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NFP Sector Tax Concession Working Group Secretariat
The Treasury
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Email: NFPReform@treasury.gov.au

Dear Sir/Madam

Submission to the Discussion Paper: Not-For-Profit Sector Tax Concession Working Group

This submission from Novita Children's Services responds to the discussion paper: *Fairer, Simpler, and more effective tax concessions for the not-for profit sector.* The paper was issued by the Not-For-Profit Sector (NFP) Tax Concession Working Group in November 2012 (NFP Working Group).

Novita is the largest non-government, not for profit paediatric disability service provider in South Australia. The implications of the matters raised in the discussion paper upon our service and importantly more than 2,000 children and young people with disabilities across South Australia we support are substantial.

With the introduction of the National Disability Insurance Scheme (NDIS) from 1 July 2013 to 2016, the need to attract, retain and reward quality, committed staff is vital to address the foreshadowed increase in demand for services highlighted by the Productivity Commission in its landmark report into Disability, Care and Support in 2011.

In the current disability reform environment, NFP disability services providers need certainty.

Policy reform imperatives and taxation reviews continue to be an ongoing imposition upon the NFP sector, to such a point that the ability to make even short term business decisions, brings with it a disproportionate degree of business risk and uncertainty that is impacting on the ability of NFP's to meet their core missions.

General comments
FBT concessions play a critical role in supporting Novita Children's Services as an NFP to attract and retain employees. This view is reinforced by the submission to the Working Group made by the McMillan Shakespeare Group, which states;

'Government support to the sector is also indispensable and this is provided through direct and indirect channels. The FBT concessions fall into the latter category and are regarded by the sector as vital to the ability of NFP organisations to attract and retain employees. This point has been made so often that its impact is at risk of being lost, however NFP organisations remain emphatic that without the concessions their ability to compete with for-profit and other sectors for employees would be seriously compromised'.[1]

Furthermore this point is again emphasised in the submission lodged by ACOSS which states:

'attraction and retention of staff is the single biggest challenge facing not-for-profit community services.'

Novita Children's Services has also noted that the Commonwealth Government's response on 2 May 2010 to the Australia's Future Tax System Review, stated that

'In the interests of business and community certainty, the Government advises that it will not implement the following policies at any stage.......do any changes to the tax system that harm the not-for-profit sector, including removing the benefit of tax concessions.'[2]

The Working Group's attention is also drawn to the Productivity Commission's study into the contribution of the sector which found that only 70% of the cost of delivering funded services was being covered by existing funding.

The landmark equal remuneration case before Fair Work Australia found that the sector does not have equal remuneration compared to state and local government employees; and that this is significantly due to the gendered nature of the sector's workforce.

Franking credit refunds
Novita Children's Services has Deductible Gift Recipient (DGR) and Public Benevolent Institution (PBI) status and is therefore able to claim a refund on franking credits on distributions by Australian companies in which Novita makes an investment of funds bequeathed or donated.

The deletion of this benefit would have a direct and substantial negative impact on our organisation's ability to derive annual operational revenue essential for the

[1] McMillan Shakespeare Group of Companies – Submission p4 -December 2012
[2] Commonwealth Government's response on 2 May 2010 to the Australia's Future Tax System Review

sustainability of our organisation and importantly the services we deliver to many children and families in need.

Any change to the current system is likely to create the unwanted result of philanthropic support being adversely impacted, as it is not uncommon for NFP's to highlight to potential donors how their donations can derive benefits in perpetuity.

The termination of this revenue stream would impact Novita's investment portfolio substantially and would most likely create the need to restructure the investment portfolio to a much higher investment risk profile in order to maintain the same dividend yield to ensure service capacity continuity.

Enhance tax incentives

Novita Children's Services is aware of and supports other submissions that call for the NFP Working Group to focus on providing enhanced tax incentives to encourage increased giving because of the high value benefits NFP's can create from receiving such giving.

In particular the Universities Australia submission puts forward the following view which is endorsed by Novita;

'Enhanced tax incentives that encourage increased giving promote the core guiding principles of the review by:

- *maximising the social good (Principle 1);*
- *recognising giving in Australia, providing a supportive environment that highlights the benefits of giving (Principle 2); and*
- *enhancing economic efficiency, by directing resources to where they have a higher economic value-add (Principle 5)'.*[3]

Goods and Services Tax concessions

Novita Children's Services, as a charitable institution is endorsed to access concessional GST treatment on supplies. This concession assists Novita in its charitable purpose which is to provide care and support to children and young people living with a disability. GST concessions are important to Novita and our ability to support children and should continue unchanged.

Fringe Benefits Tax concessions

Novita Children's Services does not support any alteration or abolition to FBT concessions as they have become an essential component in in enabling our organisation to attract and retain an experienced workforce vital for providing quality services to children with a disability.

