienced staff. It also enables ACT Health to "compete" for staff in the broader health services marketplace. Having highly skilled and experienced staff is necessary for ACT Health to meet its goals of providing a high level of healthcare to all residents within its service areas.

1.2.2. DGR Concessions

ACT Health gained endorsement as a DGR for the Public Hospital from 1 July 2000. This has meant that donors are able to gain a tax deduction for their donations and has significantly boosted the organisation's ability to gain donations.

1.3. Impact of losing the concessions

The impact will differ depending on the concession being lost. Outlined below are the expected impacts of losing the concessions completely.

1.3.1. FBT concessions

Removal of the concession is likely to lead to a disengaged workforce on the basis that employees have come to expect the "benefits" provided under the concessions. This may lead to industrial action which could be disruptive to the service delivery of ACT Health. The political pressure of such industrial action may have significant impacts on the resource allocations within the ACT Government and ultimately may affect the services provided by ACT Health.

Furthermore, the limited available workforce in the industry may put further pressure on wage costs and without the FBT concession it may be difficult for ACT Health to retain the best staff.

The difficulties in retaining staff and hiring new staff as well as the possibility of a disengaged workforce may have undesirable impacts on the availability and costs of services. Waiting times may increase and the costs to the ACT Government and/or the consumers for the services may increase as well.

The impact of losing the FBT concession will likely be significant due to the large proportion of staff that will be affected.

1.3.2. DGR concessions

Losing any DGR concessions will significantly impact on the ability of ACT Health to gain donations from the public. This will result in this avenue of funding for the public hospitals being very limited and the funding may need to be sought elsewhere, such as from government, through charges for services or through reduction in services.

1.4. Competitive Neutrality

For profit entities focus services on revenue rather than for the good of the community. The range of services provided through public health services on the other hand reflect the social responsibility for achieving good health for all residents of the Territory regardless of their capacity to pay. Accordingly, the private sector would be unlikely to effectively achieve the desired social outcomes resulting in limited competition in the provision of services to those who are unable to pay or unable to pay much for them.

2. Justice and Community Safety Directorate – Emergency Services Agency (“ESA”)

The ESA serves the Government and the ACT community through its responsibility for protecting life, property and the environment. It has the primary responsibility for the delivery of the majority of emergency management arrangements for the ACT under the *Emergencies Act 2004*.

The ESA is comprised of four operational services:

- ▶ ACT Ambulance Service (“ACTAS”),
- ▶ ACT Fire and Rescue (“ACTF&R”),
- ▶ ACT Rural Fire Service (“ACTRFS”)
- ▶ ACT State Emergency Service (“ACTSES”).

Both the ACTRFS and the ACTSES rely on the support of volunteers to deliver emergency service functions to the ACT Community.

2.1. Community services provided by the ESA

With the responsibility of protecting life, property and the environment in the ACT and surrounding regions the ESA plays an integral role in the community. In 2011–12, the ESA received 53,310 requests for assistance. This represents an increase of 4.3% per cent on the 2010–11 figure of 51,134 requests for assistance. ESA staff and volunteers were also deployed to Queensland and New South Wales to support local emergency services in recovery operations.

The four operational areas outlined above each perform specific and vital roles in the community and working together they are able to effectively meet the responsibility of the ESA. Each of these services is outlined below.

2.1.1. ACT Ambulance Service

The ACTAS is responsible for providing emergency and non-emergency ambulance and aeromedical ambulance services to the ACT and surrounding south east NSW region.

ACTAS also provides Intensive Care Paramedics (ICPs) to, and conducts the day-to-day management of, the Snowy Hydro SouthCare helicopter. Snowy Hydro SouthCare is a joint initiative of the governments of New South Wales and the ACT, and provides aeromedical rescue and retrieval services to the ACT and south-eastern New South Wales.

The Snowy Hydro SouthCare helicopter is part funded by the Southcare Fund, a deductible gift recipient.

2.1.2. ACT Fire and Rescue

The ACTF&R is a diverse organisation with legislated responsibility in a variety of areas related to fire and rescue.

Firefighters in the ACT provide many functions ranging from fire suppression to rescue capabilities to community safety activities.

ACT Fire & Rescue is acknowledged as one of the most multi skilled fire and rescue capabilities in Australia.

2.1.3. ACT Rural Fire Service

The ACTRFS is responsible for protecting life, property and the environment from all bush and grass fires that occur within rural or non-suburban areas of the ACT.

