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Ms Susan Bultitude
Senior Adviser
Individuals and Indirect Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600

by email to DGR@treasury.gov.au

Dear Ms Bultitude

I write outlining the response of the Royal Flying Doctor Service of Australia (RFDS) to the Discussion Paper of 15 June 2017 addressing Tax Deductible Gift Recipient (DGR) Reform Opportunities. In summary, the RFDS recommends opportunities to reform DGR include:

1. The Treasury review of DGR being expanded to quantify community benefit value of public good and Commonwealth Budget savings generated through provision of DGR;
2. Creating new incentives to increase charitable giving to DGRs;
3. Merging the four DGR registers into a single register administered by the ACNC;
4. Reviews, audits, and sunset clauses not giving rise to unintended red tape or uncertainty;
5. Retention of ACNC oversight of advocacy activities of DGRs instead of new regulatory burden.

1 – Calculating the social and economic benefits of DGR

In the first instance, the Treasury proposal that DGR entities assure their good governance, that application for DGR be simple, and that assurance be given that DGR entitlement remains current is a reasonable premise on which review of DGR entitlement should be considered. The Treasury proposal is however silent on the issue of DGR's social benefit. The Discussion Paper appears to view DGR through the lens of cost to the Commonwealth Budget. Instead, DGR should be assessed for its social benefit and its multiplier effect in encouraging private donations to enable public good. DGR should be assessed for its role in Commonwealth Budget savings, where through encouraging private donations the Commonwealth on behalf of tax payers avoids direct funding of charitable services.

With this in mind, the RFDS recommends the Treasury review of DGR should involve a community benefit analysis to calculate the social and economic benefit of DGR. The analysis should consider the amount of public good and Commonwealth Budget savings generated through provision of DGR, and any loss of both public good or costs to the Commonwealth Budget that might arise if access to DGR were restricted. Reform of DGR should only be contemplated when understanding of the social and economic benefits of DGR are able to be transparently assessed and publicly debated by charities, their donors, and government alike. Significant reform of DGR should not proceed without this evidence of DGRs social and economic quantification.

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2 – Creating new incentives to increase charitable giving to DGRs

The RFDS in its 1 June 2015 submission to Treasury on Tax Reform argued that with RFDS and other charities reliant on charitable giving and philanthropy to fund services that government does not, a review of the tax system's use of DGR should include a focus on methods to stimulate growth in donations being made to DGR entities. The RFDS proposed to the 2015 Tax Reform review three new ways in which charitable giving could be incentivised through enhancement of the tax system:

- 2.1 - Increasing the deductibility of gifts to DGRs;
- 2.2 - Providing a new incentive to stimulate payroll giving;
- 2.3 - Revising incentives for charitable giving at fundraising events.

2.1 - Increasing the deductibility of gifts to DGRs

Donations made by either an individual or entity to a DGR are currently 100% deductible. This rate of deductibility drives donations to charitable causes, and at a minimum must be maintained and should not be reduced as some have argued in recent years.

Increasing the deductible portion of a gift to a DGR to a rate greater than 100% (to say 110% or 125%) would result in greater propensity for a donor to give. Increasing the deductible portion would come at a cost to the Commonwealth Budget in lost revenue, but it would be possible to forecast the likely increase in social and economic benefit achieved by greater charitable giving against the anticipated decrease in tax receipts. It would also be possible to assess other savings to the Commonwealth Budget that might be possible should donors increase their support to charities.

It is the RFDS proposal that financial modelling be conducted in partnership with the charitable sector to inform the cost and benefit of increasing the deductible rate for gifts to DGRs.

2.2 - Providing a new incentive to stimulate payroll giving

Payroll or workplace giving enables employees to make donations to charities directly through their employer at the time of regular wage payment. A portion of the employee's *after tax or net wage* is paid by the employer at the employee's direction to a charitable purpose. Occasionally, the employer matches the employee's donation or also contributes to the charitable purpose.

In 1987 the United Kingdom allowed payroll giving to be paid from an employee's *before tax or gross wage*. It is understood that roughly 2% of all UK employees now participate in this payroll giving incentive scheme. The Australian tax system could be enhanced to offer a similar incentive for payroll giving to DGRs. Enabling a tax deductible donation to DGRs from *before tax or gross wages* would come at a cost to the Commonwealth Budget in lost revenue, but again it would be possible to forecast the likely increase in social benefit achieved by greater payroll giving to DGRs against the anticipated decrease in tax receipts.

It is the RFDS's proposal that financial modelling be conducted in partnership with the charitable sector to inform the cost and benefit of allowing payroll giving to DGRs from before tax or gross wages.

2.3 - Revising incentives for charitable giving at fundraising events

Payments for tickets to attend fundraising events conducted by DGRs do not always entitle a payee and donor to claim what is mostly considered a contribution to the charity as a tax deductible gift. Individuals may be able to claim a deduction for a portion of their payment as a tax deductible contribution, but not that portion that provides personal benefit. The arrangement is at least complicated, and at worst a disincentive for attendance at fundraising events.

Similarly, the purchase by a donor of an auction item at fundraising event conducted by the DGR also fails to attract a deductible contribution. Auction items are often donated to the DGR, and purchase prices often reflect a donor's intent to pay over and above the saleable value of the auction item. Ideally, the difference in the cost of acquisition of the auction item – if any – by the DGR and the auction price paid by the donor could be treated as a tax deductible amount.

