

Submission to:

Philanthropy and Exemptions Unit
Indirect Tax Division
The Treasury

NFPReform@treasury.gov.au

Re: Restating and standardising the special conditions for tax concession entities (including the 'in Australia' conditions)

About Australian Youth Orchestra

The Australian Youth Orchestra (AYO) provides elite orchestral music training to more than three hundred participants each year. The training is provided through short courses held at locations around the country and ranges from a residential camp for teenage musicians to performances with the AYO, and apprenticeships with the Australian professional orchestras. A key activity since 1970 has been the international touring program of the AYO providing young musicians with an opportunity to fast track their development through the presentation of their craft on the world stage. The Australian Government acknowledges the international touring program as a core training activity of the AYO and provides specific funding to partially fund this program. Our funding agreement also requires the AYO to diversify its income base. We rely upon fundraising for more than 40% of our income to support training programs in Australia and the triennial international touring program.

The Australian Youth Orchestra has toured internationally 21 times since its first tour to Asia in 1970. On its most recent tour in 2010 the orchestra was acclaimed by critics and audiences from Beijing to London. Geoff Brown from The Times said of the AYO's performance at the BBC Proms in London:

"... An adult grasp of emotions and cultural worlds usually thought beyond any teenager, in any hemisphere."

The AYO will tour to Europe in August 2013 with two of the world's leading artists – Christoph Eschenbach, conductor and Joshua Bell, violinist. Minister Crean launched this tour in October last year and said:

"International touring, of course, is one of the best avenues we have to showcase the results of Australia's elite music training."

Proposed special conditions

We are concerned that the proposed revised special conditions for tax concession entities, including the "in Australia" conditions, will have a serious impact on AYO's ability to offer international touring opportunities as well as our other ten Australian based programs to Australian students in the year of an international

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tour. The current drafting suggests that any activity not 'solely' or 'principally' in Australia during an income year, or any part of an income year, will deny both gift deductibility status and income tax exemption for the entirety of the entity's activities for that income year.

The role of international touring as an opportunity to develop Australia's finest young musicians is crucial for many reasons including building the reputation of Australia's music education system; raising awareness of the creativity of Australia's young people; developing aspiration amongst students to reach new levels of excellence in their artform; and contributing to Australia's cultural diplomacy.

The National Cultural Policy Discussion paper sets out in Goal 3:

To support excellence and world-class endeavour, and strengthen the role that arts play in telling Australian stories both here and overseas.

This demonstrates acknowledgment of the vital international role that AYO's international touring program plays and is essential endorsement in our campaigns to raise funds from individuals and corporations to fund the AYO's triennial touring program.

'Incidental activities'

Example 1.18 in the Explanatory Memorandum:

... However, deductible gift recipient funds will not be able to be used to cover the flights of the orchestra members, and other tour costs incurred while the orchestra is touring overseas, as these costs are not considered incidental to the orchestra's activities in Australia.

This would lead to the erosion of the AYO's international touring funds, usually raised from small donations from individuals, and subsequent loss of international touring opportunities for hundreds of students.

'Principally in Australia'—Income tax exemption

Proposed section 50–50(2) will deny income tax exemption for all of the activities of an entity that fails to:

- (a) operate principally in Australia; and
- (b) pursue its purposes principally in Australia

If the proposed wording leads to a loss of tax exemption for the year in which an AYO tour is undertaken, all of AYO's activities in Australia will be impacted.

We wish to make you aware of the consequences of these proposed changes on the AYO's activities, especially as the results would be in complete opposition to the Government's committed support of the AYO's international role. AYO recommends that adjustments are made to the wording of these proposed changes to avoid the serious consequences for an organisation like AYO as outlined above.

Yours Sincerely

Colin Cornish
Chief Executive Officer

16 May 2012