

12 August 2011



Mr Chris Leggett  
Manager  
Philanthropy and Exemptions Unit  
Personal and Retirement Income Division  
The Treasury  
Langton Crescent  
Parkes ACT 2600

Dear Mr Leggett,

**‘In Australia’ Special Conditions for Tax Concession Entities**

Thank you for the opportunity to comment on the above draft legislation. This letter outlines some concerns the Australian Chamber Orchestra (ACO) has in relation to the Exposure Draft.

The ACO is a member of the Australian Major Performing Arts Group (AMPAG) and a performing arts based charity. The ACO is headquartered in Sydney, holds DGR status and is Income Tax Exempt. In 2010, our revenue was comprised of performance revenue (41%), sponsorship and donations (36%), government funding (16%) and other income (7%).

The ACO presents annual subscription concerts in Adelaide, Brisbane, Canberra, Melbourne, Newcastle, Perth, Sydney and Wollongong, seven times a year, and also has a broad regional and international touring program. The Orchestra undertakes two to three international tours each year to the major concert halls and festivals of Europe, North America and Asia, showcasing Australian culture on the world stage and earning great critical acclaim. *The Times* of London called the ACO “the best chamber orchestra on earth”.

Whilst the ACO is established in Australia, operates principally in Australia, and pursues its purposes principally in Australia, international touring is an important element to the Orchestra’s annual activities. International touring is pursued to enhance our Australian business and build our reputation for our domestic audience. This is also the case for many other performing arts companies.

The ACO is required by our tripartite funding agreement with the Australia Council for the Arts and Arts NSW to give approximately 15% of our main stage performances each year internationally. The cost of the ACO’s international touring activity is not adequately covered by government funding and requires significantly on the ACO’s ability to generate income from donations.

Our concern is with the proposed new conditions for deductible gift recipients in section 30-18, which states:

“(1) A fund, authority or institution satisfies the condition in this section if:

- (a) it is established in Australia;
- (b) it operates solely in Australia at all times; and
- (c) it pursues its purposes solely in Australia at all times. “

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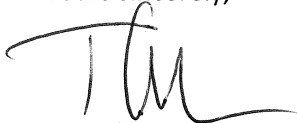
We note Clause (2) states that: "Despite subsection (1), a fund, authority or institution that operates or pursues its purposes outside Australia does not fail the condition in paragraphs (1)(b) and (c) if:

- (a) its overseas activities are merely incidental to the Australian activities of the fund, authority or institution; or
- (b) its overseas activities are minor in extent and importance when considered with reference to the Australian activities of the fund, authority or institution."

We are concerned that, under a strict interpretation of the proposed s30-18, our international touring activities might preclude us, and other major performing arts companies that also tour overseas, from qualifying for DGR status. As a result we would either seek exemption from these requirements or require clarification of the definitions of "incidental" and "minor" in sections 30-18 (2) (a) and (b) to ensure the ACO's ability to fulfil its purpose to promote and develop Australian cultural life is not adversely affected by these conditions.

We trust you will consider our feedback and suggestions. Should you have any queries regarding our submission, please do not hesitate to contact me on 02 8274 3805.

Yours sincerely,



**Timothy Calnin**  
**General Manager**

cc: Australian Major Performing Arts Group