

Comments on Tax Deductible Gift Recipient Reform Opportunities

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1. The importance of the natural environment

The natural environment is of great importance to society. Nothing less than the air we breathe, the water we drink and the food we eat are contingent to some extent on the functioning of healthy ecosystems.

The value of ecosystem services is estimated to be more than double global GDP (Costanza *et al*, 2014) and includes a diverse range of vital functions such as those listed in Table 1.

Table 1: Some examples of ecosystem services

Ecosystem service	Functions and examples
Gas regulation	CO ₂ /O ₂ balance, O ₃ for UV protection.
Climate regulation	Greenhouse gas regulation and maintenance of favourable climate.
Water regulation	Provisioning of water for agriculture, industry, urban uses.
Erosion control	Prevention of soil loss.
Pollination	Reproduction of plant populations, production of cereal and fruit crops.
Recreation	Tourism, recreational fishing.
Genetic resources	Genes for pharmaceutical or agricultural purposes.
Refugia	Nurseries for migratory and harvested species.

(Costanza *et al*, 1997)

2. Market failure in environmental stewardship

Ecosystem services provide an excellent case study in market failure and externalities. While we all depend upon the services provided by healthy ecosystem functioning (e.g. the public good of breathable air or the security of a safe climate), in many cases there may be private benefits obtainable from activities that degrade ecosystems. For example, activities resulting in deforestation, water pollution or greenhouse gas emissions may be profitable for those undertaking them, but impose external costs on the rest of society.

Those undertaking activities that degrade ecosystems have a clear and substantial financial incentive to pursue a favourable regulatory environment that maximises private benefits to

themselves while minimising protection for affected ecosystems. For example, this may be sought through direct lobbying of politicians and officials, or financial contributions to industry groups, sympathetic think tanks (Hamilton 2012) or politicians (McMenamin 2016). These activities will often be tax deductible (Robertson 2015).

In contrast, the beneficiaries of ecosystem services are much more diffuse and may face substantial transaction costs to coordinate their activities. Furthermore, and arguably most importantly, ecosystem services are subject to the ‘free-rider’ problem whereby everyone benefits from their existence even if they do not contribute to their protection¹, which can result in serious under-provision (or under-protection).

In this context environmental NGOs have a legitimate role as a countervailing force to commercial interests that wish to undertake activities that degrade ecosystems and that engage in well-resourced lobbying and other activities to obtain a regulatory framework that enables this. Furthermore, effective environmental protection necessarily involves advocacy and campaigning to ensure adequate regulatory safeguards for natural ecosystems in the face of persistent pressure from industry to weaken safeguards.

In light of this, and the great diversity of environmental NGOs, it is neither desirable nor efficient to require all environmental DGRs to undertake environmental remediation. Therefore there should be no requirement imposed upon them to commit any expenditure at all to environmental remediation.

The availability of DGR status for NGOs that advocate, campaign and/or educate about the protection of the natural environment should be considered a small step towards addressing the free-rider problem mentioned above. In addition, this is no more generous than the deductibility of expenditure by industry on activities intended to produce a favourable regulatory environment for themselves.

3. Regulatory burden

While I do not plan to comment on the specifics of current or proposed administrative and reporting requirements, I do wish to make some more general observations that I believe are relevant to the process.

The Coalition Government is committed to reducing the regulatory burden on Australian businesses, **community organisations**, families and individuals by \$1 billion per annum. This is said to include “less time filling out forms” and enabling the community to “get on with what they do best without being weighed down by unnecessary paperwork” (Joyce 2015).

¹ Or even if they actively contribute to their degradation!

“The Government has a clear approach to regulation: we will reduce the regulatory burden for individuals, businesses and **community organisations** [emphasis added].

From now on, cutting existing red tape and limiting the flow of new regulation is a high priority.”

(DPMC 2014, p.4)

To meet the Government’s commitments in this area, it is clear that any reforms to DGR tax arrangements should assist DGRs to achieve their stated goals and should not impose any punitive or onerous requirements upon them.

It is transparently clear that certain commercial interests – those that derive private commercial benefit from activities that degrade ecosystems – wish to eliminate the voice of environmental NGOs that endeavour to protect ecosystems. It is also clear that the recent House of Representatives Standing Committee on the Environment’s inquiry on the Register of Environmental Organisations (REO inquiry) was a thinly-veiled attempt by some politicians to do the bidding of those same private commercial interests.

However, the role of government is not to acquiesce to vested interests, but to regulate in the public interest. Reforms to DGR tax arrangements should be undertaken in a collaborative manner with NGOs in a way that strengthens their contribution to the protection of natural ecosystems. Curtailing environmental NGO advocacy and campaigning through regulatory impediments would be counter to the public interest – not to mention the Government’s own commitments - and should be thoroughly rejected by this consultation process.

4. References

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