



21 December 2012

Manager  
Charities Unit  
Indirect, Philanthropy and Resource Tax Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

**Victorian Employers'  
Chamber of Commerce  
and Industry**  
ABN 37 650 959 904  
486 Albert Street  
East Melbourne  
Victoria 3002 Australia  
GPO Box 4352 Melbourne  
Victoria 3001 Australia  
Telephone: 03 8662 5333  
Facsimile: 03 8662 5462  
vecci@vecci.org.au  
www.vecci.org.au

Dear Sir/Madam

**Re: Tax Concessions for the Not-for-profit Sector – Response to  
Discussion Paper**

The Victorian Employers' Chamber of Commerce and Industry (VECCI) welcomes the opportunity to provide input following the release of the Not-for-profit Sector Tax Concession Working Group's Discussion Paper on tax concessions for the sector.

Our comments are provided on the basis of VECCI's own status as a not-for-profit (NFP) organisation, as well as representing our NFP members.

The Discussion Paper considers a broad range of issues relating to the taxation arrangements for NFP organisations. We do not propose to comment on all of the consultation questions, but offer specific comments on elements that are of particular interest.

Our concerns predominantly relate to the administrative burden of many of the proposals, along with the financial impacts of changes that would either reduce the quantum of tax concessions, replace tax concessions with alternative support that is not desirable, or allow for concessions to be claimed only once per year.

We also have a number of broader concerns regarding the context in which the Discussion Paper has been framed. These are discussed below.

**Broad Concerns**

**Definition of a Charity**

The Discussion Paper contains a number of proposals for reforms to the taxation concession arrangements, but does not include an agreed definition of a 'charity', with the development of a statutory definition of 'charity' being considered separately by the Australian Government. This makes it difficult to comment on the proposals set out in the Discussion Paper in detail, as it is not clear which organisations will fit this definition and, therefore, how the relevant tax concessions will apply.

**Ballarat**  
305A Dana Street  
Ballarat Victoria 3350  
Telephone: 03 5327 7190  
Facsimile: 03 5333 3074  
ballarat@vecci.org.au

**Bendigo**  
21 Short Street  
Bendigo Victoria 3550  
Telephone: 03 5434 1102  
Facsimile: 03 5441 4865  
bendigo@vecci.org.au

**Geelong**  
20 Little Ryrie Street  
Geelong Victoria 3220  
Telephone: 03 5227 7990  
Facsimile: 03 5223 3958  
geelong@vecci.org.au

**Traralgon**  
Unit 2 11 Kay Street  
Traralgon Victoria 3844  
Telephone: 03 5173 9200  
Facsimile: 03 5174 7100  
traralgon@vecci.org.au

**Wodonga**  
95 Hume Street  
Wodonga Victoria 3690  
Telephone: 02 6056 9198  
Facsimile: 02 6056 0190  
wodonga@vecci.org.au

## **Company Structure**

Likewise, a separate review is being undertaken of the company limited by guarantee structure, and its continuing appropriateness for NFP entities. Again, decisions in this area will have an impact on the application of relevant taxation concessions, so it is difficult to provide informed comment on this matter.

## **Unrelated Business Income**

While the issue of Unrelated Business Income is being considered separately to this paper, this is another critical issue for the NFP sector, and should not be considered in isolation from the tax concession proposals raised in this Discussion Paper. We note the High Court has made a decision on the treatment of unrelated business income in the past, which is a critical issue for many in the NFP sector, and one that we consider should not change.

## **Specific Comments on the Discussion Paper**

### **Franking Credits – Chapter 1**

In terms of the refund of franking credits to NFPs, it is suggested that NFPs that are entitled to these are likely to be large, well-resourced organisations, and perhaps the tax expenditure could be used in a way that benefits a broader range of entities. We would argue that this is not necessarily the case, and that the income that eligible NFPs receive from funds invested should also be supported through the taxation system, via franking credits, to support the delivery of NFP activities.

### **Fringe Benefits Tax Concessions – Chapter 3**

We would like to offer specific comments in relation to several of the questions posed in Chapter 3 of the Discussion Paper, regarding Fringe Benefits Tax (FBT) concessions.

We do not agree with the proposal (question 34) that there should be a requirement on employers to deny FBT concessions to employees that have claimed a concession from another employer. This would represent a further compliance burden on employers, and create new administrative costs. Responsibility should lie with the employee to disclose any FBT benefits received.

On question 36, we consider the limitation on tax exempt bodies in the minor benefits exemption should be removed in order to clarify and simplify the treatment of minor fringe benefits.

On questions 38 and 39, we do not agree that FBT concessions should be phased out and replaced with direct government support. This proposal will bring with it significant costs through applications for direct grants, compliance monitoring and reporting, along with greater uncertainty on the level of support,

particularly over the long-term. Some NFPs could also be seen to be receiving favourable treatment at the expense of others under this model. This would clearly be detrimental to the NFP sector and organisations such as VECCI that are apolitical and undertake policy and lobbying activities on behalf of the wider business community.

More generally, as highlighted by the Discussion Paper's example of government assistance in recruiting specialist staff, this would be intrusive and add to the red tape burden, while at the same time being of limited value.

The proposal that FBT concessions be replaced with tax-based support (question 40) is also not supported. Any proposal that involves payment of FBT throughout the year, with assistance provided only once per year, will be difficult to manage on an ongoing basis from a financial perspective.

Added to that is the administrative burden – for example, the complexity of accounting for staff that join or leave an organisation during the year. The proposal will also serve as a disincentive to employing staff, rather than an incentive - which is the aim of NFP tax concessions.

Thank you for the opportunity to provide input into the important work of the Not-for-profit Sector Tax Concession Working Group.

We would welcome the opportunity to discuss these issues with you in further detail if required.

Yours sincerely



Mark Stone  
Chief Executive