Novita Children's Services agrees with the points made by National Disability Services in its recent submission to the working group – discussion paper which stated;

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[3] Universities Australia Submission to the Not-for-Profit Sector Tax Concession Working Group – p3

'Many disability service providers are endorsed as FBT exempt employers and use the allowable fringe benefits arrangements to offer salary packaging to help attract and retain staff. The introduction, in 2001, of the FBT exemption/rebate cap (set at a grossed-up value of $30,000 per employee in each FBT year) enabled eligible employers to effectively increase the value of employees' remuneration and assisted in the recruitment and retention of staff. All workers, including those on low incomes, can benefit. While the dollar benefit of salary packing is greatest for employees on higher incomes, the benefit as a percentage of take-home pay is greatest for those on lower pay (being, for example, 5% for an income of $220,000 but 12% for an income of $45,000). The value of the FBT concessions has been eroded over the past decade. Since 2001, the Fringe Benefits Tax exemption/rebate cap has not been increased from $30,000 grossed-up value per employee, despite undertakings by the Treasurer at the time to review the cap regularly in light of changes in average wage levels. No adjustment has been made to the cap to allow for inflation, despite average weekly ordinary time earnings increasing markedly over these years'.[4]

Novita does not support the removal or capping of the FBT exemption for meals and the hire of entertainment facilities. Furthermore, Novita is unaware of any modelling undertaken to assess the potential impact of such a change.

Accordingly, Novita is strongly of the view that any decision to remove or cap this benefit in the absence of such analysis, could cause considerable unintended consequences, for example, reducing the capability of NFP's to competitively attract and retain workers. Therefore such a significant change should not be made in hast.

As the largest non-Government paediatric disability services provider in South Australia, Novita Children's Services employs more than 300 staff with many staff employed in allied health professions such as physiotherapy, psychology, speech pathology and occupational therapy. This workforce operates both within and across the disability, health and education sectors and is vital to the successful delivery of community based services required by children with disabilities, across both metropolitan and regional South Australia.

Addressing the inequity in the industrial relations bargaining power that exists between government (as the largest employer of allied health professionals) and non-government organisations competing for professional allied health labour is increasingly difficult. A key cause of the annual challenge in attracting and retaining this workforce (for example) is substantially due to the disparity in annual salary and wage increases offered to South Australian Government employee entitlements.

During the past decade, salary and wages costs for allied health service delivery staff within Novita have increased at almost double the rate of annual grant funding increases allocated by the Commonwealth and State Governments under the National Disability Agreement (NDA). This inadequate level of funding, places NFP's like Novita in the invidious position of needing to use their own fundraising and

[4] National Disability Services (NDS) – Submission p3 – December 2012

investment resources to compete for staff by providing parity with salaries for allied health professional staff working within State Government.

In the 2010 Productivity Commission's research report regarding the contribution of the not-for-profit (NFP) sector, it highlighted that workforce pressure has become an increasing challenge for many NFP disability service organisations. This is a challenge which we agree with. The report states the following:

'In some human service sectors, such as disability, mental health and aged care, NFP's make up a high share of providers. Wages in these sectors have tended to remain relatively low, despite a significant increase in the qualifications required of workers...For NFP's in these sectors, gaps between the wages they can offer compared to similar positions in government, makes retaining workers more difficult. The problems of workforce retention are compounded by uncertainty associated with short-term contracts. As demand for services rises with population ageing, workforce shortages are likely to become profound, requiring major adjustments. The problem goes beyond the NFP sector and affects all human service providers.'[5]

The challenge facing the disability services sector, and particularly the significant challenge of heralded workforce shortages was again reaffirmed by the Productivity Commission in its 2011 Disability Care and Support report. The report highlighted the need for strategies to address workforce shortages that are expected to grow exponentially as a result of the introduction of the National Disability Insurance Scheme (NDIS) which commences in July 2013. National Disability Services (NDS) in its submission reinforced this challenge also by stating:

'The promised National Disability Insurance Scheme, when fully implemented, will double the number of workers required in the sector. Retaining fringe benefits tax (FBT) concessions is a critical element in ensuring that the disability sector has the workforce capacity to support the substantially increased number of people with disability who will be eligible for support under a National Disability Insurance Scheme. NFP disability service providers across Australia regularly experience workforce shortages. These shortages are exacerbated by wage levels which are limited by inadequate government funding. The not-for-profit disability sector is unable to pay wages as high as many other industries and the public sector'.[6]

The Productivity Commission also stated;

'There is a danger that a rapid increase in demand for support staff will result in staff shortages as well as wage inflation.'[7]

It is therefore essential that there is no corresponding additional pressure created by an amendment to the FBT concessions framework and allowances currently available to NFP's.

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[5] Australian Government Productivity Commission – Contribution of the Not-for-Profit Sector – Research Report – January 2010, p.32

[6] National Disability Services (NDS) – Submission p2 – December 2012

[7] Productivity Commission 2011, Disability Care and Support, Report no. 54, Canberra.- p683

Conclusion
In considering the matters detailed in the Working Party's discussion paper, Novita was mindful of the broader reform environment within which it is being required to operate. The plethora of reform initiatives are almost unrelenting and in many circumstances can be viewed as ambiguous and contradictory. The NFP sector including Novita is arguably being overburdened by policy change overload. In addition to the matters raised in the Working Party's discussion paper, some recent examples of impacts upon NFP's in the South Australian disability services sector are:

- The announced intention to remove National Disability Agreement (NDA) block grant funding for disability services (from 1 July 2013);
- The introduction of the state based trials to test the full scale introduction of the National Disability insurance Scheme (NDIS) creating market and regulatory impacts, for which the sector must rapidly adjust;
- The acknowledged absence of a South Australian Government workforce development strategy or plan for the NGO disability services sector;
- The inadequate degree of regulation of the electricity market which has caused South Australia to now have the highest energy costs in Australia, and
- The introduction of a carbon tax and its associated cost impacts.

The Working Party is respectfully requested to be mindful of the many other reforms which are impacting upon the NFP sector across the nation when considering alterations to the NFP sector tax concessions.

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