3 – Merging the four DGR registers into a single register administered by the ACNC

The RFDS currently encounters no significant challenges in DGR administration. It does not oppose Treasury's proposal to collapse the four DGR registers into a single register, but proposes the ACNC rather than the ATO be given the role to administer DGR entitlement.

4 – Reviews, audits, and sunset clauses should not give rise to unintended red tape or uncertainty

The Treasury proposal to conduct reviews or audits of continued entitlement to DGR should not come at the cost of increased red tape. An annual attestation by Boards as part of the financial year audit should be sufficient means of testing continued entitlement.

The introduction of sunset provisions for DGRs risks perverse outcomes, with a risk that donors lose trust and confidence in the legitimacy of sunset covered charities and that charities themselves lose ability to plan beyond sunset timetables.

5 - Retention of ACNC oversight of advocacy activities of DGRs

RFDS is not an environmental DGR charity, and directions on how public funds for environmental organisations should be applied would have no adverse impact on any RFDS activity. However, as a principle the RFDS argues it is not the role for government to direct a charity or any private entity on how it should apply funds freely under its control.

On principle, the specific proposal to direct environmental charities on how it should apply its public fund should be rejected to ensure government does not seek to expand the reach of this direction beyond environmental organisations to other or all charities.

Current ACNC guidance and oversight of advocacy activities offers sufficient regulatory safeguards to ensure advocacy activities of charities are in pursuit of the objects of each registered charity.

Other matters

The annexure outlines the responses of the RFDS to specific questions posed in the Discussion Paper. I also acknowledge my personal role as a member of the ACNC Advisory Board and the two submissions of response to the Discussion Paper of the ACNC and the Advisory Board, but affirm this submission is that solely of the RFDS and it is unrelated to the submissions of the ACNC.

Yours sincerely



Martin Laverty
Chief Executive Officer

Annexure – RFDS responses to the Discussion Paper’s 13 questions

Summary of consultation questions	RFDS response
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?	RFDS would support a DGR being required to register as a charity with the ACNC, and for administration of existing DGR registers to be transferred to ACNC administration.
2 - Are there likely to be DGRs (other than government entity DGRs) that could not meet this requirement and, if so, why?	Requiring DGRs to register with the ACNC would have no adverse impact on any RFDS activity.
3 - Are there particular privacy concerns associated with this proposal for private ancillary funds and DGRs more broadly?	Requiring DGRs to register with the ACNC would have no adverse impact on any RFDS activity.
4 - Should the ACNC require additional information from all charities about their advocacy activities?	It would be reasonable for the ACNC to require charities to attest all their activities, advocacy inclusive, was in furtherance of their registered charitable objects. Charities could be asked to attest to their compliance with ACNC guidance on what constitutes legitimate advocacy for a charity in accordance with a charity's registered objects.
5 - Is the Annual Information Statement the appropriate vehicle for collecting this information?	It would be reasonable for the ACNC AIS to require charities to attest all their activities are in furtherance of their registered charitable objects.
6 - What is the best way to collect the information without imposing significant additional reporting burden?	It would be reasonable for the ACNC AIS to require charities to attest all their activities are in furtherance of their registered charitable objects. Any new disclosures on the AIS should be subject to the consultation process that has been applied by the ACNC to the development of the current AIS forms.
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?	RFDS would support administration of existing DGR registers being transferred to ACNC administration.
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 public fund requirements would have no adverse impact on any RFDS activity, but nor would removal of the public fund requirements result in any regulatory compliance savings for ant RFDS activity. However for many charities, not all of their activities qualify for DGR endorsement; a specific fund which has DGR endorsement and from which only qualifying expenditure is drawn allows the charity to efficiently and effectively manage the DGR reporting.

<p>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?</p>	<p>DGR compliance reviews would have no adverse impact on any RFDS activity, other than a modest anticipated additional "red tape" cost of preparing for and participating in any review that might occur. The business case cost-benefit of a national compliance review program should be identified and published as a prerequisite to such a review program being established; if there is no cost-benefit, it should not proceed.</p>
<p>10 - What are stakeholders' views on who should be reviewed in the first instance? What should be considered when determining this?</p>	<p>A business case cost-benefit of a national compliance review program should be identified and published as a prerequisite to such a review program being established. The business case should identify existing categories of DGR risk, and target reviews at only those categories of risk.</p>
<p>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?</p>	<p>A sunset rule for specifically listed DGRs would have no adverse impact on any RFDS activity. However, the principle of sunset reviews will give rise to uncertainty for relevant charities. The scale of the problem that sunset reviews is seeking to address is not clear; to adopt sunset reviews the business case cost-benefit of a national review program should be identified and published as a prerequisite to such a review program being established; if there is no cost-benefit, it should not proceed.</p>
<p>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?</p>	<p>RFDS is not an environmental DGR charity, and directions on how public funds for environmental organisations should be applied would have no adverse impact on any RFDS activity. However, as a principle the RFDS argues it is not the role for government to direct a charity or any private entity on how it should apply funds freely under its control. On principle, the specific proposal to direct environmental charities on how it should apply its public fund should be rejected to ensure government does not seek to expand the reach of this direction beyond environmental organisations to other or all charities.</p>
<p>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?</p>	<p>ACNC oversight and enforcement powers offer adequate protections to ensure DGR compliance.</p>