



Draft Taxation Administration (Community Charity) Guidelines 2024

Mr Peter Robjent
The Treasury
Langton Crescent
Parkes ACT 2600

Lodged online

3 December 2024

Dear Mr Peter Robjent,

Thank you for the opportunity to provide feedback on the Taxation Administration (Community Charity) Guidelines 2024 (Guidelines) exposure draft.

Foundation SA is one of Australia's youngest community foundations, established in 2021 with an ambitious plan for growth. We are eager to make it trouble-free to give to and support our community. See *appendix* for further information on Foundation SA.

There are several provisions within the draft guidelines on which we seek clarification and suggest potential amendments to simplify giving.

1. Section 25 Portability

Issue: There is no provision in the guidelines to allow a community charity to transfer *partial* assets to another community charity. There are circumstances where a community charity will want to *seed* another community charity and only transfer partial assets to the new independent entity.¹

Suggest: Add another division or section to the guidelines for circumstances where partial assets can be transferred from one community charity to another, like the arrangement made for Public Ancillary Funds. Or clarify in this section that *partial* assets can be transferred to another community charity when a new entity is established.

2. Section 25 Portability

Issue: The agreement of the Commissioner of Taxation is required for the transfer of assets from one Community Charity to another. In the circumstances of partial transfer (see point 1) this would be time-consuming and cumbersome. Also, an unnecessary impediment when both entities have met the requirements of a DGR1 Community Charity.

Suggest: Removing this obligation for agreement of the Commissioner in the circumstances of partial transfer to another DGR1 Community Charity.

¹ This is the relationship and immediate circumstances for Australian Communities Foundation and Foundation SA.

3. DGR1 Community Charity as intermediary entity

Issue: There is no provision for the role of an intermediary in distributing donations, to either a new or existing Community Charity. That is, a Community Charity such as Australian Communities Foundation, donating to a pool of funds held by another Community Charity such as Foundation SA, for on-funding to DGR1 charities, both immediately and over time. For example, a 'school readiness' fund held by Foundation SA could receive funds from a national foundation to then distribute to an existing regional community foundation for the purpose of supporting local family and child programs.

Suggest: Inserting a provision in the guidelines to allow funds to be distributed through a DGR1 Community Charity acting as an intermediary.

4. Process for seeking approval as a Community Charity

Issue: There are 28 listed community foundations for approval as DGR1 Community Charities but no guidance on the process of future applications for approval. Early guidance on process would benefit those foundations awaiting listing and consideration.

Suggest: Publish the procedure for future applications for DGR1 Community Charity approvals by the Minister and endorsement by the Australian Taxation Office, timed to the publication of the guidelines.

5. Responsiveness to disasters

Issue: *NB This refers to DGR1 requirements in general, not the draft guidelines for Community Charities.* Tax deductible disaster relief funding can only be provided after a disaster has been declared by a State, Territory or Commonwealth government. This results in delays in both fundraising and granting out for local responses.

Suggest: The DGR 1 listing for Natural Disasters does not require a declaration. Community Charities would be able to fundraise when a disaster commences, such as, on the day of a major bushfire or flood in a defined region, benefiting from the early public awareness and sympathy.

The current structural requirements governing community foundations are overly complex and time consuming to manage. The issues raised above would lead to the strengthening and growth of the community foundation sector and make it simpler for us to support our community.

Thank you for the opportunity to comment on the draft guidelines.

For further information please contact Sophie Doyle, CEO, Foundation SA on 08 8233 3597.

Yours faithfully



Sophie Doyle
Chief Executive Officer
Foundation SA



Pam Simmons
Chair
Foundation SA/The Wyatt Trust

Appendix: About Foundation SA

Foundation SA aims for a connected, resilient and sustainable South Australia by inspiring giving at a local level, building collaborative networks, strengthening the non-profit sector and creating a permanent endowment to support the needs of our community.

Foundation SA has been established in its initial three years as a sub-fund of [Australian Communities Foundation](#) (Trustee Company Limited by Guarantee). The intention is for Foundation SA to 'port' out of Australian Communities Foundation in 2025 to an independent entity (compliant with the Community Charity guidelines).

Foundation SA has been created with the support of two key implementation partners, [The Wyatt Trust](#) and Australian Communities Foundation:

- The Wyatt Trust has supported South Australians since 1886 and established Foundation SA with some initial investment capital and provides ongoing operational support, and
- Australian Communities Foundation have supported Foundation SA with Trusteeship and to develop best practice investment and grant making procedures and policies.

Foundation SA has grown quickly, distributing just over \$1 million since inception, with a corpus of \$3.6 million.

Although not required due to our status as a sub-fund, Foundation SA has granted out more than the required 4% of net assets each year.

Through our Neighbourhood Grants to grass-roots community groups, our generous donor community of sub-funds and our work with the four regional South Australian community foundations, Foundation SA has become part of the essential social infrastructure of our State.

Transferring funding to new Community Charities

Operational funding from The Wyatt Trust has enabled Foundation SA to employ 1.2 FTE staff, build the website, create a 'regional wellbeing' report and attract donors (currently 37 sub-funds). In addition, the rigour, governance and experience of the Wyatt staff and Board has been critical to build trust and respect in the community.

This experience has demonstrated the benefit of early operational and corpus building support for community foundations. This is something Foundation SA would like to emulate across South Australia by transferring start-up capital to new Community Charities.