

31 July 2017

Senior Advisor
Individuals and Indirect Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600

By email DGR@treasury.gov.au

Dear Madam/Sir

Re: Tax Deductible Gift Recipient Reform Opportunities Discussion Paper (15 June 2017)

The RSPCA is one of Australia's most trusted and oldest charities. This submission in response to the discussion paper is made on behalf of the RSPCA federation consisting of RSPCA Australia, RSPCA ACT, RSPCA Darwin, RSPCA NSW, RSPCA QLD, RSPCA SA, RSPCA TAS, RSPCA VIC and RSPCA WA.

In summary, the RSPCA is concerned that the discussion paper has confused the purpose of a charity with the activities of a charity in order to achieve its purpose, and it proposes unnecessary additional regulatory burdens and red tape.

The RSPCA supports strong regulation of charities and sees the Australian Charities and Not for Profit Commission ideally placed to: increase transparency and accountability of charities to the public; ensure regulatory decisions are made in an objective manner; and there is a reduction in duplication in reporting and regulation at a state and federal level in order to reduce administrative costs to charities.

Charities such as the RSPCA contribute to a strong civil society, where citizens can engage in issues of importance to them. Investment by the public in charities through the provision of tax deductibility of donations is an expected and worthwhile action of governments.

The goal of Deductible Gift recipient (DGR) tax arrangements should be to encourage individuals to support charitable activities and the betterment of society through the allocation of their own resources. It has never been the case that all people support all charities or DGR eligible organisations. The extent of public support through DGR depends entirely on the level to which the community engage with the charity and seek concessions for making their DGR eligible donations.

The RSPCA fully supports the submission made by the Community Council for Australia to this discussion paper. In addition to the comments in that submission, the RSPCA makes the following in relation to the consultation questions contained within the discussion paper:

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?*

Given there is a well-functioning regulator determining charitable status through an effective process, and given charitable status is embedded in the notion of public benefit, DGR should be directly associated with charitable status.

As recommended by the Productivity Commission and the Not for Profit Tax Concessions Working Group, all charities should be DGRs.

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

Any organisation that is determined to be a charity should have access to DGR.

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

The ACNC is an effective regulator and we are confident that the ACNC can manage privacy and appropriate levels of public reporting.

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

No.

Advocacy is a legitimate and effective way for charities to share their knowledge and expertise on particular problems and solutions and therefore pursue their charitable purpose. This sharing and building of knowledge and information in order to directly or indirectly change behaviour and improve public policy and legislation is what many donors and communities expect of charities. Donors already have easy access to information about what charities do and achieve and therefore there is no need for additional information to be provided to the ACNC.

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

There is no need for additional information to be provided.

See answer 4.

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

There is no need for additional information to be provided.

See answer 4.

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?*

The RSPCA supports ending Departmental oversight of the four registers and for the ACNC to make recommendations to the ATO regarding DGR.

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?*

The RSPCA supports this proposal. It will reduce the regulatory burden. Reports to the ACNC and their oversight provide sufficient accountability.

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 RSPCA does not support this proposal. ACNC processes and reporting are sufficient.

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

See answer 9.

The RSPCA does not support this proposal. ACNC processes and reporting are sufficient.

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?*

The RSPCA does not support a sunset rule.

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?*

This proposal is unnecessary. Donors can access a lot of information about the charities they choose to support and this proposal is an unnecessary intrusion of regulation on the activities of an organisation.

The RSPCA does not support audits of activities or other requirements that are beyond existing ACNC requirements.

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?*

The RSPCA is satisfied with the current role of the ACNC overseeing charity regulations and investigating any issues of concern about any charity operating in all sectors.

There are existing legal processes and remedies available for any breaches occurring in areas not covered by ACNC regulations.

Yours sincerely

A handwritten signature in black ink that reads 'Heather'.

Heather Neil

Chief Executive Officer