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

Dear Sir

Improving the Integrity of Prescribed Private Funds (PPFs) Discussion Paper

In writing this letter and attachments, I have used the letterhead of the John Lamble Foundation but it also contains my own views as I am the principal donor to the fund.

My comments are set out below.

1. **Fundamental Concept**

I begin with pointing out a very basic error in paragraph 4 of the Introduction to your paper. I believe the paragraph should be amended by **adding the words in bold** as follows:

> 4. It remains a fundamental concept that a PPF is a trust to which businesses, families and individuals can make tax deductible donations, for the purpose of **earning investment income and** disbursing **those** funds to a range of deductible gift recipients and a PPF cannot distribute to another PPF or to a public ancillary fund.

I believe that that is the present intent of the scheme as set out in the standard guidelines contained in the Model Trust Deed.

This is a very important point as there is a huge difference in managing a trust for the purposes of generating long term income and managing a trust which disburses its capital over a relatively short or defined period of time.

Omitting the words in bold above is a huge matter of principle.

2. Should PPFs Have a Long or Short Life?

I am aware that there are two schools of thought in philanthropy. One is that most charitable organisations are short of funds with a huge demand **now** for money to carry out good works. Thus a case could be made out that there is value in requiring PPFs to donate as much money as possible in a short period of time.

The second school says that there is a need for consistent funding which can be provided by long term PPFs. Furthermore some donors like to do it that way and the whole purpose of the PPF scheme was to encourage this second form of philanthropy. There is no doubt that as a result of this encouragement the **total funds** going to charities over the long term will be greatly encouraged by PPFs.

I am concerned that the Treasury proposals to require an annual donation of as much as 15% of capital are a complete reversal to the philosophy under which PPFs were set up by the Government.

In my case I, personally, make considerable annual donations to a number of charities. I have also been able to set aside a reasonable sum, during my maximum earning years, in the John Lamble Foundation which enables me, through the Fund, to make **further** donations to a number of charities who can generally rely on the donations as being recurring ones.

One feels that the Treasury paper was written during the boom time and did not envisage the present crash in the market and dramatic change in interest rates.

To require a distribution of 15% of capital each year (based on the closing balance of the previous year) has a huge number of problems:

a) It will run down the principal very quickly (today's risk free Commonwealth Government Bond rate lies between 3% and 4%) and forecasts for returns on the share market are greatly reduced from what they were a year ago. PPFs need to take a long term view.

b) Determination by Treasury of an annual distribution rate will necessarily be made with a view to historical statistics whereas the distribution is prospective. As one can see from the present financial year, any determination made in the 2007/2008 financial year would have been wildly wrong.

c) Including realised and unrealised gains in the distribution would result in great volatility in the amounts donated to charities.

d) If a fixed **minimum** rate must be used, a more appropriate figure would be 6% or 7%.

3. Market Value Reporting

I have no problem with reporting the market value of investments as a **note** to the accounts but to change the accounting principles so as to take realised and unrealised gains through the profit and loss account can provide a quite misleading idea of the real earning power of a company. In my view **investment income** should be defined as **interest, dividends, distributions and rent**. The recent trend to look at investment income as also including realised and unrealised gains is one of the underlying causes of the speculation/gambling associated with recent investment markets. If the focus had been on long term income, global markets might not be in the trouble they are today.

4. Improved Integrity

I have generally no problem with the proposals for improved integrity and I have no truck for those people who have not followed the guidelines which clearly require the donor and directors to be permanently separated from the funds of the PPF. Everything the PPF does with its money should be focused towards its donations to charity.

There are two concerns however:

a) There are great difficulties associated with fit and proper person tests. They can be very time consuming. In the case of my trust, we pay no fees to directors so arrangements have to be kept simple and straightforward. I am a director of two insurance companies and I am aware that there is a huge amount of administration regarding the fit and proper persons tests for directors and officers.

b) The present guidelines require someone other than the donor (and family) to be a member of a body with a professional ethics standard. I consider that to be adequate. Whilst that is very broad it is also easy to administer and does not cut out too many people. In my experience "tick a box" regulation does not judge integrity.

5. Privacy

I have no problem with publishing a list of PPFs nor is there any problem about publicising transgressors, however, it would cause me serious problems if details such as the address of the fund were to be published. Between my personal donations and those of my Foundation I am absolutely bombed by correspondence from charities. I have been a trustee of a charitable fund which called for submissions by charities requiring funds. The amount of work that resulted was costly and disproportionate to the benefits.

6. **Doing the Right Thing**

I am personally proud of what I and my fellow directors have been able to achieve through the John Lamble Foundation. The present position of funds might be summarised from the following table in the accounts for the year ending 30 June 2008:

	Cumulative to 30/6/08
Settlement Sum	$100
Net Income From Investments	$437,193
Donations Received	$1,747,500
Capital Growth	$265,596
(Donations Made)	$(601,500)
Corpus	$1,848,889
Unrealised Capital Gains	$198,936
Corpus at Market Value	$2,047,825

The fund is still in its growth stage but donations of $601,500 are not insubstantial. Total fees for the year were $3,994 of which $3,916 were the fees paid to the independent auditor/accountant and the balance were filing fees and bank charges.

I am concerned about the cost of the accounting and auditing fees but my accountants say that much of this is caused by the complexity of modern accounting and auditing standards. I thus strongly fear regulations which will increase such costs even more.

So please don’t mess up something which is working!

6. **Conclusion**

I support the proposed changes regarding improving the integrity of PPFs. Otherwise I think the Government should be very wary of changing a system which has every opportunity to ensure long term benefits for charities.

In my view it would be most unfortunate if the Government changed its mind from fostering PPFs to limiting their workability by requiring such high distribution rates that PPFs would have a relatively short life.

I am happy to respond to any questions arising from this letter.

Yours sincerely

R John Lamble AO
Chairman