

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

Via Email: DGR@treasury.gov.au

Dear Sir/Madam

### **Tax Deductible Gift Recipient Reform Opportunities Discussion Paper**

This is a submission regarding the consultation paper which proposes potential reforms to Deductible Gift Recipient (DGR) tax arrangements.

I am of the view that this process is tainted because it has an undisguised political motive. Let me be clear I am comfortable with an honest and transparent review of DGR tax arrangements. It may be trite to observe that a regulatory process is appropriate and that a review of it, or any similar regulatory system, is warranted from time to time. But, it is equally legitimate to question and challenge a process that seems, at its heart, designed to achieve an outcome that is disadvantageous to one segment of our society. Such disingenuity undermines this process and cannot be in the public interest.

As I understand there has been a previous House of Representatives inquiry on the Register of environmental organisations (REO inquiry process). Further, I understand both the federal environment department and the Australian Charities and Not for Profits Commission (ACNC) appeared before the committee. These are the entities responsible for managing environmental organisations on the REO and the ACNC more broadly manages the not for profit sector.

Both the department and the ACNC said there were no significant problems with the current management systems for charities and DGR listed entities. The ACNC said that it has the appropriate enforcement powers to regulate charities. Notwithstanding these re-assurances by the relevant bodies Treasury has embarked on a further inquiry. Why?

I am happy to adopt the known position of others that DGR listed organisations should be managed by a single entity rather than multiple government departments. In my view the ACNC is the most appropriate body to fulfil this task, given it was created for this purpose.

### **Response to specific consultation paper questions**

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

I understand the ACNC has identified 'political activity' as one of the five key areas it will work on in the next two years to further develop guidelines regarding behaviour which may put an organisations charity status at risk. If this is so, further imposts on DGRs would seem redundant, unless the reason is to satisfy a political, as opposed to a legal/ethical/moral, imperative.

*11/ What are stakeholders' views on the idea of having a general sunset rule of five years for specifically listed DGRs?*

This would constitute an increased cost burden. As you are aware many DGRs are small in size and scope, relying exclusively, or mainly, on volunteers. Imposing unnecessary demands will inevitably detract from the *raison d'être* of recipient organisations.

As inferred above I support a regular reporting and complaints process that can identify charities which may be behaving in inappropriate ways and which may need to have their DGR status reviewed or revoked. I understand this is already done by the ACNC.

*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?*

I am struggling to grasp the intent behind this proposal. Environment groups can address their specific concerns, and I understand they have already done so, rather I wish to focus on what seems a transparent and, in my view, bogus motivation underpinning this proposal, that is, that advocacy is not a legitimate role for DGRs. Plainly it is. It seems the desire to suppress advocacy is a dangerous step one that borders on characteristics of state-control practised by undemocratic, totalitarian states. Advocacy is an expression of support for an idea, an outcome. If the idea is unsound the appropriate response is counter-argument not silencing of persons/organisation holding a contrary view. The tax system should not become a *de facto* tool to limit those acting as advocates for a particular perspective.

*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?*

Charities are already subject to substantial annual reporting requirements. I do not support the introduction of specific sanctions for environmental DGRs. It is difficult to interpret this desire as anything other than one which is politically motivated.

In my submission any laws, regulations administrative directions etcetera designed to punish dissent, is anathema to our civil society. If, an action breaches a law then normal processes should follow: there is an abundance of legislation existing designed to protect persons and their property. It is hard to envisage a circumstance which demands sanctions against DGRs which would require yet more sanctions than already exist.

In fact in order to promote a health democracy, of which protest is an essential aspect, the Commonwealth Government and state counterparts should be exploring grounds to stop corporations and individuals utilising courts and tribunals as a mechanism to suppress those engaging in public discourse. In my submission your colleagues in the appropriate departments should scour the existing body of legislative to repeal laws which are used in this way.

Recommendation 75 of the Treasury paper states that:

*The Committee recommended that administrative sanctions be introduced for environmental DGRs that encourage, support, promote, or endorse illegal or unlawful activity undertaken by employees, members, or volunteers of the organisation or by others without formal connections to the organisation.*

This is a truly absurd proposition. Might I respectfully suggest you only need read the proposition out loud to appreciate how ridiculous it is. Frankly, I am staggered a recommendation of this nature was ever committed to paper. The position would seem to allow for sanctions when there is no nexus with the relevant organisation. Furthermore, in what other circumstances could an individual or organisation be held legally accountable for the actions of someone over whom they have no legal responsibility for, but whose actions could result in the imposition of a sanction!

In my submission you should put aside the recommendations in the paper which in my opinion are clearly motivated by animus by political opponents of environment groups.

A legitimate and non-politicised review of the governance arrangements for not for profits would be supported, both by the community and the NFP sector, if they remove unnecessary duplication, inconsistencies in how different charities are managed, and reduce reporting burdens while ensuring transparency and rigor in the reporting process.

Yours sincerely

Iain Stewart

[Redacted signature line]

[Redacted contact information line]