The ACTRFS has both volunteer brigades and a brigade of Territory and Municipal Services employees who work together in responding to bush and grass fires, and conducting hazard reduction burning to mitigate against the fire threat to the ACT.

Members are also actively engaged in supporting other services of the ESA and interstate departments.

2.1.4. ACT State Emergency Service

The ACTSES is a volunteer emergency service organisation which gives immediate assistance to the community during emergencies and disasters. ACTSES volunteers provide emergency response to the community of the ACT 24 hours a day, seven days a week.

The main function of the ACTSES is to undertake planning and response operations for storms and floods. ACTSES may also assist ambulance, fire and police services in dealing with a range of incidents or emergencies.

2.2. Benefits of the NFP Concessions currently available to the ESA

The ESA utilises two key concessions in protecting life, property and environment in the ACT and surrounding areas. The concessions are:

- ▶ Fringe Benefits Tax ("FBT") Concessions; and
- ▶ Deductible Gift Recipient ("DGR") Concessions

2.2.1. FBT Concessions

As an ambulance service the ACTAS is entitled to an FBT exemption of up to an annual cap of \$17,000 per employee. This cap relates to the grossed up value of fringe benefits provided. It should be noted that the Cap does not include meal entertainment and entertainment facility leasing benefits.

Currently ACTAS employees and a restricted number of other ESA employees are able to access this FBT concession through salary packaging various benefits. The salary packaging of these benefits is governed through the ACT Government Salary Packaging arrangements.

The availability of this concession ensures that the ACTAS is able to maintain its market competitiveness in attracting employees in an industry undergoing significant employment challenges. It is an incentive for people to enter the field and assists new employees with the cost of living pressures in the ACT. Due to the nature of the work employees require ongoing training and experience plays a vital role in delivering an effective and safe service to the community. With the financial incentives the private sector is able to offer, particularly in relation to Industrial Paramedics in the mining industry, the FBT concession is a significant tool in helping ACTAS retain staff and build a more experienced and effective workforce.

The nature of the benefits may also be seen to promote increased spending on goods and services (in line with the salary packaging rules) in local communities, thus providing economic stimulus to the ACT jurisdiction.

2.2.2. DGR Concessions

While the ESA does not have DGR status as a whole it does operate the following funds:

- ▶ ACT Rural Fire Service
- ▶ ACT State Emergency Service.

Furthermore, as outlined above, the Snowy Hydro SouthCare helicopter is part funded by the Southcare Fund which also has DGR status.

Access to these concessions through the two public funds assists in the ESA gaining valuable donations from members of the public. These donations enable the volunteer brigades and units to acquire additional equipment to support the delivery of emergency services to the community.

2.3. Impact of losing the concessions

The impact will differ depending on the concession being lost. Outlined below are the expected impacts of losing the concessions completely.

2.3.1. FBT Concessions

The FBT concessions provide an effective cost reduction mechanism for the ESA as the employee costs are able to be kept lower than they would without the concession. It is envisaged that if this concession was not available there would be a significant challenge for the ESA to retain staff with the current pressures on recruitment placed on the ambulance industry by the mining industry, both nationally and internationally.

High costs of recruitment and training of staff are characteristic of the ambulance industry. This is because there is a long lead time (two years post engagement) for a new graduate to become an autonomous practitioner. Furthermore, there is a longer lead time (typically five years plus, post engagement) for a Paramedic to acquire the necessary experience and develop a skill set that enables him/her to progress to increasingly challenging roles (e.g. Intensive Care Paramedic / Flight Paramedic). In addition, the ambulance industry is currently transitioning to a pre-employment training model, which in the short-term is adding to the fundamental shortages in qualified and skilled staff in the industry.

Based on these facts, the concern is that, without being able to compete effectively with the private sector in recruiting and retaining staff, the ACTAS will be forced to have a higher proportion of inexperienced practitioners. This could have significant impacts on service delivery.

Without the concession it is envisaged that the costs of operating will increase due to increasing wage pressures. This will mean there is an effective transfer of the cost to the ACT Government. This transfer of costs may reduce the capacity of the ACT Government to meet the increasing community demands for additional ambulance services (workload growth rate 8% to 10% pa) due to budget constraints. It may also increase the workload demands on employees leading to capacity constraints, which may manifest in an increase in employee absenteeism due to increased physical and psychological stressors.

