

Submission Coversheet

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Consultation Title: *Not-For-Profit Sector Tax Concession Working Group*

Name:

Title: Mr Ms Mrs Miss Dr Prof Other

Given name: *Alan*

Surname: *Tilley*

Company/Organisation Details

Is your submission on behalf of a company or organisation? Yes No

Company/Organisation Name (optional): *National Roads and Motorists Association Limited (NRMA)*

Company/Organisation Scope (optional): International National State Local

Contact Details

Email: *alan.tilley@mynrma.com.au*

Address line 1: *9 George Street, North Strathfield*

Address line 2:

State: *NSW*

Postcode: *2137*

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9 George Street
North Strathfield
NSW 2137 Australia

Mail to: PO Box 1026
Strathfield NSW 2135
Australia

T 02 8741 6000
F 02 8741 6123
W mynrma.com.au

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

Your ref Not-For-Profit Sector Tax
Concession Working Group
Our ref 29984691_1

21 December 2012

Dear Sir

Not-For-Profit Sector Tax Concession Working Group

We thank you for the opportunity provided to the National Roads and Motorists Association Limited (NRMA) to make a submission in relation to the Discussion Paper released by the Tax Concession Working Group in November 2012 in relation to the Not-For-Profit Sector.

The NRMA

The NRMA has its origins in February 1920. In 1925 the NRMA patrol service began and currently the NRMA is Australia's largest member organisation with approximately 2.5 million members. Key member services include NRMA's legendary roadside assistance, motoring advice, publications and advocacy particularly in the areas of road safety, cost of motoring and better infrastructure. The NRMA is also involved in motor vehicle servicing, driving schools, batteries, auto glass, car electrics, together with holiday parks, travel services and car rental.

As a member organisation, NRMA is not exempt from income tax but rather is an entity which applies the mutuality principle to its dealings with its members. As such, the interest of the NRMA in the discussion paper relates to chapter 5 dealing with mutuality, clubs and societies.

The Principle of Mutuality

The history and scope of the mutuality principle together with the compelling tax policy proposition for not subjecting mutual receipts to income tax is well canvassed in Part 5.1 of the Discussion Paper. In essence, where a group of people contribute to a common fund created and controlled by them for a common purpose, any surplus created in the fund should not be considered income for taxation purposes.

Our view

In the view of the NRMA the tax policy underpinning the mutuality principle is sound. It should be retained. It does not need to be legislated and in any case such legislation would not necessarily assist certainty of application. The application and adherence of the mutuality principle can still best be administered by the Australian Taxation Office on the basis of the existing principle.

Concern expressed about the Mutuality Principle

Section 5.2 of the Discussion Paper outlines concerns about the principle of mutuality. We do not believe that in the case of mutual clubs such as the NRMA these concerns warrant the legislating of the mutuality principle or the insertion of a minimum threshold of activities.

Nevertheless our comments in relation to these concerns are as follows:

- We do not believe that uncertainty and complexity in the operation at the mutuality principle in certain cases is a sufficient reason to embark upon legislative reform. In fact, there is a significant list of amendments to the income tax legislation over the years which has arguably added to complexity and uncertainty rather than reduced it. Matters such as tracking mutual and non mutual receipts are practical matters which can more appropriately be dealt with by Taxation Office rulings and procedures. Legislation may often lead to rigidity of application whereas, given the wide variety of mutual entities, the mutuality principle requires a more flexible approach best governed by an interpretation of the principles itself as based on case law.
- Where mutual clubs such as the NRMA carry on trading activities with members in competition with non exempt businesses, our general experience is that such trading activities also involve significant numbers of non members. The net income earned from transacting with non-members is fully taxable. These businesses compete for income and profit in the market so as not to be a drain on member services and in particular roadside assistance and advocacy services run at a net cost and accordingly competitive neutrality concerns should not arise.
- Mutual clubs such as the NRMA do not have social policy concerns arising from the role they play. On the contrary, they are proud of their role in society particularly in terms of the assurance they bring to motorists with their roadside assistance and the addition to public debate that they bring in terms of their advocacy services. The NRMA does not derive income from gambling and alcohol services to members.
- The NRMA does not have the concept of a temporary member and there should not be concerns that disproportionate benefits are being enjoyed by the NRMA in that regard.

Options for Reform

With respect to the options for reform listed in chapter 5 we offer the following comments.

We do not believe there is a necessity in terms of the activities of motoring associations to subject certain activities to a concessional rate of tax rather than the mutuality principle. This is on the basis that the mutuality principle only relates to dealing with members and this does not present a competitive advantage to the motoring associations in the case of the holiday park, travel or car rental services where a large proportion of the activities relate to dealing with non members and are fully taxable in any case.

As indicated above we do not believe that legislating the principle of mutuality will achieve increased certainty.

Associations such as the NRMA are committed to roadside service and advocacy. We consider that a repeal of the mutuality principle and the legislation of a narrower principle would reduce the resources available to the NRMA and consequently reduce the ability of the NRMA to affect social good through their various member services and advocacy.

The existing law together with Taxation Office administration and review is sufficient in terms of monitoring adherence to the mutuality principle. In terms of motoring associations there appears to us to be rules capable of application and there is no requirement to institute specific anti avoidance rules.

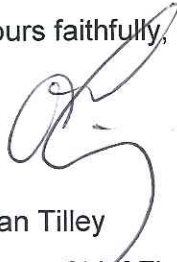
Concluding Comments

In conclusion therefore we believe that motoring associations and also we suspect the vast majority of other mutual clubs and associations are well served by the present principle of mutuality and there is no sustainable case for amendment by legislation or otherwise. We consider that motoring associations play a prominent and highly regarded role in society and that arguments about difficulties of application of the present rules can more appropriately be addressed by Taxation Office rulings and guidelines and monitoring of adherence rather than adding to the complexity of the law by legislative amendments.

We also believe that if it is considered that tax policy issues exist in relation to a relatively small section of mutual clubs and associations, amendments to the tax policy should be directed to remedying the specific defects rather than applying a general and therefore more wide ranging amendment approach which may lead to unforeseen and unfortunate results for the vast majority of mutual clubs and associations.

We would be pleased to discuss any aspect of this submission with you.

Yours faithfully,



Alan Tilley
Group Chief Financial Officer
NRMA Motoring & Services