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TAX DEDUCTIBLE GIFT RECIPIENT REFORM OPPORTUNITIES

Blackburn and District Environment Protection Fund (BDEPF) submission.

Please see below our submission to the above reform paper. Blackburn and District Environment Protection Fund Inc. A152078 (BDEPF) is a not-for-profit incorporated organization whose objective is:

Protect and enhance the natural environment of the City of Whitehorse by:

- Building community support to promote and improve the valuable heritage of bushland in Whitehorse.
- Encouraging retention of existing native trees, shrubs and flowers that support native wildlife.
- Supporting and funding Community Groups working with council to protect and enhance bushland.

In response to the questions posed in the tax deductible gift recipient reform opportunities discussion paper, please see our comments noted in Blue.

Summary of consultation questions.

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?

   We see no problems with this requirement, we see merit in a standard governance approach for all charities including religious charities.

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

   Not to our knowledge.

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

   None apparent.

4. Should the ACNC require additional information from all charities about their advocacy activities?

   This could be addressed by question 9. - make annual certifications to the effect that advocacy if conducted during past year was within the ACNC guidelines.

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

   (See response to 4 above)

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

   A very small percentage of organisations would advocate outside the guidelines. A reporting regime imposed on all charities would introduce an inefficient bureaucratic burden on voluntary members of DGR's.

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?

   We see merit in a standard governance approach for all charities including religious charities. Providing subject matter expertise is maintained for different DGR funds there we see no apparent issues.

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?

   Removal of the public fund requirement as we understand it would mean a charity would no longer need to maintain a separate fund to raise tax deductable donations. The fund could then be absorbed back into the charity however would need to maintain the same governance requirements as present including the management board, however the required standard for a responsible person on the management board under ACNC is less stringent. The reduction of compliance would come by only needing to report to ACNC rather than both REO and ACNC. Improved governance, electronic banking and a more sophisticated accounting system makes this possible. If our understanding is correct then we see no problems.

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?

   The premise for this is that the foregone tax to government is significant and accountability is required. We have no problem with accountability however there must be recognition that the NFP sector fills a gap between government funded programs and private sector services. If the work done by the NFP sector had to be done by government it would cost considerably more than the tax foregone.

   We have no problems with rolling reviews providing, as stated those identified in a risk assessment are reviewed ahead of others. Starting with a desk audit would also identify the need to go further.

   Five year audits seem a little ambitious and prescriptive given the bureaucratic resources required carrying out such audits and the suggestion later that sunset clauses on funds could also be set at 5 years. In our view given the ACNC reporting framework, reviews could be conducted at any time based on exception. Annual certification statements increase the accountability for compliance.

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

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   Five year audits seem a little ambitious and prescriptive given the bureaucratic resources required carrying out such audits and the suggestion later that sunset clauses on funds could also be set at 5 years. In our view given the ACNC reporting framework, reviews could be conducted at any time based on exception. Annual certification statements increase the accountability for compliance.

11. What are stakeholders' views on the idea of having a general sunset rule of five years for specifically listed DGRs? What about existing listings, should they be reviewed at least once every five years to ensure they continue to meet the 'exceptional circumstances' policy requirement for listing?

   Our experience is that establishing a fund is a slow process that requires the fund to demonstrate results in order to continue to attract donations. The work establishing and maintaining the fund depends to the objectives of the fund. It should be the objectives that guide the need for a sunset clause. For instance the relevance of a fund with educational objectives could well be perpetual. A fund established to buy an MRI machine for a hospital would achieve its objective once the MRI has been purchased.

   In our view given the ACNC reporting framework, reviews could be conducted at any time based on exception if any governance issues are highlighted then a show cause notice could be issued and the fund/charity ordered to be closed if objectives no longer being pursued.

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?

In essence this suggestion prescribes on one charity sector a requirement to spend 25% on environmental remediation. Why is it not also proposed that equivalent funding be devoted to patient clinical treatment for charities in the health sector, or face to face classroom sessions for charities in the education sector? There are a number of issues with this proposal.

- The reform process to remove red tape and streamline process will be negated by setting up a bureaucratic process to ensure compliance for only one charity sector. If the aim is to ensure funds/charities are prosecuting their objective then questions 9, 10 and 11 above provide the compliance framework required. All charities/funds should be meeting their objectives.

- The objectives of some environmental organisations may include active environmental remediation but others may have objectives that are based around education, research, or advocacy. Is it the intention that such charities/funds will be required to change their objectives to comply?

- The additional compliance and overhead costs for the above would divert valuable resources away from charity/fund objectives thereby undermining them.

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?

Sanctions make sense providing they are prescribed and there is oversight as outlined in question 9. above. Rolling reviews for charities/funds identified in a risk assessment and following a desk audit could be investigated further and appropriate sanctions imposed.

In our view given the ACNC reporting framework, reviews could be conducted at any time based on exception. Annual certification statements increase the accountability for compliance.

David Morrison

Chairman

Blackburn and District Environment Protection Fund