Another impact of removing the concession will be the administration costs of communicating the changes to employees, changing systems and amending enterprise agreements. There may also be an impact of staff morale with a reduction in a concession which many now believe they are entitled to.

2.3.2. DGR Concessions

Losing any DGR concessions will significantly impact on the ability of the ESA to gain donations from the public. This will impact on the ability of the ESA to acquire much needed equipment and may result in delivery of emergency services to the community being reduced. To counteract reduced delivery, funding may need to be sought from other areas such as Federal or ACT Government, resulting in funding being diverted from other necessary government services.

2.4. Competitive Neutrality

The ACT Ambulance Service has a commitment and obligation to provide out of hospital services to the community of the ACT and surrounding region. As a public service, the ACTAS is not able to select lucrative or profitable ventures, rather the Service is there for the benefit and enhancement of the community.

A significant proportion of ACTAS clients are recipients of Government welfare payments, and have a reduced capacity or no capacity to pay for services.

Furthermore, the ACTAS is a registered training organisation that provides specialist industry based training. This ranges from the non-emergency Patient Transport Officer training through to the Intensive Care Paramedic with Aeromedical or Extended Care Paramedic skills. These training services are not provided by the private sector.

3. Community Services Directorate

The Community Services Directorate ("CSD") is dedicated to the ACT Government's vision that Canberra is a place where all people reach their potential, make a contribution and share the benefits of our community. CSD supports individuals and communities at critical stages of transition. CSD provides opportunities for people to connect with each other, use local services and participate in local, cultural, civic and recreational activities.

3.1. Community services provided by CSD

The CSD has responsibility for a wide range of human services functions in the ACT. These include multicultural and community affairs, public and community housing policy and services, children, youth and family support policy and services, disability policy and services, therapy services, Child and Family Centres, Office for Ageing, Office for Women, Aboriginal and Torres Strait Islander Affairs, artsACT, the ACT Government Concessions Program, homelessness and community services and community disaster recovery.

Essentially, CSD provides services, support and assistance to some of the most vulnerable and disadvantaged people in the community.

3.2. Benefits of the NFP Concessions being available to the CSD

CSD does not qualify for or take advantage of any of the tax concessions outlined in the discussion paper. As such it does not experience any direct benefits from the concessions. However, while difficult to quantify, CSD does experience significant indirect benefits of the concessions being available to some community organisations.

CSD provides a number of services in conjunction with or outsourced to the community sector. And in 2011-12 paid over \$100 million in grants and service funding to the community sector. The FBT concessions assist in lowering some of the employment costs of the community sector which in turn enable more services to be provided at a lower cost. This means that government resources can be more efficiently utilised to achieve the most benefit for the community.

3.3. Impact of losing the concessions

Removal of the FBT concessions would result in a reduction in the net "take home pay" of employees of the community sector which could lead to the following undesirable consequences:

- ▶ It may also be difficult to retain staff and attract new employees to the sector, resulting in a reduction in resources in the community sector without a similar reduction in the need for the services.
- ▶ Following on from the difficulty to retain staff, it may be necessary to increase salaries for the staff resulting in an increase in costs of the community service providers which will need to be recovered by the organisations in some way to ensure their viability. This could mean either higher costs to the Government and/or to the community and users of the services. Alternatively, there may be a reduction in the services provided, either in the form of quantity or quality.
- ▶ A possible reduction in resources in the community services sector, though higher wages or fewer staff may result in Government being required to provide the services which the NFP entities would normally have. As a result the private sector may need to be utilised at a much higher cost to the community.

3.4. Competitive Neutrality

Given the nature of the services which are provided and the characteristics of the consumers of those services it is necessary that the prices for the services be kept low. If this were not done the aims of providing the services would not be achieved. Because of this it is doubtful whether the private sector is willing to compete in the provision of the services without substantial subsidies or other concessions or benefits. Traditionally, NFPs have been the preferred services provider as they operate on a low costs structure with low profit margins and their altruistic intentions align with those of the ACT Government. Any change to the cost structure of the community sector is likely to lead to governments (at both state and federal level) being required to revise service and funding agreements to ensure the long term viability of the sector.

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Appendix B

Specific discussion paper consultation questions

We have outlined below the discussion paper consultation questions which we believe are most relevant to the ACT Government. The questions relate to two categories:

- ▶ Fringe Benefits Tax ("FBT") concessions
- ▶ Deductible Gift Recipient ("DGR") Status

1. FBT Concession Questions

As mentioned in Appendix A the ACT Government is well positioned to comment on the FBT concession questions. We have followed the format of the discussion paper breaking the questions down into short-term and long-term reform options.

