

14 July 2017

Senior Adviser
Individuals and Indirect Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Senior Advisor,

**3MBS Response to Tax Deductible Gift Recipient Reform Opportunities
Discussion Paper**

The Music Broadcasting Society of Victoria (3MBS) is pleased to make a submission on the Tax Deductible Gift Recipient Reform Opportunities Discussion Paper.

Background

Music Broadcasting Society of Victoria Ltd is a company limited by guarantee that manages the community broadcasting service 3MBS Fine Music Melbourne (3MBS) on 103.5FM, digital, through internet streaming and providing on demand performances and information. 3MBS Fine Music Melbourne runs one station 24 hours a day, 365 days a year, with substantial programming on its digital channel.

3MBS community radio is achieved through:

- a voluntary unpaid board of 10
- a staff of seven full time employees
- more than 200 volunteers acting as presenters, producers and administrators contributing more than 1345 to 2556 unpaid working hours per month, equivalent to another seven to 15 full time employees a month.

3MBS supports listeners in Melbourne and the surrounding areas, many now who are unable to attend live music performances. To achieve these goals, the station supports both local established musicians and young emerging performers through broadcasting interviews, live-to-air performances, recorded concerts, and hosting special events. A percentage of the listening community are subscribers and donors and the station is partially supported by commercial sponsors, especially the arts community.

Multiplier effects

Donations having DGR status are essential to the survival of 3MBS because they provide continuity of funding that is then augmented by subscriptions (not tax deductible), bequests, ticketed events, sponsorship payments by both arts organisations and commercial entities.

The DGR funding has multiplier effects that would exceed the tax forgone on the gifts through:

- the income tax payments on the full-time staff that balance off deductions in the tax system
- being the largest tenant in a Not-For-Profit arts precinct known as Abbotsford Convent
- the free work and skill building of volunteers not counted in GDP
- the health benefits of volunteer work and companionship for the volunteers both young and old not counted as savings in the public health system
- the health benefits for 3MBS listeners revealed by surveys as being above average in age, disability and living in single households.

Discussion Paper Questions

Question 1: What are stakeholders' views on a requirement for a DGR (other than government entity DGR) to be a registered charity in order for it to be eligible for DGR status. What issues could arise?

3MBS is a registered charity and has operated with this status for more than 40 years without any major issues. It is not appropriate to comment on how other non-charitable organisations are structured or whether they could achieve charitable status.

Question 2: Are there likely to be DGRs (other than government entity DGRs) that could not meet this requirement and, if so, why?

We are unable to comment on other organisations that are not charities.

Question 3: Are there particular privacy concerns associated with this proposal for private ancillary funds and DGRs more broadly?

The question is how much information will be required to be lodged with the ACNC each year. Until there were more defined requirements, rather than the loose description of an "Annual Information Statement" proposed in the discussion paper. Once the guidelines of this document are released, then privacy issues can be fully discussed. The Music Broadcasting Society of Victoria already submits an Annual Information Statement and audited financial statements to the ACNC, which are published online on the ACNC's website.

Question 4: Should the ACNC require additional information from all registered charities about their advocacy activities?

When there are issues that will impact the role of community broadcasting, 3MBS undertakes a certain amount of advocacy. If there is a cost, it is recorded in 3MBS accounts for members of the society to see. The organisation also encourages its volunteers and subscribers to lobby when there is a relevant issue that could affect the operation of the station, both technically and financially. To have to record all of this information would be an unnecessary burden on a charity resulting in extra administrative costs.

Question 5: Is the Annual Information Statement the appropriate vehicle for collecting this information?

As comments are the same as above. Any addition information on the annual statement results in extra costs for the charity, including auditing fees to ensure we have met the requirements legally.

Question 6: What is the best way to collect the information without imposing significant additional reporting burden?

We do not see the need to collect this information as it would not occur on a regular basis. A copy of the rules sent to each charity explaining the expectations of Treasury on advocacy would suffice. If a set of accounts showed a charity was spending excessive amounts on advocacy then the organisation could be investigated and any breaches could then be detected. Although the discussion paper has not detailed what the reporting requirements would be, 3MBS feels this would be an additional burden.

Question 7: What are stakeholders' views on the proposal to transfer the administration of the four DGR Registers to the ATO? Are there any specific issues that need consideration?

If the four DGR registers were to be managed by the Australian Tax Office under purely taxation legislation, it would be regrettable if decisions were made to limit DGR status on purely technical legal or formal economic grounds without the context of data on the multiplier effects. It is suggested that an organisation with a broader productivity remit would be more suitable.

This proposal also moves the responsibility from organisations with specialist knowledge of the groups that they have a relationship with to a purely compliance oriented entity.

Question 8: What are stakeholders' views on the proposal to remove the public fund requirements for charities and allow organisations to be endorsed in multiple DGR categories? Are regulatory compliance savings likely to arise for charities who are also DGRs?

3MBS would welcome any moves that reduce complexity in areas of compliance in running a charity.

Question 9: What are stakeholders' views on the introduction of a formal rolling review program and the proposals to require DGRs to make annual certifications? Are there other approaches that could be considered?

3MBS believes both annual or five year certification would increase the regulatory burden without providing benefit to the taxpayer in the case of community organisations that are compliant with all legal regimes. It would also increase audit costs for an organisation which is striving to allocate as much of each raised dollar for the purpose of the charity. 3MBS believes non-compliance in the annual reporting requirements would probably throw up red flags about possible breaches of DGR status-given that organisations that fail compliance in one regime often fail in all.

Question 10: What are stakeholders' views on who should be reviewed in the first instance? What should be considered when determining this?

3MBS would suggest a review at the end of the first year's operation of a new charity would be a prudent measure to ensure the organisation was compliant. Subject to a clean bill of health a second review could be undertaken after a reasonable period. For well-established charities, that are fully compliant, any review could be undertaken only if a breach of was detected.

Question 11: What are stakeholders' views on the idea of having a general sunset rule of no more than five years for specifically listed DGRs? What about existing listings, should they be reviewed at least once every, say, five years to ensure they continue to meet the 'exceptional circumstances' policy requirement for listing?

3MBS has no comment on this proposal.

Question 12: Stakeholders' views are sought on requiring environmental organisations to commit no less than 25 per cent of their annual expenditure from their public fund to environmental remediation, and whether a higher limit, such as 50 per cent, should be considered? In particular, what are the potential benefits and the potential regulatory burden? How could the proposal be implemented to minimise the regulatory burden?

3MBS is not an environmental organisation so therefore cannot comment on the proposal.

Question 13: Stakeholders' views are sought on the need for sanctions. Would the proposal to require DGRs to be ACNC registered charities and therefore subject to ACNC's governance standards and supervision ensure that environmental DGRs are operating lawfully?

3MBS is already a charity and a DGR and is in full understanding of the legal requirements of both. The organisation has both members of the legal profession and pro-bono advice available to help it maintain full compliance with all aspects of the laws required to operate a charity.

While it is impossible to stop somebody acting illegally, a robust internal compliance scheme will enable illegal actions to be minimised. A voluntary reporting system of breaches to the ACNC should be encouraged. The level of sanctions should be clearly defined depending on the seriousness of the breach. It would be wrong to deregister a charity for being one day late with returning a form, but if millions of dollars had been misappropriated, then the penalties should be significant.

Music Broadcasting Society of Victoria (3MBS) would be happy to discuss any of the points raised in our submission. Please contact our Company Secretary at the above address and telephone numbers or via email – board@3mbs.org.au

Yours sincerely,



SALLY HUTCHISON
Company Secretary