

Global Development Group Discussion Paper

Global Development Group supports the main thrust of the Reform Opportunities.

This includes the prime roles suggested for ACNC and ATO.

However we would like to see distinct separation of DGR assessment and implementation of tax deductible funds sent overseas. (We believe that these requirements currently are only met by Item 1 9.1.1 DGRs (OAGDS)).

We do not include incidental costs which could be incurred by any charity but we are basically referring to substantial proportions of funds sent overseas for projects in the developing world. Overall this application is quite broad as it deals with many areas to assist countries and their populations to relief of poverty. In a narrower frame of reference, it relates to the relief of poverty, sickness, suffering, distress, misfortune, disability and helplessness.

The discussion paper (Page 5) indicates a cost to the Commonwealth of about \$1.4B/year for DGR.

It can be argued that DGR's who spend their finances in Australia provide goods and services which ameliorate those costs.

However in the case of funds sent overseas there is no immediate benefit to the Australian taxpayer. In our discussion with NZ government they specifically ask GDG how much taxpayer funds will be sent overseas. It should be a concern.

In 2012 Global Development Group supported The Hon David Bradbury MP's – arguments for In Australia Special conditions for tax concession entities.

Why are there limits on money sent overseas?

Publicly funded taxpayer concessions are meant to be used principally in Australia for the broad benefit of Australians, and not be passed on through entities and then spent overseas.

In addition, where money is sent overseas there is an increased risk of the funds being misdirected to inappropriate and unauthorised operations, such as to money laundering and terrorist financing.

The 'in Australia' special conditions provide additional measures to address possible abuse of not-for-profit entities for the purposes of money laundering and terrorist financing, and ensure the proper operation of not-for-profit entities, their use of public donations and funds, and the protection of their assets.

Deductible gift recipients which are allowed to operate overseas are covered by appropriate integrity requirements to ensure that this taxpayer funded concession is directed to the causes that it was donated for, and not at risk of being misdirected to inappropriate and unauthorised operations. These integrity requirements are supported by special administrative arrangements because of the difficulties associated with monitoring activities undertaken outside of Australia.

Global Development Group suggests that funds sent overseas for development work or for benevolent purposes should all go through a 9.1.1 DGR.

Item 1 9.1.1 were set up primarily for the purposes of OAGDS activities, these entities have met the assessment criteria to have sufficient capability, experience, robust systems and procedures to handle the issues surrounding control and security of funds, anti-money laundering and counter terrorism funding issues, as well as established partnership processes and agreement relating to use of funds and donor promise.

Global Development Group staff would like to emphasise the commitment required for monitoring and evaluation. This is a core requirement at Global Development Group.

If there are deficiencies in the operation of the 9.1.1 mechanism, these should be addressed and if any 9.1.1 DGR's are below standard they should be individually addressed.

For some years the sending of tax deductible funds overseas was restricted to item 9.1.1 DGR's. The Hunger Project case then was widely considered to open the doors for PBIs to send funds overseas.

However it is mostly overlooked that The Hunger Project was already had OAGDS. PBI status allowed it to take advantage to the non-reportable fringe benefits exemption provisions.

Global Development Group was in the same situation. Many large international OAGDS already had PBI status but the ATO admitted it was not inclined to approve any more. Global Development Group's alternate strategy was to ask for non-reportable fringe benefits exemption for OAGDS. We were unsuccessful.

The effect of The Hunger Project case was numerous applications for PBI so that tax deductible donations could be sent overseas **with no accountability.**

Global Development Group has frequently presented to conferences (including accountants and lawyers) that sending funds, especially tax deductible funds overseas with no accountability is fundamentally wrong. We have frequently presented our case to ACNC.

Global Development Group acknowledges that PBIs often have good relationships with that Australian Public and in their fundraising activities there is often a desire to help those in distress internationally. They can partner with Global Development Group or similar 9.1.1 organisations to ensure accountability. And they **do** often partner with Global Development Group.

Global Development Group has been studying PBI's sending Tax Deductible funds overseas and has identified many concerns. Sometimes these occurred before The Hunger Project case. Often the motivation was to avoid reporting and accountability (to reduce costs).

It is Global Development Group's assessments over many years that if the DGR raises less than \$50,000 it is not able to provide adequate administration support in Australia. There must be sufficient funds available, committed and allocated to monitoring evaluation and to maintaining accountability.