Part A – Short-term reform options

Below we provide our view on the discussion questions in relation to the short-term reform options which are most relevant to the ACT Government.

Option 3.2: Meal entertainment and entertainment facility leasing benefits

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

No, whilst we acknowledge that there is an argument to include these as part of the capped amount, the process of bringing meal entertainment and entertainment facility leasing benefits into the existing cap has the potential to significantly complicate existing arrangements for employees that have arranged their affairs under existing guidelines and create considerable administrative pressures. Furthermore, introducing these benefits within the existing cap would increase the complexity of 'manual' meal and entertainment claims that are currently reimbursed throughout the FBT year (i.e. those not completed on a meal and entertainment card). In addition, including meal entertainment and entertainment facility leasing expenses within the capping limit could result in short term breach of the threshold where recurring packaged items are already committed, resulting in an FBT liability. Should this option be implemented transitional measures and a phased-in approach would be essential to eliminate such compliance risk and costs.

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?*

Yes, it is our view that there should be an increase in the caps for FBT concessions where meal entertainment and entertainment facility leasing benefits are brought within those caps. In the case where meal entertainment and entertainment facility leasing benefits are brought within the caps, increasing the FBT concessions through increases in the relevant caps will make the transition more palatable to existing employees and reduce the likelihood of industrial unrest. Depending on the size of the increase in the cap it will also be questionable whether the concessions are actually increased as currently there is no cap.

There should not be a separate cap for meal entertainment and entertainment facility leasing as this would increase the administrative burden of complying with the law with no perceived advantage.

A recent salary packaging cost modelling exercise undertaken by the Commerce and Works Directorate identified that the average spend on meal entertainment and entertainment facility leasing benefits amounted to approximately \$10,000 per individual annually. Therefore, an appropriate cap amount could be \$38,000 (approximately \$17,000 + (\$10,000 x Type 1 Gross up rate)).

Q 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?*

Based on our experience we believe it is important to distinguish those meal entertainment and entertainment facility leasing benefits that are available to employees for private benefit (could be included within the cap) and those that are essential mechanisms to assist in dealing with distressing and difficult situations that can arise within the sector (should not be included within the cap). While there are good business and community reasons for the benefits that are inherently related to the business operations remaining exempt/rebateable, it may be difficult practically to distinguish between the types of meal entertainment and entertainment facility leasing benefits that are provided. This distinction, while appropriate, may create a significant administrative burden where the law and guidance is not clear enough.

Option 3.3: Only one cap per employee

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?*

Yes, for fairness and simplicity, the benefit could be regulated nationally by the ATO. Although, we recognise the process to regulate this could be challenging.

The number of ACT Health public hospital staff able to access multiple caps would be minimal. There may be a few new employees moving from another hospital within an FBT year who may have salary packaged benefits at their former employment and would be eligible to package up to the full cap in a part FBT year with us. There may also be a small number of employees who work for us and also have a casual contract with another public hospital or vice versa. In ACT Health the number of employees working for more than one employer eligible for the concession is also reduced by the fact that if staff work on both the Canberra Hospital and Calvary campuses they are employed by ACT Health, which is then reimbursed by Calvary. Accordingly, they will not be able to access more concessions as they only have one employer. Furthermore, there is a general principle that accelerated benefits are not permitted.

As there is already a requirement for staff who wish to undertake a second job to apply for permission there should be minimal compliance burden. Similarly for new staff it should only require a few additional questions on commencing paperwork and as necessary a tag within the pay system to indicate non eligibility until the commencement of the next FBT year.

Option 3.5: Minor benefit exemption

Q 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, the current limitation on tax exempt bodies in the minor benefits exemption should be removed. The compliance burden for minor benefits likely more than outweighs the small additional tax collected. In the ACT Government the amount of FBT paid on minor benefits is minimal. This is because management uses this minor benefit sparingly to reward innovation, good performance and strategic thinking.

Part B – Long-term reform options

Below we provide our view on the discussion questions in relation to the long-term reform options which are most relevant to the ACT Government.

Option 3.6: Phase out capped FBT concessions and replace with alternative government support

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

It is desirable and good social policy to continue to support and nurture the NFP sector, which in essence requires some form of concession or benefit provided by the Government/community. The sector is a major employer and service provider. For simplicity and fairness, the concessions should uniformly be available to all not-for-profits, community sector organisations and other service providers based upon a specified set of criteria.

