

John Church



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Tax Deductible Gift Recipient Reform Opportunities

Dear Senior Adviser ,

I do not propose to be an expert on these but matters but there are certain questions that I wish to comment on.

Question 1

Your proposition implies changes to the definition of Charities which is not explained .This needs full and further discussion .In fact if you look at the name of the ACNC you would realise it was clearly intended to cover not for profit organisations that are not charities One could easily add the appropriate legislation for the purpose you propose. I note you interchangeably seem to use activities and purpose throughout your paper. Charities have always be established for a purpose not an activity. You may prefer to have them supervised by the ACNC rather than the ATO which would more acceptable, relevant and efficient.

Question 2

DGR's that do not fall within the definition of a charity should have their own category their is no reason to redefine "charity".

Question 3.

The current provisions about disclosure are appropriate for private ancillary funds the fact that they be required to disclose the recipients would be reasonable.

Question 4

The English law on advocacy and the current law is probably adequate but many of the existing registries do not properly administer their role. Many charities have more than one purpose your proposition would become problematic on a establishing a clear means of allocating funds between public education and advocacy .The only exception I would consider are those covered by the Overseas Aid Gift Deduction Scheme which seems to be well and properly administered.

Question 5.

Yes .



Question 6.

If you require additional information this clearly imposes significant additional reporting. It should only be done when the annual reporting function is required. It seems a strange concept to separate the information into separate reports. Nowhere do you clearly state what additional information you require?

Question 7

One can only struggle with the concept that the ATO is a competent and responsible body to deal with these issues. You should look at the huge improvement that the ACNC has made to Charities in 5 years which had been previously administered by the ATO. The evidence clearly illustrates that the ATO did not proactively deal with these issues.

Question 8

This may have some benefit but it could make for some unintended consequences and even create burdens which are unnecessary or not proportionate to the risk. I do not have enough information in your consultation to consider this.

Question 9

This is a power clearly within the ACNC role now. It could be perhaps more formalised. As there has been no formal review since 1915. It would be prudent to have on 10 year cycle but the nature of the review should be clearly proscribed otherwise it could be a grab bag of topics depending on the whim of the reviewer.

Question 10 .

The role of the ACNC provides a means of regular review and perhaps this could be elaborated further. and would suggest that the type of approach taken by the ACNC is appropriate. The regularity of a more detailed review can be introduced but it should consider what is meant by review.

Question 11

The concept of a sunset clause is nonsensical if the ACNC is properly resourced. Formally listing these specific organisations merely means that Government is unable to carry out the roles it is elected to do. Five years on any rational basis is not sufficient. Nowhere do you illustrate or discuss the effect of an action under this proposed proposition.

Question 13 .

The question of sanctions is not very clear, if an organisation breaches for a specified period then the Court should be allowed to apply a cy-pres scheme to the funds. This would ensure that donors are not prejudiced by the actions of the organisation.

Recommendation 1.

It is disturbing to note that you do not discuss the views of the dissenting report. These views should form a basis of any discussion.

Recommendation 2

Simplicity and clarity would suggest a 1 stop process and it should be carried out by the ACNC,

Recommendation 3

There should be a proposal for anyone to be able to ascertain the listing simply and clearly

Recommendation 4

The ATO has established that it is unable to do this for charities. Why introduce another body rather than the ACNC

Recommendation 5.

The ATO is not the appropriate body to carry out this task. You have suggested elsewhere that these organisations become charities yet in this you seem to deny this by appointing another body to carry out this role. The suggestion of 25% or 50% merely is matter for Government to decide though any formula as suggested will create problems in calculation as has been evidenced in other jurisdictions.

Recommendation 6

This merely emphasises the lack of clarity in the Committee's recommendations. A proper definition would deal with this simply and clearly without a potential discontent and political opportunism. Fundamentally the concept of registering as charities is not appropriate.

The preferable answer would be for environmental organisations be subject to some specific rules administered by a the ACNC

Recommendation 7

The ATO is not the proper body to do this.

The ACNC has shown it is competent and efficient and is a body devoted to the public good.

Recommendation 8

Noted but the proper body would be the ACNC. The question arises how one regards the Menzies foundation and Evatt Foundation under this concept as being purely advocacy for a political purpose . This does not seem to be addressed in the consultation

Recommendation 9

This needs a little more clarification and it should not be the ATO but the ACNC The statement in para 82 may have some merit but it is not clearly explained.

The committee clearly evidenced a lack of understanding of the role of the ACNC if these organisations are to be subject to another set of reports when it could be done by the ACNC.

For profit organisations are given tax deductibility for advocacy purposes it is hard to see on what basis environmental organisations should be subject to a different standard.

Yours Faithfully,

John Churh

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