It has been common for **applicants** for both PBI and OAGDS to claim to have activities overseas which in fact **they have not had as an organisation.**

Global Development Group staff comment, "They have usually been conducted by an Approved OAGDS with whom they have partnered as per a written agreement which acknowledged that ownership, governance, monitoring, evaluation and oversight reside in the OAGDS."

These claims maybe due to ignorance and both ACNC and DFAT should actively investigate these applications. *This fraudulent practice used to be described as 'piggybacking' and was specifically not permitted.*

Main concerns GDG has expressed to the ACNC

1. Australian entities cannot govern or manage overseas entities. They belong to their own country which has its own rule of law. Coercing overseas entities with funds is not acceptable. OAGDS item 9.1.1 must partner with an in-country entity. The in-country entity implements the project and the project *and the in-country entity* is monitored and evaluated by the OAGDS approved entity. The in-country entity must supply adequate reports, financial acquittals and be properly registered in-country. It must obey the laws of the country.
2. Corruption is a common event in developing countries. Corruption can be minor or very substantial. Global Development Group has submitted many examples. In an examination of 900 projects in over 30 countries the incidence of financial incidents is high. Only 9.1.1 NGO's have robust systems to monitor funding and identify problems. These losses are significant, about \$100,000 in one case we looked at.
3. Global Development Group as a 9.1.1 OAGDS NGO insists not only is there potential for risk of damage to Australian International reputation, but failure of accountability systems result in no knowledge of the effect of donating funds overseas. OAGDS entities must account for and measure the real effect of spending Tax Deductible funds overseas.

At this current time DFAT is responsible for the initial approval of OAGDS and the process is quite rigorous. Those that cannot meet the requirements should not be granted OAGDS.

Neither should they then be able to apply for PBI DGR status to circumvent accountability.

PBI's are approved by ACNC and this approval initially started with the ticking of two boxes in the charity application form with the ACNC.

Global Development Group notes that this approval process is now more rigorous.

Recently we noticed the following questions asked:

We have considered your application. We need more information so that we can decide if your organisation meets the requirements of a public benevolent institution (PBI). We are unable to progress your application without this information.

1. Overseas funds

You have noted in your application that the Applicant provides funds to xxx.

Operating overseas can expose charities to significant risks. We therefore require the details of the policies and procedures the Applicant has adopted to help monitor its funds sent overseas.

(1) Protecting your assets

(a) How much money do you estimate that the Applicant will send overseas in the next two financial years?

(2) Organisations operating overseas are potentially vulnerable to having funds misused. Please explain:

(a) how you identify and assess risk, and

(b) what tools you have in place to address such risks.

(3) Knowing your partners: due diligence

(a) Please provide details of how the Applicant chose its partners, and verified their credentials and reputation.

(b) Provide copies of any contracts, memorandums of understanding, partnership agreements or exchange of letters that set out the partners' agreed roles and responsibilities.

(4) Monitoring end use of charitable funds

(a) Describe how the Applicant monitors the progress and outcomes of projects. In particular, describe how the Applicant verifies that its funds or other assets are only used for charitable purposes.

(5) Vulnerable beneficiaries

As the Applicant's activities relate to children and vulnerable adults, describe the procedures it has in place to promote their protection and safe practice.

This is excellent progression and ACNC are to be commended for addressing the situation. It is however expected that a charity desiring to fund overseas projects through PBI will need to:

1. Have a history of non-tax-deductible funding
2. Spend significant time and funds to develop rigorous (project, accountability and financial) systems
3. Be able to prove that their funding over time reaches significant standards (of effectiveness and capacity in impact and change)

Does this new approach now taken by the ACNC sound similar to OAGDS? The complaint against OAGDS by some applicants is that:

- It is hard
- Takes time
- Is too rigorous

We believe the system should not be abandoned, but should be strengthened.

Sending Tax Deductible funds overseas requires strong accountability

Just to repeat my opening remarks:

Global Development Group supports the main thrust of the Reform Opportunities.

This includes the prime roles suggested for ACNC and ATO.

However we would like to see distinct separation of DGR assessment and implementation of tax deductible funds sent overseas.

Regards,

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5 July 2017



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