There is an existing inequity in terms of the entities that are eligible for FBT concessions. A possible solution is to consider eligibility based on activities as well as the structure of organisations. Currently, employees of ACT Health Public Hospital are entitled to the FBT exemption, yet, other government employees providing services similar to those of the NFP sector are not eligible for the same concession.

NFPs rely on FBT concessions to be able to attract and retain its workforce. Extending the concession to other NFP entities enables them to assist ACT Health in delivering its health services, thereby easing the burden on the government. The FBT concessions enable the necessary shared approach to the provision of a wide range of public health and other essential social services in the community.

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

No, the FBT concessions provide a positive net effect to the employer in attracting quality employees, to the individual recipient in achieving additional salary via tax savings and to the community through better quality health and social welfare services.

However, if the removal was contemplated, then it would be essential that there be clear transitional plan with a gradual phasing-out over a number of years.

The effect of the loss of the FBT concessions on the viability of the sector in the ACT, and in other jurisdictions, should be a major determinant of the decision to phase out the concession. It is worth noting that the sector is a major employer and mobilises a vast number of volunteers, which could be put at risk if the sector contracts. Furthermore, any contraction in the sector will likely result in reduced services to the community and ultimately a reduction in beneficial social outcomes.

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

No, the concessions should remain with the employees on the grounds of fairness and support of the vital role that employees play in delivery of essential community services within the sector.

Option 3.7: Replace FBT concessions with tax based support mechanisms

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?*

A direct tax offset to the employees or a tax free allowance for employees would seem to be administratively less burdensome for the employer. On the other hand, the method of assessment of eligibility may cause some issues.

It should also be noted that where this reform option provided concessions to the employees comparable to the current concessions, this option may in fact cost more than the current system. One reason for this is the fact that within ACT Health there is a 70% to 80% take up rate in relation to the current concessions, which would likely be 100% under the proposed reform.

Options are possible, the imperative though remains that the sector as a whole should not be worse off and its viability and employment not compromised. In addition, the arrangements need to be fair across all entities, sectors and employment options so that the benefit is not dependent upon organisational structure or role within the sector. Staff retention and ongoing attraction of employees may become an issue if pay and conditions vary significantly between eligible entities.

Option 3.8: Limit concessions to benefits that are incidental to employment

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

Yes, at least in theory, but it may also have the undesirable effect of making careers in the community sector less attractive. The impact on the lower income employees need to be considered as they are less able to opt for non-remuneration benefits and therefore there could be a significant impact on employment and staff retention. It is worth noting that whilst the equal pay decision will go some way in addressing the inequality in pay rates within the sector, it is likely that a degree of disparity will remain especially between those staff who are best able to opt for non-remuneration benefits that attract concessions and provide substantial tax benefits.

Q 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?

All entities affected should receive appropriate support in the event that the current concessions are replaced. If addressing equity is the main focus, the level of income of the individuals should form part of the consideration and not just the type of entities. For simplicity and fairness, all entities that provide a range of essential community services that are agreed to be eligible for concessional treatment, should receive such concessions, rather than a segregated approach based on entity type.

2. Deductible Gift Recipient Questions

Option 2.7: Creating a clearing house for donations to DGRs

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

A clearing house may have some benefit more broadly but we, particularly in relation to the ESA, have some concerns around the cost to establish and maintain it. The Discussion Paper suggests that the estimated once-off capital cost is \$25 million¹. There is no discussion of how this will be funded. The ongoing management and compliance costs associated with this mechanism will likely increase administrative costs for ESA without a significant increase in donations.

Option 2.10: Increase the threshold for a deductible gift from \$2 to \$25

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

This is a significant issue for the ESA as their ability to fundraise relies on the community's generosity in giving, which is often quite small amounts through informal 'bucket collections'. A pre-populated tax receipt booklet is used to provide an immediate receipt for tax deduction purposes. There is a risk that people will not make small donations to emergency services causes if the threshold is increased beyond a certain amount. If the limit was raised to \$5 this may not pose an issue however increasing deductible gifts to \$25 is likely to have a substantial impact. The receipt mechanism is well-established and not considered a compliance burden.

¹ Not-for-profit Sector Tax Concession Working Group Discussion Paper, November 2012, p.29