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acca

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12 January 2009

Manager
Philanthropy and Exemptions Unit
Personal and Retirement Income Division
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Sir/Madam

The Treasury's November 2008 Discussion Paper relating to Prescribed Private Funds (PPFs) has been brought to the Australian Centre for Contemporary Art's attention by The Balnaves Foundation. We understand that the Treasury has sought comment from various PPFs on its proposed changes, which it hopes will improve the integrity of PPFs. The Balnaves Foundation has requested that ACCA read the Treasury document, and their own submission, and offer further comment from the perspective of a cultural organisation which has benefited from this recent new structure of philanthropy.

May we say from the outset that the emergence of the PPF in the mix of Australian philanthropy has been a very welcome, necessary and exciting innovation. As a not-for-profit organization, ACCA relies on gathering over 50% of its annual income from sources other than recurrent government funding. Its artistic and education programs are supported predominantly through private, corporate and philanthropic donations and partnerships.

We need to stress that the government stakehold in our, and many of our colleague institutions, is predicated on the concept that we shall generate funds to enhance our capacity and delivery.

Our relationship with PPFs varies from small anonymous donations to larger partnership based activity. The Balnaves Foundation is in the latter category and in our view represents a visionary approach to gifting inasmuch as its commitments, which take the form of a long term pledge to support a significant annual exhibition within our programme, considers our organization's need to forward plan, research and develop our core activities in a sustainable manner.

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We support and commend Treasury's expressed plan to improve the integrity of PPFs in general, and in particular see from the document that a tightening of certain procedures will provide for a clearer approach which is less open to interpretation and which will have the effect of ensuring funds flow in the right direction.

There are, however, some suggested changes which we feel may have an adverse impact on PPFs, and which we are concerned will flow negatively to the community sector.

In particular we point to the Treasury's suggestion to establish a distribution of 15% per annum, calculated at the closing value of a PPF fund. We concur with the Balnaves Foundation's contention that this may have the effect of eliminating perpetuity. With such a fledgling philanthropic environment in Australia we feel it is important that any changes Treasury might make, have a goal of strengthening and growing this sector of private giving through nurturing growth and sustainability.

We have sought independent opinion from people with expertise in this area and they also concur. To summarise their collective response we would say that the requirement to devolve an annual rate of 15% may be onerous for some arts related PPFs and that it may be desirable to allow some leeway in applying this rule in particular cases. While we do not have the expertise to recommend an alternative level, we do believe more scrutiny should be applied to establishing a scale based on the concept of longer term outcomes, wedded to an ideal of assisting long term security and planning for the Community sector. The Balnaves Foundation suggests a level of 5% per annum which is closer to the US model.

Whilst we support the principle of accountability and transparency, we agree with the Balnaves Foundation's concern that a public listing would potentially cause an onerous drain on resources. Thought should be given, in drafting this element of reform, to the concept that public accountability is not tied to a necessity or responsibility on behalf of PPFs to accept or respond to all applications and proposals as this would inevitably lead to a drain on philanthropic funds for the purposes of administrative overheads.

In conclusion we would say that, as a not for profit cultural organization that relies heavily on the generosity of private philanthropy, we would have grave concerns about any changes to the legislation which will threaten the growth and longevity of PPFs. This is particularly relevant at a time of economic downturn when organizations like ourselves are finding it more difficult to raise funds from the private sector.

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The creation of PPFs has been a welcome development in the philanthropic sector, and has become a crucial new source of support in recent years and promises to continue to do so as funds come into fruition. It is important that government treads carefully now to ensure that it consolidates and builds the incentive towards philanthropy rather than deterring this kind of activity in the future.

Yours sincerely

Naomi Milgrom

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Chair
Australian Centre of Contemporary Art (ACCA)